

<div style="text-align: center;"><h1>Application No. 3</h1><h2>Commission District 9      Community Council 15</h2></div>
---

### APPLICATION SUMMARY

Applicant/Representative:	Wal-Mart Stores East, LP/Augusto E. Maxwell, Esq. and Joel E. Maxwell, Esq; Akerman, Senterfitt, P.A.
Location:	Southeast corner of SW 137 Avenue (Speedway Boulevard) and SW 288 Street (Biscayne Drive)
Total Acreage:	±18.5 Gross Acres (±16.8 Net Acres)
Current Land Use Plan Map Designation:	Business and Office (3.7 gross acres) and Low Density Residential (2.5 to 6 dwelling units per gross acre; 14.8 gross acres)
Requested Land Use Plan Map Designation:	Business and Office
Other Requested Change	Add to Land Use Element a proposed Declaration of Restrictions prohibiting residential development on the subject property (received January 24, 2011)
Amendment Type:	Standard
Existing Zoning, Use and Site Condition:	BU-1A on B/O-designated portion; and AU on LDR-designated portion; cropland site currently vacant and cleared of all vegetation; no trees.

### RECOMMENDATIONS

Staff:	<b>TRANSMIT WITH ACCEPTANCE OF PROFFERED DECLARATION OF RESTICTIONS AND ADOPT</b> (February 25, 2011)
South Bay Community Council (15):	<b>TO BE DETERMINED</b> (March 29, 2011)
Planning Advisory Board (PAB) acting as Local Planning Agency:	<b>TO BE DETERMINED</b> (April 25, 2011)
Board of County Commissioners:	<b>TO BE DETERMINED</b> (May 18, 2011)

Final Recommendation of PAB  
acting as Local Planning Agency:

**TO BE DETERMINED** (September, 2011)

Final Action of Board of County  
Commissioners:

**TO BE DETERMINED** (October, 2011)

Staff recommends **TRANSMIT WITH ACCEPTANCE OF PROFFERED DECLARATION OF RESTRICTIONS AND ADOPT** the proposed standard amendment to redesignate the application site from “Business and Office” and “Low Density Residential” to all “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:

**Principal Reasons for Recommendations:**

1. The application site is located within an “activity node”, which has already been established by existing commercial activity at the intersection of two section line roads, SW 288 Street and SW 137 Avenue. Approval of the requested “Business and Office” designation of the entire application site would conform with and promote implementation of Guideline No. 4 of the CDMP “Guidelines for Urban Form”. This guideline provides that intersection of section line roadways should be planned to serve as activity nodes for the surrounding residential communities. The guideline further provides that activity nodes shall be occupied by any nonresidential components of the neighborhood including public and semi-public uses, and when commercial uses are warranted, they should be located within these activity nodes. This proposed amendment will not only compliment the established commercial uses on the other three quadrants of the activity node but will serve the nearby residential neighborhoods within a mile of the site especially the residences on the east, north and west vicinity of the application site.
2. 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:* No deficiency in the supply of vacant commercial land exists in the analysis area Minor Statistical Area (MSA) 7.4 in which the application site is located. At the projected rate of absorption, reflecting the past rate of commercial uses, the analysis area will deplete its supply of commercially zoned or designated land beyond the year 2030.

*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 at the intersection of SW 288 Street and SW 137 Avenue. This

amendment to redesignate the application site from “Business and Office” and “Low Density Residential” to “Business and Office” on the adopted LUP map would be consistent with the land use designations and compatible with existing commercial development on the other three corners of the roadway intersection. All three corners are designated as “Business and Office” on the adopted LUP map. The Biscayne Shoppes shopping center on the northwest corner includes Home Depot, Chase Bank and Burger King. Waterstone Plaza shopping center with Publix grocery store as an anchor store is located on the southwest corner in the City of Homestead. Also, on the southwest corner are a free-standing Walgreens Pharmacy store and a Bank of America with drive-through facilities. Directly north of the application site across SW 288 Street is a free-standing Wendy’s fast-food restaurant, a vacant office building for lease and vacant land. The area to the northeast of the application site across SW 288 Street contains a Day Care Learning Center, The Spot Barbershop, a Boost Mobile telephone franchise, a Math/Reading Learning Center and a few vacant office spaces marked for leasing.

Compatibility of commercial development with the adjacent Keystone residential development to the east is at least partially addressed by an existing concrete fence wall that separates the application site and the residential neighborhood. Additional buffering could be addressed during the zoning process. Policy LU-4A of the CDMP Land Use Element requires the County to consider factors such as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering and safety, as applicable, when evaluating compatibility among proximate land uses.

*Environmental and Historical Resources:* There are no historical or environmental resources on the application site. Therefore, approval of the proposed amendment would have no impact on historical or environmental resources.

*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 Closest Route, Route 70, is a ½ mile from the application site with 30-minute headways. The application site does not meet these requirements.

## STAFF ANALYSIS

### Background

The applicant is requesting a redesignation of the entire site (18.5 gross acres) from the current designations of "Business and Office" and "Low Density Residential Communities" on the Adopted 2015-2025 Land Use Plan (LUP) map to "Business and Office" for the entire property in order to allow a Wal-Mart Supercenter development. Under the requested Business and Office category, the entire site could be potentially developed as commercial development with a maximum 292,723 sq. ft. of retail use at an assumed floor area ratio (FAR) of 0.4. 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. Alternatively, the entire site could potentially be developed for residential use with a maximum of 240 single family attached dwellings. This potential number of units is based on a provision in the Land Use Element of the CDMP regarding land designated as "Business and Office" that 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 is adjacent to a residential subdivision, Keystone, along Biscayne Drive (SW 288 Street), which is designated "Low Density Residential Communities" on the LUP map, which allows 2.5 to 6 dwelling units per gross acre (du/ac). Thus, the property could be developed at the next density category, "Low-Medium Density Communities" (6 to 13 du/ac). However, the applicant proffered a Declaration of Restrictions (covenant), which prohibits residential development on the subject property.

### Application Site

#### Location

The application site is an 18.5-gross-acre property located at the southeast corner of the intersection of SW 137 Avenue (Speedway Boulevard) and SW 288 Street (Biscayne Drive) in the unincorporated southern area of Miami-Dade County. The application site does border the City of Homestead which is located to the west and southwest. Biscayne Drive in this area serves to link Homestead Extension of the Florida Turnpike (HEFT) with Homestead Air Reserve Base (HARB). The subject property is situated one block east of the interchange with HEFT and approximately ½ mile west of HARB.

#### Existing Land Use

The entire site is classified as an agricultural cropland by the existing land use file. The subject property currently has an agricultural classification for the purpose of assessing property taxes.

#### Land Use Plan Map Designations

Currently, the northern approximately 3.7 gross acres of the subject property fronting the Biscayne Drive is designated "Business and Office" on the Adopted 2015-2025 LUP map. This land use category allows a full range of sales and service activities and also allows residential uses and/or mixing of residential with non-residential (commercial, office and hotel) land uses. The remainder of the property, approximately 14.8 gross acres is designated "Low Density Residential Communities", which allows 2.5 to 6 dwelling units per gross acre. This density category is generally characterized by single family housing, e.g., single family detached, cluster, and townhouses. It could include low-rise apartments with extensive surrounding open space or a mixture of housing types provided that the maximum gross density is not exceeded.

### Zoning

The northern approximately 3.7 gross acres of the subject property fronting the Biscayne Drive is currently zoned BU-1A (Business- Limited District), which allows all uses permitted in the BU-1 zoning district, additional retail and service activities plus residential uses if approved at a public hearing. The remainder of the property is zoned AU (Agricultural District), which allows agricultural activities plus residential development at a density of one dwelling unit per five gross acres.

### Zoning History

The BCC adopted Resolution No. 2637 on January 8, 1959 to rezone the northern portion of the subject property (approximately 400 feet deep) from AU to BU-1A. The remaining portion has remained AU.

## **Adjacent Land Use and Zoning**

### Existing Land Use

This area is developing as a commercial node east of Homestead Air Reserve Base with access to HEFT. The 18.5 gross-acre application site is situated east and south of a small parcel located on the southeast corner of the SW 137 Avenue and SW 288 Street that contains Steve's Academy and Pre-school and vacant land.

The other three corners of the intersection and the area to the northeast across SW 288 Street are occupied by commercial activities. The Biscayne Shoppes shopping center on the northwest corner includes Home Depot, Chase Bank and Burger King. Waterstone Plaza shopping center with Publix grocery store as an anchor store is located on the southwest corner in the City of Homestead. Also, on the southwest corner are a free-standing Walgreens Pharmacy store and a Bank of America with drive-through facilities. Directly north of the application site across SW 288 Street is a free-standing Wendy's fast-food restaurant, a vacant office building for lease and vacant land. The area to the northeast of the application site across SW 288 Street contains a Day Care Learning Center, The Spot Barbershop, a Boost Mobile telephone franchise, a Math/Reading Learning Center and a few vacant office spaces marked for leasing.

Residential developments are located to the east and southwest. The Keystone Subdivision, consisting of detached single family homes on zero-lot line lots, abuts the subject property to the east. A concrete fence wall surrounds this subdivision and provides a buffer between the residences and the application site. The South Dade Venture Community residential development in the City of Homestead with one and two-story homes is located to the southwest across SW 137 Avenue.

The area to the south is utilized for agricultural purposes. Abutting the application site on the south is Two Sisters Nursery, Inc. Development of the agricultural area in the future will be limited by its proximity to Homestead Air Reserve Base.

### Land Use Plan Map Designations

The properties immediately to north, northwest and west of the application site are designated "Business and Office" on the Adopted 2015-2025 LUP map. Properties to the east and south are designated "Low Density Residential Communities." The area to the southwest is designated "Low -Medium Density Residential Communities," which allows 6 to 13 dwelling units per gross acre. The types of housing typically found in areas designated low-medium density include single-family homes, townhouses and low-rise apartments.

The designations on the CDMP LUP map to the west and southwest of the application site are reflective of the City of Homestead Comprehensive Plan. The City's Future Land Use Map dated January 2009 appears to designate the area to the west as "Light Commercial Use" and the area to the southwest as "Medium Density Residential Use." Permitted activities in the "Light Commercial Use" land use category include hotel/motel, office, retail and other business uses which have insignificant nuisance and negative visual characteristics, generate little truck traffic, and generally require frontage locations on major roadways. Permitted activities in the "Medium Density Residential Use" land use category include residential use up to 10 dwelling units per acre.

### Zoning

The zoning pattern reflects a commercial node surrounded by a developing residential area. The properties to the northwest and northeast of the application site are zoned by the County to BU-1A. The property immediately to the north is zoned BU-1 (Neighborhood Business). The property abutting the application site on the east is zoned RU-1Z (Single-family Zero Lot Line with lots of 4,500 net sq. ft.). The abutting property to the south is zoned AU.

The areas to the west and southwest are zoned by the City of Homestead. The property to the west on the southwest corner of SW 137 Avenue and SW 288 Street is zoned B-2 (Retail Commercial). The property situated to the southwest of the application site is zoned PUD (Planned Unit Development). The predominant land use in any PUD must be that of the underlying land use designation on City's Future Land Use Map. As stated above, the area southwest of the site is designated as "Medium Density Residential Use" on City's Future Land Use Map. Thus, residential use up to 10 dwelling units per acre may be permitted.

### **Supply and Demand**

The Analysis Area for Application No. 3 (MSA 7.4) contained 366.5 acres of in-use commercial uses in 2010 and an additional 316.7 acres of vacant land zoned or designated for business uses. The annual average absorption rate for the 2010-2030-period is 13.19 acres per year. At the projected rate of absorption, reflecting the past rate of commercial uses, MSA 7.4 will deplete its supply of commercially zoned or designated land beyond the year 2030 (See Table below). Notwithstanding other factors being considered for this application, there is no need at this time for additional commercial land in the Analysis area and the application, if approved, would add ±14.8 acres (approximately 1-year worth of supply) to the commercial land supply.

Projected Absorption of Land for Commercial Uses  
Indicated Year of Depletion and Related Data  
Application No. 3 Analysis Area

Analysis Area	Vacant Commercial Land 2010 (Acres)	Commercial Acres in Use 2010	Annual Absorption Rate 2008-2025 (Acres)	Projected Year of Depletion	Total Commercial Acres per Thousand Persons	
					2015	2025
<b>MSA 7.4</b>	<b>316.7</b>	<b>366.5</b>	<b>13.19</b>	<b>2030+</b>	<b>5.5</b>	<b>4.1</b>

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

### **Environmental Conditions**

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

**Flood Protection**

County Flood Criteria, National Geodetic Vertical Datum (NGVD)	+5.5 feet
Stormwater Management	Surface Water Management Permit
Drainage Basin	C-103 Mowry Canal
Federal Flood Zone	AH; 100-year floodplain
Hurricane Evacuation Zone	NO

**Biological Conditions**

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

**Other Considerations**

Within Wellfield Protection Area	NO
Archaeological/Historical Resources	NO
Hazardous Waste	NO
Air Quality Management	NO

**Drainage and Flood Protection:**

The application site is located within Flood Zone AH, where the base flood elevation is 6.0 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 5.5 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. Flood protection for the application site is available through C-103 Canal (Mowry Canal).

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.

**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, and is inconsistent with the goals of the Comprehensive Everglades Restoration Plan (CERP), which is designed to restore and preserve the water resources of the South Florida ecosystem, including the Everglades. In 2005, the South Florida Water Management District (SFWMD) promulgated new rules that prohibited withdrawals from the Biscayne Aquifer to accommodate future development. The SFWMD requires that all future development be linked to new water supply sources, either through alternative water supply or reuse projects.

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 amendment, an assumption of three years for project completion from final comprehensive plan amendment approval is made, for this project the year 2014 will be used. This timeframe allows for rezoning of the property, platting of property, permitting and construction. Additionally, this is the timeframe for which concurrency is applied.

The application site is proposed to be restricted to non-residential development through the covenant proffered by the applicant. As noted in the table below, should the subject site be developed with 88 units of single-family detached homes and 58,544 square feet (sq.ft.) of retail as allowed under the current land use designations, a water demand of 25,214.4 gallons per day (gpd) would be generated. The maximum water demand that would be generated by the commercial development that could be built under the requested "Business and Office" designation is estimated at 29,272 gpd. Since maximum development under the current land use designations could generate a water demand of 25,214.4 gpd, approval of the application with acceptance of the proffered covenant would result in a 4,057.9 gpd increase in projected water demand, and thus a slight increase in impact to the water supply system. 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.

Estimated Water Demand by Land Use Scenario				
Scenario	Use (Maximum Allowed)	Quantity (Units or Square Feet)	Water Demand Multiplier (Section 24-43.1 Miami- Dade Code)	Projected Water Demand (gpd)
Current/Allowable Use				
1	SF Residential and Commercial	88 units and 58,544 sq.ft.	220 gal/unit and 10 gal/100 sq.ft.	25,214.4
Proposed Use				
2	Commercial Only	292,723 sq.ft.	10 gal/100 sq.ft.	29,272.3

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

#### 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. According to the information provided by DERM this plant has sufficient capacity to provide current water demand and is presently producing water that meets Federal, State, and County drinking water standards.



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 would be provided by MDWASD through an existing 16-inch main on SW 137 Avenue extending south along SW 137 Avenue south of SW 288 Street and by extending the 16-inch main to the southwest corner of the application site. Any public water main extension within the property shall require a 12-inch minimum diameter main connected to the 16-inch main extension. 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.

Based upon the commercial development scenario (discussed under the Water Supply section above), it is estimated that this site will generate sewage flows of 29,272.3 gpd (0.0293 mgd). The estimated flows would not cause the adopted LOS standard for the regional wastewater treatment system to be exceeded.

The closest available public sanitary sewer line to the application site is an existing 10-inch force main abutting the north side of the property running along SW 288 Street, to which a new 8-inch force main would be connected and extended onto the application site. A new private pump station would also be required. According to DERM, sewage flows from this site would be discharged directly to Pump Station (PS) 30-1019 and then to the South District Wastewater Treatment Facility. The pump station has sufficient capacity to handle sewage flows that would be generated from the potential development on the application site. The treatment plant and pump station are currently working within the mandated criteria set forth in the First and Second Partial Consent Decree. 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. However, a capacity modeling evaluation may be required at the time of development.

## Solid Waste

The application site is located inside the Department of Solid Waste Management (DSWM) waste service area for garbage and trash collections. The adopted LOS standard for the County Solid Waste Management System is to maintain sufficient waste disposal capacity to accommodate waste flows committed to the System through long-term contracts or interlocal agreements with municipalities and private waste haulers, and anticipated uncommitted waste flows, for a period of five years. As of FY 2010-2011, the DSWM is in compliance with the level of service. The DSWM does not actively compete for commercial collection at this time and the requested amendment, with proffered covenant that seeks to prohibit residential development on the site, would not impact DSWM service.

## 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 3 (PBD-3), which has a surplus capacity of 229.36 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
Pine Island lake Park	17.98	Neighborhood Park
Leisure Park	1.90	Neighborhood Park
Leisure lakes Park	8.68	Community Park
Palmland Park	5.05	Neighborhood Park
Naranja Lakes Park	1.48	Neighborhood Park
Modello Park	10.00	Community Park
Royal Colonial Park	25.40	Community Park
Naranja Park	10.00	Community Park

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

Under the requested "Business and Office" designation the application site could be developed with 240 single-family units with a projected population of 737 persons. This projected population would generate a demand for 0.66 acres of additional local park area, which is well within the surplus capacity of 229.36 acres for PBD 3. However, as proposed through the proffered covenant, residential development would be prohibited on the application site. As such, the proposed development of the site for a Wal-Mart Store or any other non-residential use (up to 292,723 square feet retail) would not generate a need for additional park acreage.

## Fire and Rescue Service

The subject property is currently served by Miami-Dade Fire-Rescue Station No. 6, which is located at 15890 SW 288 Street. The station is equipped with a rescue unit, tanker, and a battalion totaling eight (8) firefighters/paramedics, operating 24 hours daily. Average travel time to incidents in the vicinity of the subject property is approximately 6.58 minutes, which complies with the travel time of 8 minutes required by the performance objectives of the National Industry

Standards to assembly 15-17 firefighters on scene at 90% of all incidents. The maximum development allowable under the current designations would generate approximately 42 annual alarms. Under the requested "Business and Office" designation, if developed with the maximum allowable retail, the site would generate 86 annual alarms, a net impact of 44 annual alarms, which is considered a moderate impact to existing fire rescue services. Fire rescue service is adequate in the general application area.

There are no planned stations in the vicinity of the subject property. The required "fire flow" for the proposed CDMP designation is 3,000 gallons per minute (gpm) at 20-PSI residual on the system. Each fire hydrant requires a minimum of 1,000 gpm. No fire flow deficiencies exist in the vicinity of the application area.

## **Public Schools**

The applicant has proffered a covenant that would prohibit residential development on the application site should the application be approved with acceptance of the covenant. Therefore, Miami-Dade County Public Schools would not be impacted by the application as proposed.

## **Aviation**

The Miami-Dade County Aviation Department (MDAD) has indicated that the proposed Land Use Plan map amendment application is compatible with the airport operations.

## **Roadways**

### Existing Conditions

Primary access to the application site is from SW 137 Avenue/Lindgren Road and SW 288 Street, two four-lane divided arterials. SW 137 Avenue, a north-south major arterial, provides connections to other major corridors such as South Dixie Highway (US 1/SR 5) and the Homestead Extension of the Florida Turnpike (HEFT/SR 821). US 1 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 288 Street, between the HEFT and SW 112 Avenue, and SW 137 Avenue, from the HEFT to SW 288 Street, are acceptable at LOS D and B, respectively, at or above the adopted LOS D standard applicable to these roadway segments. Traffic conditions on SW 268 Street, SW 312 Street, SW 328 Street, and SW 344 Street in the vicinity of the application site are also acceptable at LOS A, B and C, which are above the adopted LOS D standard applicable to these roadway segments. See "Traffic Impact Analysis" Table below.

### Application Impact

The "Estimated Peak Hour Trip Generation" Table below shows the number of PM peak hour trips estimated to be generated by the potential development that could occur on the subject site under the requested "Business and Office" 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 "Business and Office" and "Low Density (2.5 to 6 DU/Acre)" land use designations. Two developments scenarios were analyzed for traffic impact under both the current and requested CDMP land use designations. Scenario 1 assumes the application site developed with commercial use only (a 292,723 sq. ft. shopping center). Scenario 2 assumes the subject

site developed with residential use only (240 single-family attached units). Scenario 1 is estimated to generate approximately 528 more PM peak hour trips than the commercial (58,544 sq. ft.) and residential (88 single-family units) development that can occur under the current CDMP land use designations. In contrast, Scenario 2 is estimated to generate less PM peak hour trips than the residential development (48 single-family attached and 88 single-family detached units) that could occur on the site under the current CDMP designation. It should be pointed out that the subject property is currently undeveloped.

Estimated PM Peak Hour Trip Generation By Current and Requested CDMP Land Use Designations			
Application Number	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)"	"Business & Office"	
3 (Scenario 1)	58,544 sq. ft. Retail & 88 Single-family detached dwelling units <sup>1</sup>	292,723 sq. ft. Retail <sup>3</sup>	
	426	954	+528
3 (Scenario 2)	48 Single-family attached & 88 Single-family detached dwelling units <sup>2</sup>	240 Single-family attached <sup>4</sup>	
	129	123	- 6

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

Notes: <sup>1</sup> Business and Office (± 3.70 gross acres; ± 3.36 net acres); Low Density Residential (± 14.8 gross acres). The area of the application site designated "Business and Office" can be developed with 58,544 sq. ft. of retail space; the area designated "Low Density Residential" can be developed with 88 single-family detached dwelling units. Retail trips were adjusted for pass-by trips (max. 25% of project's external trips).

<sup>2</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>3</sup> Under the requested land use designation, the property site may be developed with 292,723 sq. ft. of retail space.

<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.

### Short-Term Traffic Evaluation

An evaluation of PM peak-period traffic conditions as of January 7, 2011, on SW 288 Street and SW 137 Avenue using the County's Traffic Concurrency Management System - which considers reserved trips from approved developments not yet constructed, any programmed roadway capacity improvements listed in the first three years of the 2011 Transportation Improvement Program- does not predict any substantial changes in the LOS of the subject roadways. See Traffic Impact Analysis table above.

CDMP Amendment Application No. 3  
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.
Scenario 1: Commercial Development										
SW 268 Street/Moody Drive	SW 137 Ave. to SW 112 Ave.	4 DV	D	2,270	740	A	110	27	877	B (10)
SW 288 Street/Biscayne Drive	HEFT to SW 137 Avenue	4 DV	D	2,520	1,555	D	215	382	2,152	D (10)
SW 312 Street/Campbell Drive	HEFT to SW 147 Avenue	4 DV	D	3,310	2,103	C	2	50	2,155	C (10)
SW 328 Street/N. Canal Drive	HEFT to SW 137 Avenue	2 UD	D	1,400	300	B	0	52	350	B (10)
SW 344 Street/Palm Drive	SW 147 Ave. to SW 137 Ave.	4 DV	D	1,830	363	B	0	22	385	B (10)
SW 137 Ave./Tallahassee Road	HEFT to SW 288 Street	4 DV	D	3,460	1,698	B	200	423	2,319	B (10)
Scenario 2: Residential Development										
SW 268 Street/Moody Drive	SW 137 Ave. to SW 112 Ave.	4 DV	D	2,270	740	A	110	3	853	B (10)
SW 288 Street/Biscayne Drive	HEFT to SW 137 Avenue	4 DV	D	2,520	1,555	D	215	49	2,672	D (10)
SW 312 Street/Campbell Drive	HEFT to SW 147 Avenue	4 DV	D	3,310	2,103	C	2	7	2,112	C (10)
SW 328 Street/N. Canal Drive	HEFT to SW 137 Avenue	2 UD	D	1,400	300	B	0	6	306	B (10)
SW 344 Street/Palm Drive	SW 147 Ave. to SW 137 Ave.	4 DV	D	1,830	363	B	0	3	366	B (10)
SW 137 Ave./Tallahassee Road	HEFT to SW 288 Street	4 DV	D	3,460	1,698	B	200	55	1,953	B (10)

Source: Miami-Dade County Department of Planning and Zoning; Miami-Dade Public Works Department and Florida Department of Transportation, January 2011.

Notes: DV= Divided Roadway, UD= Undivided Roadway

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

( ) Year traffic count was updated or LOS Revised

### Future Conditions

According to the 2011 Transportation Improvement Program, the following roadway capacity improvement projects are programmed for construction in fiscal years 2011-2015 in the vicinity of the application site (see table below).

#### Programmed Road Capacity Improvements

Fiscal Years 2010/2011 – 2014/2015

Roadway	From	To	Type of Improvement	Fiscal Year
SW 328 Street	SW 152 Avenue	SW 137 Avenue	Add lanes &	2010-2011
SW 328 Street	US 1	SW 162 Avenue	Widen to 4 lanes	2010-2011
SW 137 Avenue	US 1	HEFT	Widen to 4 lanes	2010-2012

Source: Transportation Improvement Program 2011, Miami-Dade County Metropolitan Planning Organization, June 17, 2010.

According to the 2035 Miami-Dade Long Range Transportation Plan, Cost Feasible Plan, the following roadway capacity improvement projects are planned for capacity improvement in the vicinity of the application site (see table below).

#### Planned Roadway Capacity Improvements

Fiscal Years 2010/2011 – 2034/2035

Roadway	From	To	Type of Improvement	Priority
SW 137 Ave.	SW 200 St.	US 1	Complete as 2 continuous lanes	I
SW 137 Avenue	SW 184 Street	US 1t	Widen 2 to 4 lanes	II
SW 264/268 Street	SW 147 Ave.	SW 112 Ave.	Roadway and	II
SW 328 Street	US 1		Intersection Improvement –	II
			Add turn lanes	
SW 312 Street	HEFT		Access ramps	IV

Source: Miami-Dade Transportation Plan to the Year 2035, Cost Feasible Plan, Metropolitan Planning Organization, October 2009.

Priority I - Projects scheduled to be funded by 2014; Priority II - Projects to be funded between 2015 and 2020

Priority III - Projects to be funded between 2021 and 2025; Priority IV - Projects to be funded between 2026 and 2025

Future (2035) traffic analysis evaluated roadway conditions adjacent to and in the vicinity of the application site to determine the adequacy of the roadway network to handle the demand of the subject CDMP amendment application and to meet the adopted LOS standards through the year 2035.

The V/C ratio is a representation of the roadway volumes proportionate to the roadway capacity and is an expression of the roadway LOS. The correlation between roadway LOS and the V/C ratio is as follows:

- V/C ratio less than or equal to 0.70 is equivalent to LOS B or better;
- V/C ratio of 0.71 to 0.80 is LOS C;
- V/C ratio of 0.81 to 0.90 is LOS D;
- V/C ratio of 0.91 to 1.0 is LOS E; and
- V/C ratio of more than 1.0 is LOS F.

The future (2035) traffic condition analysis, which was performed by the Metropolitan Planning Organization (MPO) using the FSUTMS Model, indicates that most roadways adjacent to and in the vicinity of the Application site are projected to operate at acceptable level of service, with or without the application's traffic impact. However, some roadway segments are projected to exceed by 2035 their adopted LOS standard without the impact of the subject application. It

should be pointed out that the proposed CDMP Application would not significantly impact the roadway segments analyzed, including the adjacent SW 137 Avenue and SW 288 Street, where the projected LOS would remain at LOS B for both roadways under the retail development scenario. See the “2035 Volume-to-Capacity (V/C) Ratios” table below.

October 2010 CDMP Amendment Application No. 3  
2035 Volume to Capacity (V/C) Ratios

Roadway Segments	Adopted LOS Std <sup>1</sup>	No. Of Lanes	(Base Scenario)		Scenario 1:		Scenario 2:	
			Without application		Site Developed with Retail		Site Developed with Residential	
			V/C Ratios <sup>2</sup>	Projected LOS	V/C Ratios <sup>2</sup>	Projected LOS	V/C Ratios <sup>2</sup>	Projected LOS
<b>SW 268 Street</b>								
US 1 to SW 137 Avenue	D	4	0.45 - 0.54	B	0.45 – 0.54	B	0.47 – 0.55	B
SW 137 Ave. to SW 112 Ave.	D	4	0.62 – 0.73	B/C	0.63. – 0.72	B/C	0.69 – 0.74	B/C
<b>SW 280 Street/Waldin Drive</b>								
US 1 to SW 137 Avenue	D	4/2	0.29 – 1.38	B/F	0.28 – 1.38	B/F	0.29 – 1.39	B/F
<b>SW 288 Street/Biscayne Drive</b>								
US 1 to SW 152 Avenue	D	4	0.63	B	0.63	B	0.62	B
SW 152 Ave. to SW 137 Ave.	D	4	0.47 -0.62	B	0.49 – 0.68	B	0.47 – 0.65	B
<b>SW 312 Street/Campbell Drive</b>								
US 1 to HEFT	D	4	0.54 - 0.73	B/C	0.55 - 0.75	B/C	0.55 – 0.90	B/D
HEFT to SW 137 Avenue	D	4	0.17 – 0.27	B	0.16 – 0.27	B	0.16 – 0.27	F
<b>SW 320 Street/Mowry Drive</b>								
US1 to SW 157 Avenue	D	2	1.13 – 1.84	F	1.15 – 1.81	F	1.14 – 1.81	F
SW 157 Ave to SW 137 Ave	D	2	0.67 – 0.93	B/E	0.65 – 0.94	B/E	0.66 – 0.93	B/E
<b>SW 328 Street/N. Canal Drive</b>								
US 1 to HEFT	D	4	0.57 – 0.58	B	0.57	B	0.57	B
HEFT to SW 137 Ave	D	4	0.07 – 0.74	B/C	0.07 – 0.74	B/C	0.06 – 0.73	B/C
<b>SW 152 Avenue</b>								
US 1 to SW 280 Street	D	2	0.69	B	0.65	B	0.65	B
SW 280 Street to SW 288 Street	D	2	0.89 – 1.01	D/F	0.87 – 0.99	D/E	0.87 – 0.99	D/E
SW 288 Street to SW 296 Street	D	2	1.16	F	1.14	F	1.13	F
SW 296 Street to SW 312 Street	D	2	0.68 - 0.89	D	0.65 – 0.80	B/C	0.67 – 0.82	B/C
<b>SW 137 Avenue</b>								
US 1 to HEFT	D	4	0.92-1.19	E/F	0.90-1.17	D/F	0.91-1.16	E/F
HEFT to SW 312 Street	D	4	0.71-0.77	C	0.70-0.77	B/C	0.68-0.75	B/C
SW 312 Street to SW 328 Street	D	4	0.18-0.46	B	0.17-0.45	B	0.17-0.45	B

Notes: <sup>1</sup> Minimum Peak-period operating Level of Service (LOS) standard for State and County roadways.

<sup>2</sup> Volume-to-Capacity (v/c) ratio, which is the ratio of the number of vehicles using the road to the road capacity. The v/c model output is expressed using daily volumes.



### Applicant's Traffic Impact Analysis

The applicant submitted the “*Wal-Mart Traffic Study*” report, dated January 3<sup>rd</sup>, 2011, in support of the application. The report, which was prepared by Richard Garcia & Associates, Inc., evaluated the transportation impacts resulting from the requested CDMP Land Use Plan map amendment, based on a proposed development of 152,686 sq. ft. of retail space and two outparcels which can potentially be developed as a bank, retail space or fast food restaurants. The two outparcels were evaluated with fast food land use since this type of land use generates the greatest traffic volume. It should be pointed out that the applicant proffered a declaration of restrictions prohibiting residential uses on the property, but did not limit the intensity of the potential retail development on the property to 152,686 sq. ft. of retail space. The resulting trip generation calculation revealed that the store and fast food restaurants will generate approximately 594 PM peak hour net vehicles trips. The study evaluates the traffic impacts to the adjacent roadways and intersections. The arterial LOS analyses were performed for concurrency condition (2013) as well as future condition (years 2015 and 2025). In addition, a signal warrant analysis was performed for the median opening on SW 137 Avenue for the Publix driveway, south of SW 288 Street. The report concludes that sufficient roadway capacity exists to support the project and that the arterials and intersections most impacted by this application will operate at acceptable levels of service. However, the southbound left turn lane on SW 137 Avenue (southern project driveway) evaluation found that a turn lane is needed due to the projected traffic. The signal warrant analysis found sufficient evidence to justify signal control at that Publix driveway intersection. An Executive Summary of the Applicant's traffic study is provided in Appendix D of this report.

Miami-Dade County Public Works Department and Department of Planning and Zoning staff reviewed the January 2011 Traffic Impact Study and had some issues regarding the percentage of pass-by trips used in the analysis, the total trips applied to the driveway volumes, the growth factor used in the future analyses, and the traffic count stations considered in the future condition analysis, and requests that additional traffic count stations and intersections be included in the traffic study. It should be pointed out that notwithstanding any outstanding concerns that DP&Z and PWD staff may have regarding the traffic study, DP&Z staff is of the opinion that the roadway facilities adjacent to and in the vicinity of the application site have enough capacity to handle the traffic demand that will be generated by the proposed land use change. However, the consultant will have to address the above DP&Z and PWD concerns prior to final approval of the subject application. County staff will work with the applicant and the transportation consultant in order to address the outstanding issues.

## **Transit**

### Existing Service

The area within Application No. 3 has no adjacent transit service. However, there is transit service half a mile to the east of the application site along SW 132<sup>nd</sup> Avenue provided by Metrobus Route 70. 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		
70	30	60	60	60	0.5	L

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

Note: L means feeder service route

### Future Conditions

Transit improvements to the existing Metrobus service, such as the replacement of an existing route with a new enhanced route and route alignment extensions/expansions are being planned for the next ten years as noted in the 2020 Recommended Service Plan within the 2010 Transit Development Plan. The table below shows the Metrobus service improvements programmed for the existing routes serving this application.

Metrobus Routes Service Improvements	
Route	Improvement Description
70	Route would be truncated at Southland Mall when the Cutler Bay Circulator begins service.
Cutler Bay Circulator	New service to be provided with this circulator to Cutler Bay and Saga Bay area, replacing the Route 70.

The new circulator would be replacing the service being cut from Route 70; therefore, this planned bus service improvement would not generate additional capital or operating costs.

### Major Transit Projects

Regarding future transit projects within the application area, MDT is developing premium transit services in the corridors approved by the People's Transportation Plan. These services (enhanced bus corridors and express bus services) will incrementally build local ridership first to justify major improvements later. However, there are no major transit projects within the immediate vicinity of this application. The closest premium transit corridor is the South Miami-Dade Busway located 2.5 miles to the west of this application site.

### Application Impacts in the Traffic Analysis Zone

A preliminary analysis was performed in the Traffic Analysis Zones 1381 where the application is located. If the Application is approved, the estimated transit impact that would be generated by this application is minimal and can be absorbed by the current and scheduled transit service in the area.

### **Other Planning Considerations**

Appropriate Guideline of Urban Form should be considered for this site. Below is the applicable guideline as listed in the CDMP.

Guideline 4- Intersections of section line roads shall serve as focal points of activity, hereafter referred to as activity nodes. Activity nodes shall be occupied by any non-residential components of the neighborhood including public and semi-public uses. When commercial uses are warranted, they should be located within these activity nodes. In addition, of the various residential densities, which may be approved in a section through density averaging or on an individual site basis, the higher density residential uses should be located at or near the activity nodes.

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

The following CDMP goals, objectives, policies, concepts, and guidelines would be enhanced if the proposed amendment is approved.

- LU-1. The location and configuration of Miami-Dade County's urban growth through the year 2025 shall emphasize concentration and intensification of development around centers of activity, development of well designed communities containing a variety of uses, housing types and public services, renewal and rehabilitation of blighted areas, and contiguous urban expansion when warranted, rather than sprawl.
- LU-1E. In planning and designing all new residential development and redevelopment in the county, Miami-Dade County shall vigorously promote implementation of the "Guidelines for Urban Form" contained in the "Interpretation of The Land Use Plan Map" text adopted as an extension of these policies.
- LU-1G. Business developments shall preferably be placed in clusters or nodes in the vicinity of major roadway intersections, and not in continuous strips or as isolated spots, with the exception of small neighborhood nodes. Business developments shall be designed to relate to adjacent development, and large uses should be planned and designed to serve as an anchor for adjoining smaller businesses or the adjacent business district. Granting of commercial or other non-residential zoning by the County is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways.
- LU-4A. When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.
- 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-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.
- TC-1D. Issuance of all development orders for new development or significant expansions of existing development shall be contingent upon compliance with the Level of Service standards contained in Policy TC-1B, except as otherwise provided in the "Concurrency Management Program" section of the Capital Improvements Element.
- 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 could be impeded if the proposed amendment is approved.

- 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 Public Schools Analysis

Appendix D: Applicant's Traffic Study Executive Summary

Appendix E: Fiscal Impact Analysis

Appendix F: Proposed Declaration of Restrictions

Appendix G: Photos of Site and Surroundings

THIS PAGE INTENTIONALLY LEFT BLANK

# APPENDIX A

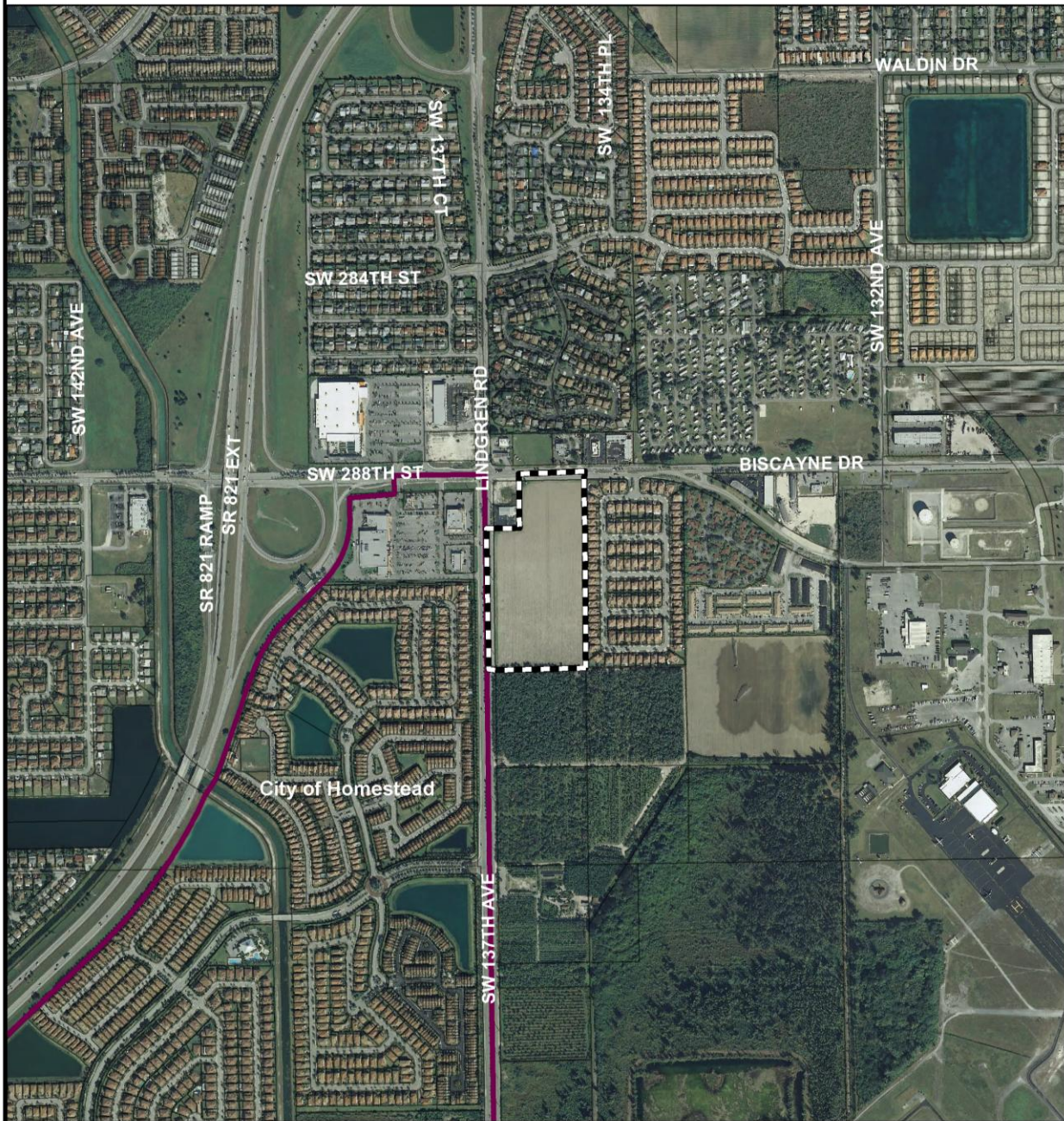
## Map Series



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

THIS PAGE INTENTIONALLY LEFT BLANK



# APPLICATION NO. 3 AERIAL PHOTO

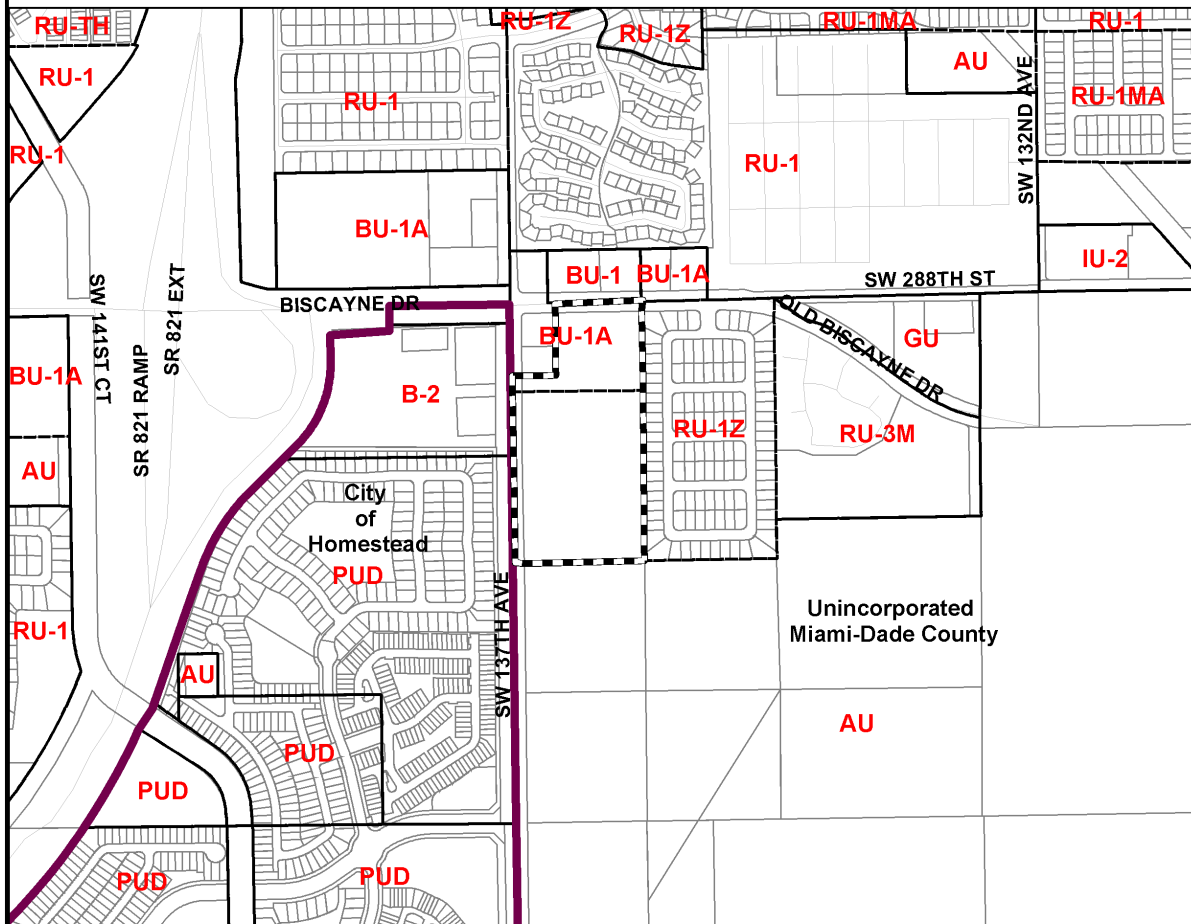


-  APPLICATION AREA
-  MUNICIPAL BOUNDARIES

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



# APPLICATION NO. 3 CURRENT ZONING



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

APPLICATION AREA

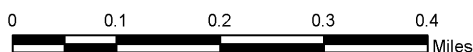
## MIAMI-DADE COUNTY ZONING DISTRICTS

GU	INTERIM
AU	AGRICULTURAL
RU-1	SINGLE-FAMILY (7,500 sq. ft. net)
RU-1Z	SINGLE-FAMILY (4,500 sq. ft. net)
RU-1M(a)	SINGLE-FAMILY MODIFIED (5,000 sq. ft. net)
RU-TH	TOWNHOUSE (8.5 units/net acre)
RU-3M	MINIMUM APARTMENT HOUSE (12.9 units/net acre)
BU-1	NEIGHBORHOOD BUSINESS
BU-1A	LIMITED BUSINESS
IU-2	HEAVY INDUSTRIAL MANUFACTURING

## CITY OF HOMESTEAD ZONING DISTRICTS

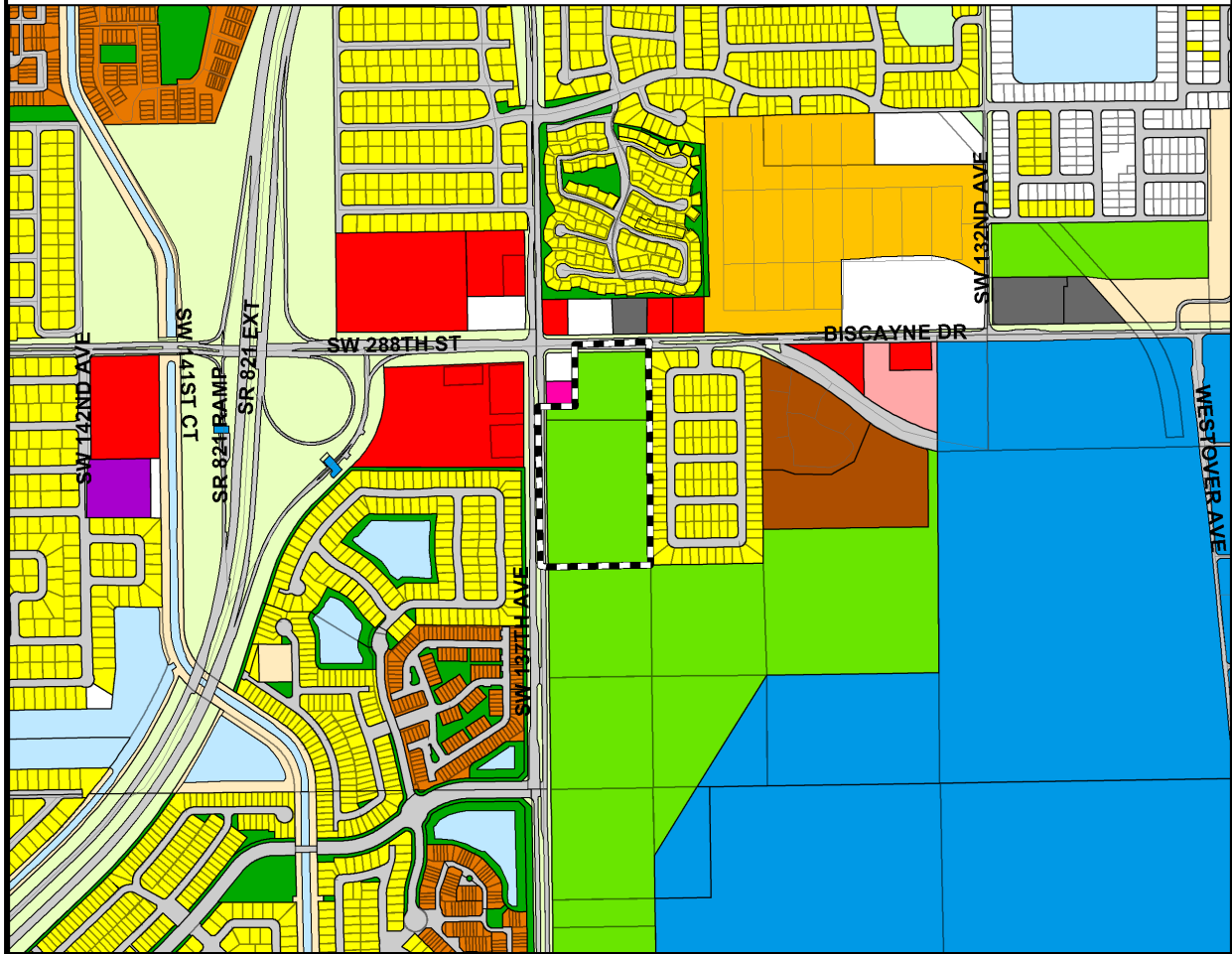
AU	AGRICULTURAL
B-2	RETAIL COMMERCIAL
PUD	PLANNED UNIT DEVELOPMENT

MUNICIPAL BOUNDARIES





# APPLICATION NO. 3 EXISTING LAND USE



APPLICATION AREA

0 0.1 0.2 0.3 0.4  
Miles

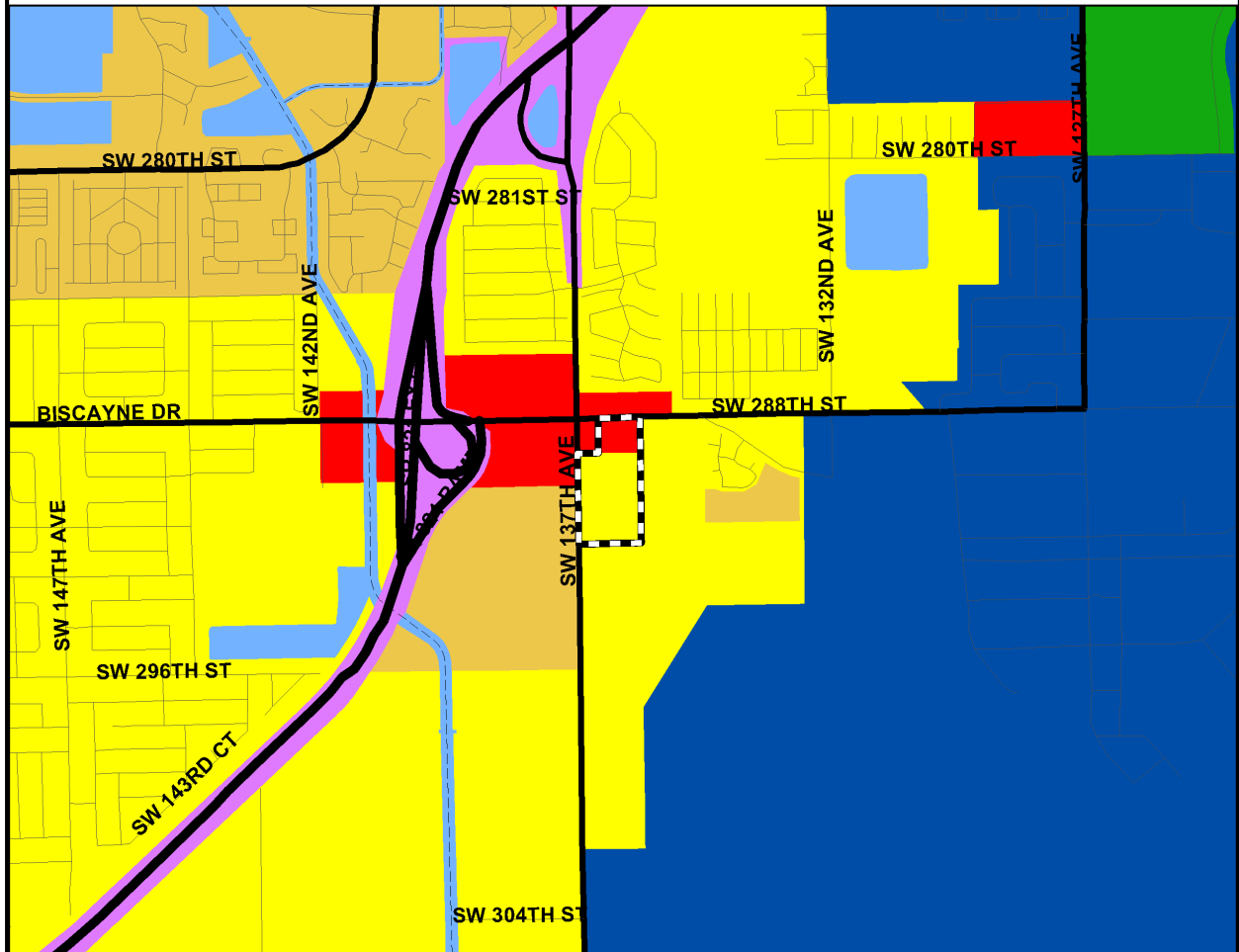
Source: Miami-Dade County  
Department of Planning and Zoning, January 2011

## EXISTING LAND USES

SINGLE FAMILY RESIDENTIAL	HOTEL / MOTEL
MULTI-FAMILY (< 25 DU/GROSS ACRE)	INDUSTRIAL
MOBILE HOMES PARK	MILITARY FACILITIES
TOWNHOUSES	GOVERNMENT/ PUBLIC ADMIN.
SALES AND SERVICES	INLAND WATER
OFFICE BUILDING	WATER SUPPLY PLANT
RECREATIONAL FACILITIES	VACANT (PRIVATELY OWNED)
ROW AND FIELD CROPLAND	VACANT (GOVT. OWNED)



# APPLICATION NO. 3 CURRENT CDMP LAND USE



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

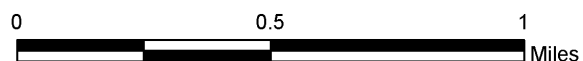


APPLICATION AREA

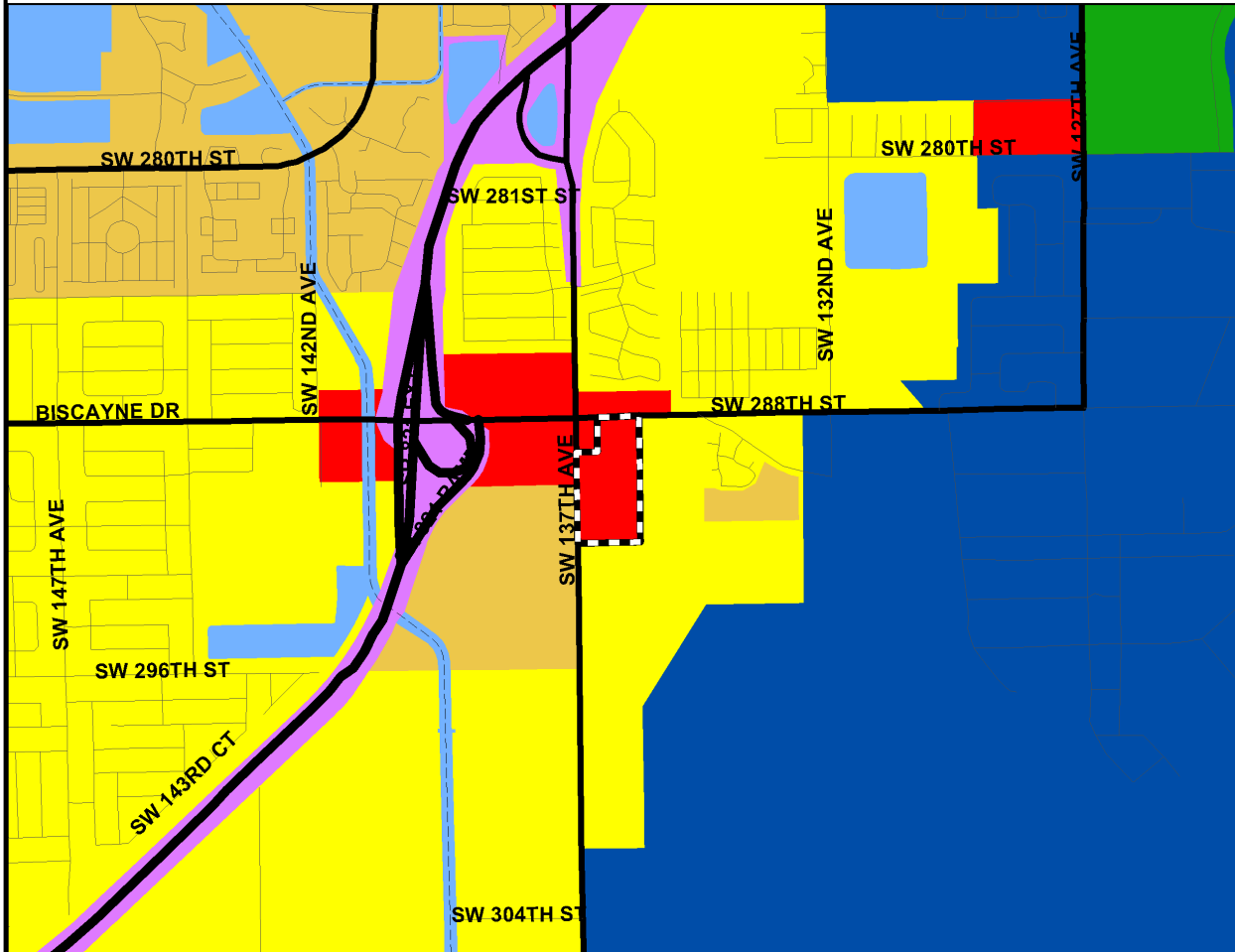
## CDMP LAND USES

- LOW DENSITY (2.5 - 6 DU/AC)
- LOW-MEDIUM DENSITY (6 - 13 DU/AC)
- INSTITUTIONS, UTILITIES AND COMMUNICATIONS
- BUSINESS AND OFFICE
- PARKS AND RECREATION
- WATER
- TRANSPORTATION

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



# APPLICATION NO. 3 PROPOSED CDMP LAND USE



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

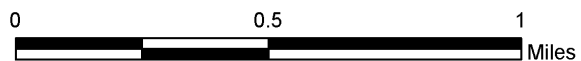


APPLICATION AREA

## CDMP LAND USES

- LOW DENSITY (2.5 - 6 DU/AC)
- LOW-MEDIUM DENSITY (6 - 13 DU/AC)
- INSTITUTIONS, UTILITIES AND COMMUNICATIONS
- BUSINESS AND OFFICE
- PARKS AND RECREATION
- WATER
- TRANSPORTATION

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



THIS PAGE INTENTIONALLY LEFT BLANK

# **APPENDIX B**

## **Amendment Application**

THIS PAGE INTENTIONALLY LEFT BLANK



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

2010 OCT 29 A 11:34  
PLANNING & ZONING  
METROPOLITAN PLANNING SECT

1. APPLICANT

**WAL-MART STORES EAST, L.P.  
2001 S.E. 10<sup>th</sup> Street  
Bentonville, Arkansas 72716-0550  
Attention: Brian E. Hooper  
Vice President, Wal-Mart Stores East, LP**

2. APPLICANT'S REPRESENTATIVE

Augusto E. Maxwell, Esq.  
Joel E. Maxwell, Esq.  
Akerman, Senterfitt, P.A.  
One Southeast Third Avenue, 25th Floor  
Miami, FL 33131-1741  
(305) 374-5600  
(305) 374-5095 (fax)

By: Joel E. Maxwell  
Joel E. Maxwell, Esq.

10/29/10  
Date

3. DESCRIPTION OF REQUESTED CHANGE

A. Change the Land Use Plan Map.

A change to the Land Use Element Land Use Plan Map (Item A.1(d) in the fee schedule) is requested to re-designate the Subject Area from "Low Density Residential (LDR 2.5-6 DU/AC)" and "Business and Office" to "Business and Office."

B. Description of Subject Area.

The Subject Area consists of approximately 18.5± gross acres that is a parcel of land (folio number 30-7902-000-0110) the LUP Map currently designates as "Low Density Residential (LDR 2.5-6 DU/AC) and "Business and Office." See Composite Exhibit "A".

For convenience, this Application will refer to these approximately 18.5± acres as the "Subject or Application Area," and the Net Acres as the "Parcel." The Parcel is located in Township 57, Range 39, Section 02, on the southeast corner of the intersection of S.W. 288<sup>th</sup> Street (a/k/a "Biscayne Drive") and S.W. 137<sup>th</sup> Avenue (a/k/a "Speedway Boulevard").

C. Acreage.

Subject Area: 18.5± Gross acres  
16.8± Net Acres

Acreage owned by Applicant: 0 Acres (Applicant has a contract to purchase the Property)

D. Requested Changes.

It is requested that the Land Use Plan Map be amended to re-designate the subject area from "Low Density Residential (LDR 2.5-6 DU/AC)" and "Business and Office" to "Business and Office."

4. REASONS FOR AMENDMENT

This application seeks an extension of the existing "Business and Office" designation that exists along the northern portion of this approximately 17 acre parcel southward to encompass the entirety of the Property and thereby allow the development of a Wal-Mart Supercenter. Among the many reasons supporting this re-designation are (1) that it would conform the existing "Business & Office" designation to the property's existing parcelization; (2) that such a larger "Business & Office" designation will conform the Property with similarly large "Business & Office" designations and uses on two of the three abutting quadrants at the intersection of two Major Roadways; and (3) that such re-designation will allow for a significant commercial development not possible under the Property's current "Low Density Residential," which given the recent extended economic downturn is no longer realistic.

The Property is within the Urban Development Boundary, approximately 1/3 of a mile west of Homestead Air Force Base and 1/3 of a mile east from the Homestead Extension of the Florida Turnpike. It is essentially a rectangular parcel at the southeast intersection of two Major Roadways -- SW 288<sup>th</sup> Street a.k.a. as Biscayne Drive and 137<sup>th</sup> Avenue a/k/a Speedway Boulevard. The Property's northwest corner is notched with two small cut out parcels -- one is vacant and the other is a small day care facility. The Property itself is owned by South Miami Hospital and is currently leased for agricultural use. It is the subject of purchase and sale agreement with Wal-Mart Stores East, L.P. that is contingent on County approval of the proposed Wal-Mart Supercenter.

The Property is already designated "Business & Office" along its northern quarter which is presumably in conformance with its current BU-1A zoning. The balance of the Property is designated "Low Density Residential," and is zoned Agricultural. Abutting the Property along its

east is a single family development, and to its south are farm uses. On its west, the Property abuts the two small cut out parcels described above, and SW 137 Avenue (Speedway Boulevard). Beyond these are the *Tallahassee Shopping Center* with Publix, Walgreens, Pollo Tropical and a Bank of America among other retail uses. Also to the west and to the south of the shopping center is Waterstone – an expansive and gated single family residential development. On the Property's north, abut the two small parcels and SW 288<sup>th</sup> Street (Biscayne Drive.) Beyond these lie a service station and other retail uses such as Wendy's and other retail uses. On the northwest quadrant of the intersection of SW 288<sup>th</sup> Street and 137<sup>th</sup> Avenue is *Biscayne Shops*, another large retail development that includes a Home Depot, a Burger King and a bank among other retail uses. The current CDMP designations for all these surrounding properties track their existing zoning and established uses such that they are also designated "Business & Office," "Low Density Residential," and Low Medium Density Residential," respectively. This Property is the only parcel at this intersection of two Major Roadways which is undeveloped under its existing, split land use designations.

Given the recent economic crisis, particularly the market collapse for single family homes in south Miami-Dade County, it is highly unlikely that there will be future demand within the applicable planning framework for additional single family homes as currently contemplated by the Property's existing "Low Density Residential" designation. Accordingly, extension of the existing "Business and Office" designation to the balance of the Property is a relatively minor amendment that will allow for a significant commercial investment with resulting retail services and employment opportunities for the surrounding residential communities.

Such a change is expressly consistent with the following CDMP Land Use Goals, Objectives and Policies:

## **GOAL**

PROVIDE THE BEST POSSIBLE DISTRIBUTION OF LAND USE AND SERVICES TO MEET THE PHYSICAL, SOCIAL, CULTURAL AND ECONOMIC NEEDS OF THE PRESENT AND FUTURE POPULATIONS IN A TIMELY AND EFFICIENT MANNER THAT WILL MAINTAIN OR IMPROVE THE QUALITY OF THE NATURAL AND MAN-MADE ENVIRONMENT AND AMENITIES, AND PRESERVE MIAMI-DADE COUNTY'S UNIQUE AGRICULTURAL LANDS.

## **Objective LU-1**

The location and configuration of Miami-Dade County's urban growth through the year 2025 shall emphasize concentration and intensification of development around centers of activity, development of well designed communities containing a variety of uses, housing types and public services, renewal and rehabilitation of blighted areas, and contiguous urban expansion when warranted, rather than sprawl.

## **Policies**

- LU-1B. Major centers of activity, industrial complexes, regional shopping centers, large-scale office centers and other concentrations of significant employment shall be the structuring elements of the metropolitan area and shall be sited on the basis of metropolitan-scale considerations at locations with good countywide, multi-modal accessibility.
- 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-1E. In planning and designing all new residential development and redevelopment in the county, Miami-Dade County shall vigorously promote implementation of the "Guidelines for Urban Form" contained in the "Interpretation of The Land Use Plan Map" text adopted as an extension of these policies.
- LU-IG. Business developments shall preferably be placed in clusters or nodes in the vicinity of major roadway intersections, and not in continuous strips or as isolated spots, with the exception of small neighborhood nodes. Business developments shall be designed to relate to adjacent development, and large uses should be planned and designed to serve as an anchor for adjoining smaller businesses or the adjacent business district. Granting of commercial or other non-residential zoning by the County is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways.

## **Objective LU-2**

Decisions regarding the location, extent and intensity of future land use in Miami-Dade County, and urban expansion in particular, will be based upon the physical and financial feasibility of providing, by the year 2015, all urbanized areas with services at levels of service (LOS) which meet or exceed the minimum standards adopted in the Capital Improvements Element.

## **Policies**

- LU-2A. All development orders authorizing new, or significant expansion of existing, urban land uses shall be contingent upon the provision of services at or above the Level of Service (LOS) standards specified in the Capital Improvements Element (CIE).

- LU-2B. Priority in the provision of services and facilities and the allocation of financial resources for services and facilities in Miami-Dade County shall be given first to serve the area within the Urban Development Boundary (UDB) of the Land Use Plan (LUP) map. ....

#### **Objective LU-4**

Miami-Dade County shall, by the year 2015, reduce the number of land uses, which are inconsistent with the uses designated on the LUP map and interpretive text, or with the character of the surrounding community.

#### **Policies**

- LU-4A. When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.
- LU-4E. Zoning shall be examined to determine consistency with the Comprehensive Plan, and if deemed necessary to remedy an inconsistency, rezoning action shall be initiated....
- LU-4F. Miami-Dade County shall implement the Homestead Air Force Base Air Installation Compatible Use Zone (AICUZ) Report guidelines through the Land Use Element of the Miami-Dade County Comprehensive Development Master Plan, the Miami-Dade County Zoning Ordinance and the Florida Building Code to provide for land use compatibility in the vicinity of the Homestead Air Reserve Base.

#### **Objective LU-8**

Miami-Dade County shall maintain a process for periodic amendment to the Land Use Plan map consistent with the adopted Goals, Objectives and Policies of this plan, which will provide that the Land use Plan Map accommodates projected countywide growth.

#### **Policies**

- LU-8A. Miami-Dade County shall strive to accommodate residential development in suitable locations and densities which reflect such factors as recent trends in location and design of residential units; a variety of affordable housing options; projected availability of service and infrastructure capacity; proximity and accessibility to employment, commercial and cultural centers; character of existing adjacent or surrounding neighborhoods; avoidance of natural resource degradation; maintenance of quality of life and creation of amenities Density patterns should reflect the Guidelines for Urban Form contained in this Element.

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

v) Enhance or degrade environmental or historical resources, features or systems of County significance; and 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.

5. ADDITIONAL MATERIAL SUBMITTED

a) Aerial Photograph

b) Section Map

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

6. COMPLETED DISCLOSURE FORMS

Attached as Exhibits "B" and "C"

Attachments: Composite Exhibit "A" – Location Maps of Subject Area  
Disclosure of Interest Forms – Exhibits "B" and "C"

## EXHIBIT "B"

### 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:** WAL-MART STORES EAST, L.P., a Delaware limited partnership

2001 S.E. 10<sup>th</sup> Street

Bentonville, Arkansas 72716-0550

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: Wal-Mart Stores East, L.P.	South Miami Hospital, Inc.	30-7902-000-0110	14.54
	6200 S.W. 73 <sup>rd</sup> Street		
	Miami, FL 33143		

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

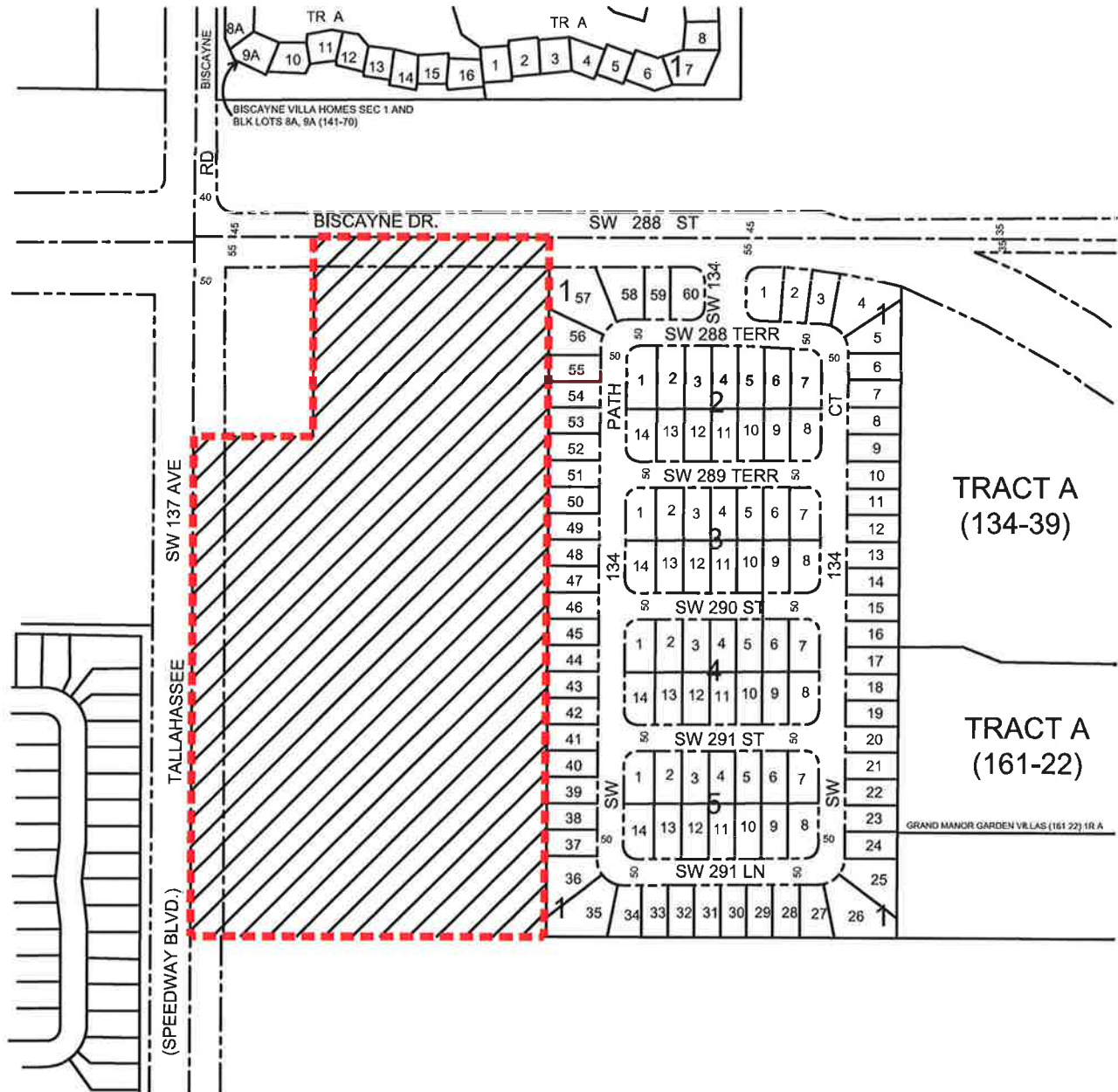
APPLICANT	OWNER	LESSEE	CONTRACTOR FOR PURCHASE	OTHER (Attach Explanation )
A: Wal-Mart Stores, East, L.P.			X	

COMPOSITE EXHIBIT "A-1"  
WAL-MART STORES EAST, L.P.

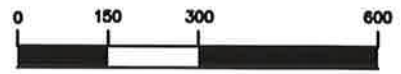
LOCATION MAP FOR APPLICATION TO AMEND  
THE COMPREHENSIVE DEVELOPMENT MASTER PLAN

LOCATION MAP

----- APPLICATION AREA (18.5 ± GROSS) / (16.8± NET)



**CREECH**  
ENGINEERS, INC.  
CIVILIZATION ENGINEERS  
728 S.E. FEDERAL HIGHWAY, SUITE 100, STUART, FLORIDA 34984 (772) 283-1413  
OFFICES ALSO IN JUPITER, MELBOURNE AND TALLAHASSEE, FL.  
BOARD OF PROFESSIONAL ENGINEERS, CERTIFICATE OF AUTHORIZATION NUMBER 5159  
PROFESSIONAL SURVEYORS AND MAPPERS, STATEMENT OF CERTIFICATE NO. 134000000



1 inch = 300 ft.



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

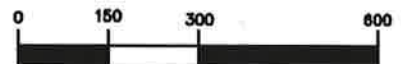
## AERIAL LOCATION MAP

----- APPLICATION AREA (18.5± GROSS) / (16.8± NET)



**CREECH**  
ENGINEERS, INC.

REGULATORY ENGINEERS  
TALLAHASSEE, FLORIDA 32310-4400  
OFFICES ALSO IN JUPITER, MELBOURNE AND TALLAHASSEE, FL.



1 inch = 300 ft.

This document, together with the concepts and designs presented herein, is an instrument of service, prepared only for the specific purpose and client for which it was prepared. No other use or reliance on this document without written authorization and adaptation by CREECH ENGINEERS, INC. shall be without liability to CREECH ENGINEERS, INC.

## EXHIBIT "B"

### 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:** WAL-MART STORES EAST, L.P., a Delaware limited partnership

2001 S.E. 10<sup>th</sup> Street

Bentonville, Arkansas 72716-0550

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: Wal-Mart Stores East, L.P.	South Miami Hospital, Inc.	30-7902-000-0110	16.8±
	6200 S.W. 73 <sup>rd</sup> Street		
	Miami, FL 33143		

**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: Wal-Mart Stores, East, L.P.			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.

INDIVIDUAL'S NAME AND ADDRESS

PERCENTAGE OF  
INTEREST

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**

PERCENTAGE OF  
STOCK

NAME, ADDRESS, AND OFFICE ( if applicable)

N/A

- 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:** Wal-Mart Stores East, L.P., a Delaware limited partnership

<u>NAME AND ADDRESS OF OFFICE (if applicable)</u>	<u>PERCENTAGE OF INTEREST</u>
---	-------------------------------

See attached Exhibit "C"


- 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].

<u>NAME AND ADDRESS</u>	<u>PERCENTAGE OF INTEREST</u>
-------------------------	-------------------------------

Wal-Mart Stores East, L.P., a Delaware limited partnership

See attached Exhibit "C"


Date of Contract July 15, 2010

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

N/A


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.]

South Miami Hospital, Inc., a Florida not-for-profit corporation, f/k/a South Miami  
Hospital Foundation, Inc.  
6200 S.W. 73<sup>rd</sup> Street, Miami, FL 33143

NAME, ADDRESS AND OFFICE (if applicable)

PERCENTAGE OF  
STOCK

South Miami Hospital, Inc., is a Florida not-for-profit corporation, and as such has no principals or stockholders. This corporation is managed by a Board of Directors, each of which is an independent person with no ownership interest in this corporation.

- f. 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].

**TRUSTEES**

**NAME:**

N/A

PERCENTAGE OF  
BENEFICIARY'S NAME AND ADDRESS

INTEREST



- g. 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 NAME:** N/A

NAME AND ADDRESS OF PARTNERS

PERCENTAGE OF  
OWNERSHIP

N/A

- h. 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

Wal-Mart Stores East, L.P., a Delaware limited partnership

See attached Exhibit "C"

Date of Contract July 15, 2010

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 contracts 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**

WAL-MART STORES EAST, L.P.,

a Delaware limited partnership

WSE Management, LLC,

it's General Partner

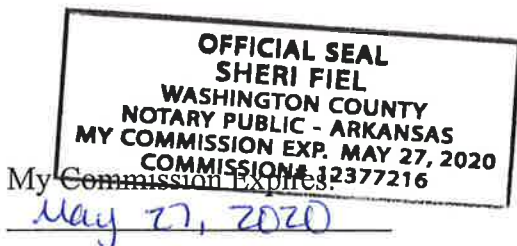
By: 


Brian E. Hooper  
Vice President *Real Estate*

STATE OF ARKANSAS     )  
  ) ss  
COUNTY OF BENTON     )

In the State of Arkansas, County of Benton, on this 20<sup>th</sup> day of October 2010, before me, the undersigned, a Notary Public in and for said County and State, personally appeared BRIAN E. HOOPER, to me personally known to me to be the person who executed as such officer the within instrument of writing on behalf of such corporation, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

WITNESS my hand and notarial seal subscribed and affixed in said county and state, the day and year in this certificate above written.



  
Sheri Fiel  
Notary Public

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 FMGM than five thousand (5,000) separate interests including all interests at each level of ownership,

**and no one person 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.**



**EXHIBIT "C"**  
**to**  
**Disclosure of Interest**

- 1) Wal-Mart Stores East, L.P. a Delaware limited partnership  
2001 S.W. 10<sup>th</sup> Street  
Bentonville, Arkansas 72716-0550

**Percentage of Interest**

• General Partner:

WSE Management, LLC, a Delaware limited liability company 702 S.W. 8 <sup>th</sup> Street Bentonville, Arkansas 72716-0555 a wholly owned subsidiary of Wal-Mart Stores East, Inc., an Arkansas corporation, which is a wholly owned subsidiary of Wal-Mart Stores, Inc., a PUBLICLY TRADED COMPANY	1%
--	----

• Limited Partner:

WSE Investment, LLC, a Delaware limited liability company 1301 Southeast 10 <sup>th</sup> Street Bentonville, Arkansas 72716-0555 a wholly owned subsidiary of Wal-Mart Stores East, Inc., an Arkansas corporation, which is a wholly owned subsidiary of Wal-Mart Stores, Inc., a PUBLICLY TRADED COMPANY	99%
---	-----

THIS PAGE INTENTIONALLY LEFT BLANK

# **APPENDIX C**

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

Not applicable. The Declaration of Restrictions proffered by the applicant prohibits residential development on the application site.

THIS PAGE INTENTIONALLY LEFT BLANK

# **APPENDIX D**

## **Applicant's Traffic Study Executive Summary**

THIS PAGE INTENTIONALLY LEFT BLANK

## Executive Summary

This report is being prepared to evaluate the traffic impacts for the proposed Walmart Store in north Homestead. This project consists of a Walmart Store and two (2) out-parcels which can potentially be developed as a Bank, Retail Space, Office or Fast-Food. The subject site is located on the east side of SW 137<sup>th</sup> Avenue and south of SW 288<sup>th</sup> Street in Miami-Dade County, Florida. This site is currently vacant.

The trip generation characteristics for the subject project were obtained from ITE's **Trip Generation Manual, 8th Ed.** Note that the Outparcels were evaluated with four (4) potential land uses (i.e. Bank, Retail, Office and Fast-Food). Since the Fast-Food land use generated the greatest traffic volume, it was utilized in the subsequent analyses. The resulting Trip Generation calculations revealed there will be 594 net vehicles trips of which 294 vehicle trips are inbound and 300 vehicle trips are outbound from the site during the adjacent street PM peak hour. These peak hour trips correspond to the Site's Peak traffic demand. Lastly, the net trips included pass-by trips that were obtained from the ITE data. Although some additional model split can be associated with pedestrian/bicycle and transit usage (i.e. MetroBus), no further trip generation modal splits were made. Likewise, no internalization was utilized. However, these adjustments may be made in subsequent traffic analyses if necessary.

The Traffic Analysis Zone (TAZ) for the subject project is TAZ 1381 as assigned by the Metropolitan Planning Organization's (MPO). As such, the calculated weekday PM peak hour trips were distributed consistent with the distribution percentages of TAZ 1381. This TAZ distribution was based on interpolation of the 2005 and 2035 Directional Trip Distribution Report from the Miami-Dade 2035 Long Range Transportation Plan for the design year of 2013. For the purposes of the CDMP amendments, we have also interpolated to the year 2015 as requested by county staff.

In order to evaluate the traffic impacts to the adjacent roadways, intersection Level of Service (LOS) analyses were performed and documented in this report. Manual Turning Movement Counts (TMC's) were collected at the intersections most impacted. These counts were averaged, adjusted for peak seasonal conditions and used in the intersection Level of Service (LOS) analysis. These analyses were performed utilizing the Synchro/SimTraffic software that adheres to the 2000 Highway Capacity Manual methodology. As a result, the intersection LOS analysis yielded the following results:

LOS SUMMARY		PM PEAK HOUR						
		Intersection Control	Existing Condition (2010)		Proposed Condition w/o Project Traffic (2013)		Proposed Condition w/ Project Traffic (2013)	
Intersections	LOS		Ave Veh Delay (sec)	LOS	Ave Veh Delay (sec)	LOS	Ave Veh Delay (sec)	
1	SW 288 Street & SW 137 Avenue	Signalized	D	36.7	D	37.3	E	58.4
	<a href="#">Optimized (Split Optimization)</a>		N/A	N/A	N/A	N/A	D	49.1
2	SR-821 (SB) & SW 288 Street	Signalized	C	26.9	C	30.8	C	34.8
	<a href="#">Optimized (Split Optimization)</a>		N/A	N/A	N/A	N/A	C	26.0
3	SR-821 (NB) & SW 288 Street	Signalized	A	5.7	A	5.8	A	6.7
4	SW 137 Avenue & Median Opening (S/O SW 288 St)	Unsignalized	A	3.5	A	4.0	B	11.3
	<a href="#">Traffic Signal (Warranted)</a>	Signalized	N/A	N/A	N/A	N/A	C	24.9
5	SW 288 Street & Median Opening (E/O SW 137 Ave)	Unsignalized	A	0.9	A	1.0	A	1.0
6	SW 288 Street & Driveway 1	Unsignalized	N/A	N/A	N/A	N/A	A	0.1
7	SW 137 Avenue & Driveway 2 (Right IN/OUT)	Unsignalized	N/A	N/A	N/A	N/A	A	0.0
8	SW 137 Avenue & Driveway 3 (Southernmost)	Unsignalized	N/A	N/A	N/A	N/A	A	0.0

Similar to the intersections, an arterial analysis was performed by taking the seasonally adjusted existing condition and augmenting Walmart's site traffic and background traffic growth. These arterial Level of Service (LOS) analyses were performed for a projected 2013 condition as well as the 2015 condition. The 2013 design year represents the proposed opening year of this project. The year 2015 arterial analysis was performed for the purposes of the CDMP amendments in the event the project is not completed by 2013. Lastly, a long term 2025 analysis has been included as requested by the Planning and Zoning Department. As a result, the arterials analyzed yielded LOS C. Provided below is a table with a summary of the LOS results.

PM PROPOSED CONDITION WITH PROJECT TRAFFIC (2013, 2015 & 2025)										
ROADWAY		SOURCE	DIR	2013 PM PEAK HOUR VOLUMES	2015 PM PEAK HOUR VOLUMES	2025 PM PEAK HOUR VOLUMES	JURISDICTIONAL CLASSIFICATION	PROPOSED LOS (2013)	PROPOSED LOS (2015)	PROPOSED LOS (2025)
NAME	AT									
SW 288 Street	East of SW 137 Avenue	RGA	EB	851	868	976	4-Lane Non-State Divided -Class II	C	C	C
			WB	969	989	1,112				
			LINK	1,820	1,857	2,088				
SW 137 Avenue	South of SW 288 Street	RGA	NB	1,246	1,271	1,429	4-Lane Non-State Divided -Class I	C	C	C
			SB	1,340	1,367	1,537				
			LINK	2,586	2,638	2,966				

As discussed with the Miami-Dade Traffic Engineering Department (TED) several auxiliary turn lanes were analyzed. These Turn Lanes (TL) include the following:

- TL1: Eastbound Right Turn Lane on SW 288<sup>th</sup> Street (Project Driveway)
- TL2: Southbound Left Turn Lane on SW 137<sup>th</sup> Avenue (Northern Project Driveway)
- TL3: Southbound Left Turn Lane on SW 137<sup>th</sup> Avenue (Southern Project Driveway: Truck Traffic)
- TL4: Northbound Left Turn Lane on SW 137<sup>th</sup> Avenue @ SW 288<sup>th</sup> Street (Existing)

TL1's evaluation was found not to have any queue since this traffic is free flowing and the adjacent eastbound through traffic is minimal (i.e.  $v/c=0.24$ ). Therefore, it is not recommended that a right-turn lane is needed or justified.

TL2's evaluation was found that a turn lane is needed due to the significant project traffic. Therefore, this turn lane should be designed to allow for the maximum stacking distance (i.e. 150 feet or more) within the geometry of the existing northbound left turn lane.

TL3's evaluation was found that a turn lane is needed to accommodate the truck traffic into the site. This lane should have a queue distance of approximately 50 feet. This was not based on the 95<sup>th</sup> percentile queue since the traffic models could not generate a queue due to the low volume during the PM peak.

Since TL4 is an existing condition, its evaluation was based on the available queue and required queue distance. As such, this lane is expected to have significant queue as a result of conservative traffic estimates that send the majority of the traffic west toward the Turnpike. Our queuing analysis suggested that this lane should have a queue distance of approximately 240 feet based on the 95<sup>th</sup> percentile queue. Therefore, the existing stacking lane of 200 feet may experience some overflow and should be increased by 50 feet. Note: a northbound dual left turn lane was also evaluated but resulted in greater delays and decreased LOS, since dual left turns require protected only signal phasing. Therefore, a northbound dual left turn lane is not recommended at this time since there is room in the existing median for expansion in the future.



A Signal Warrant analysis was performed for the intersection (median opening/Publix driveway) on SW 137<sup>th</sup> Avenue just south of SW 288<sup>th</sup> Street as per MUTCD. Since the proposed Walmart is not yet constructed and operational, traffic volumes were projected based on the AM peak, PM peak and Daily (24-hour) trip generation data. Two (2) separate site traffic warrant volumes were evaluated as follows:

- Westbound Driveway Approaching Volume (Outbound Traffic)
- Southbound Left Turn Volume (Inbound Traffic)

The warrant analysis finds sufficient evident exists that the existing intersection/median opening on SW 137<sup>th</sup> Avenue just south of SW 288<sup>th</sup> Street will experience traffic volumes and delay to justify signalization based on the satisfaction of Warrants 1, 2 and 3. As such, we have provided the Level of Service Analysis for signal control above.

Lastly, a Concurrency review of traffic was performed for the proposed condition Level of Service (LOS) that included background growth and site traffic. This analysis included Miami-Dade County traffic Count Stations 9824 and 9928, and was performed for the expected design year (opening year) of 2013 and 2015 as requested by the Department of Planning and Zoning. Additionally, a 2025 analysis was likewise performed for long-term purposes. The table below provides a summary of the analysis that resulted in LOS C or better.

MIAMI-DADE COUNTY TRAFFIC COUNT STATIONS												
STA #	ROADWAY	LOCATION	MAX LOS	PHP	START	DOS TRIPS	START	AVAIL TRIPS	PROPOSED 2013 PHP (W/O PROJECT)	PROPOSED 2015 PHP (W/O PROJECT)	PROPOSED 2025 PHP (W/O PROJECT)	CONCURRENCY LOS (2013, 2015, 2025)
9928	SW 288 Street	West of SW 137 Avenue	2,640	1,503	1,137	215	215	922	1,770	1,806	1,995	C
9824	SW 137 Avenue	North of SW 288 Street	3,190	1,594	1,596	200	200	1,396	1,848	1,886	2,083	B

MIAMI-DADE COUNTY TRAFFIC COUNT STATIONS												
ROADWAY	LOCATION	MAX LOS	PHP	START	DOS TRIPS	START	AVAIL TRIPS	PROJECT TRAFFIC	PROPOSED 2013 PHP (W/ PROJECT) Vol / LOS	PROPOSED 2015 PHP (W/ PROJECT) Vol / LOS	PROPOSED 2025 PHP (W/ PROJECT) Vol / LOS	
SW 288 Street	West of SW 137 Avenue	2,640	1,503	1,137	215	215	922	396	2,114 C	2,156 C	2,382 C	
SW 137 Avenue	North of SW 288 Street	3,190	1,594	1,596	200	200	1,396	136	1,930 B	1,969 B	2,175 B	

In conclusion, the result contained in this report finds acceptable Level of Service (LOS) at the intersections and arterials most impacted by this project. Please note the arterial Level of Service (LOS) remained the same for the existing, proposed condition with and without the project traffic. Therefore, sufficient roadway capacity exists to support this project.

THIS PAGE INTENTIONALLY LEFT BLANK

# **APPENDIX E**

## **Fiscal Impact Analysis**

THIS PAGE INTENTIONALLY LEFT BLANK

## **Fiscal Impacts On Infrastructure and Services**

On October 23, 2001, the Board of County Commissioners adopted Ordinance No. 01-163 requiring the review procedures for amendments to the Comprehensive Development master Plan (CDMP) to include a written evaluation of fiscal impacts for any proposed land use change. The following is a fiscal evaluation of Application No. 3 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**

#### Concurrency

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

#### Residential Collection and Disposal Service

Not applicable. The proposed declaration of restrictions submitted by the applicant on January 24, 2011, restricts residential development on the application site.

#### 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 2009 -10, the DSWM charged a disposal tipping fee at a contract rate of \$59.77 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 \$78.90 per ton in FY 2009 -10. These rates adjust annually with the Consumer Price Index, South Region. In addition, the DSWM charges a Disposal Facility Fee to private haulers equal to 15 percent of their annual gross receipts, which is targeted to ensure capacity in operations. Landfill closure is funded by a portion of the Utility Service Fee charged to all retail customers of the County's Water and Sewer Department and the municipal water and sewer departments.

## **Water and Sewer**

The 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 \$1.379 per 1,000 gallons for the water and \$1.571 per 1,000 gallons for the sewer. The connection fee was based on providing a 1-inch service line and 1-inch meter. With no residential development proposed on the site, the maximum commercial development allowed under the proposed re-designation to "Business and Office", which would generate the a total 29,273 gpd demand for water and sewer services, the fees to be paid by the developer would be \$40,688 for water impact fee, \$163,925 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 \$31,511. In addition, the estimated cost of constructing the required 16- and 12-inch potable water mains, the required 8-inch gravity sanitary sewer main, and the private sewer pump station is \$528,905. This does not include the Engineering Fees (10% of the total fees = \$52,891) and Contingency (15% of the Subtotal = \$87,269). The grand total is estimated at \$669,065 for this application.

## **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**

Not applicable. Applicant's proffered declaration of restrictions supporting the application prohibits residential development on the subject property.

### **Fire Rescue**

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

THIS PAGE INTENTIONALLY LEFT BLANK



# **APPENDIX F**

## **Proposed Declaration of Restrictions**

The applicant submitted a Declaration of Restrictions, which restricts residential development on the subject property. The Declaration of Restrictions was submitted within schedule on January 21, 2011.

THIS PAGE INTENTIONALLY LEFT BLANK



2011 FEB -2 P 2: 08

PLANNING & ZONING  
METROPOLITAN PLANNING SECT

VIA E-MAIL AND HAND-DELIVERY

January 21, 2011

Marc C. LaFerrier, Director  
Miami-Dade County Department of Planning and Zoning  
111 N.W. 1st Street  
Miami, Florida 33128

Joel E. Maxwell

Akerman Senterfitt  
One Southeast Third Avenue  
25th Floor  
Miami, Florida 33131  
Tel: 305.374.5600  
Fax: 305.374.5095

RECEIVED  
JAN 24 2011

MIAMI-DADE COUNTY  
DIRECTOR'S OFFICE  
DEPT. OF PLANNING & ZONING  
201101333

Re: Wal-Mart Stores East, LP, CDMP Application No. 3, October 2010 Cycle; Proffer of Draft Restrictive Covenant and Draft Opinion of Title

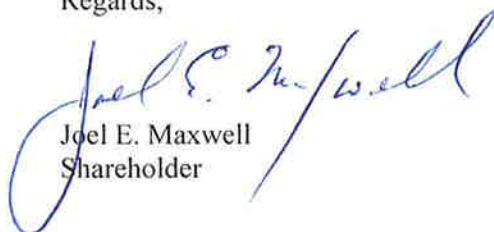
Dear Director LaFerrier,

As requested and required by the Miami-Dade County Department of Planning and Zoning in connection with the subject CDMP amendment application, attached, hereto, please find the following items related to the subject, pending, October 2010 Cycle, Wal-Mart Stores East, L P, CDMP application:

- a) Current property owner, South Miami Hospital, Inc., Declaration of Restrictions (UNEXECUTED Covenant) relating to prohibited residential uses on the site; and
- b) Draft Opinion of Title dated December 21, 2010, for the subject property.

Please contact me or Augusto Maxwell should you have any questions or comments regarding these submissions.

Regards,

  
Joel E. Maxwell  
Shareholder

JEM/ac

Attachments

cc: Dickson I. Ezeala  
Joseph Goldstein  
Michael Goldstein  
Thomas Kier  
Augusto Maxwell  
Frank McCune  
Patrick Moore  
John Okwubanego  
Mark Woerner

[akerman.com](http://akerman.com)

BOCA RATON DALLAS DENVER FORT LAUDERDALE JACKSONVILLE LAS VEGAS LOS ANGELES MADISON MIAMI NEW YORK  
ORLANDO PALM BEACH TALLAHASSEE TAMPA TYSONS CORNER WASHINGTON, D.C. WEST PALM BEACH

This instrument was prepared under  
the supervision of:

Name: Joel E. Maxwell, Esq.  
Address: Akerman Senterfitt & Eidson  
One Southeast Third Avenue, 25<sup>th</sup> Floor  
Miami, Florida 33131

(Space Reserved for Clerk of the Court)

### **DECLARATION OF RESTRICTIONS**

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

***WHEREAS***, an application has been filed to amend the Comprehensive Development Master Plan ("CDMP") of Miami-Dade County with the Planning and Zoning Department (the "Planning and Zoning Department"), which application is officially designated as CDMP Application No. 3 (October 2010 Cycle) (the "Application"), seeking to re-designate the land use designation on the Property from "*Business and Office*" and "*Low Density Residential*" to "*Business and Office*."

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

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

1. **Restrictions on the Use and Development of the Property.** Notwithstanding the Land Use Plan map designation of the Property of "*Business and Office*," residential uses shall not be permitted on the Property.
2. **Miscellaneous.**
  - A. **Covenant Running with the Land.** This Declaration shall constitute a covenant running with the land and may be recorded, at the Owners' expense, in the public records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the undersigned Owners, and their heirs, successors and assigns, including the Applicant, until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, the then owner(s) of the real property and for the public welfare.
  - B. **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date that this Declaration is recorded, after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the then owner(s) of the Property has been recorded in the public records agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by Miami-Dade County.

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

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

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

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

**F. Election of Remedies.** All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall

neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

- G. Presumption of Compliance.** Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.
- H. Severability.** Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions that shall remain in full force and effect.
- I. Recordation and Effective Date.** This Declaration shall be filed of record, at the Owners' expense, in the public records of Miami-Dade County, Florida, following adoption by the Miami-Dade County Board of County Commissioners of an ordinance approving the Application and the expiration of any applicable appeal period. This Declaration shall become affective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal does not result in final approval of the Application, then this Declaration shall be null and void and of no further effect. Upon the disposition of such appeal that does not result in final approval of the Application, and upon written



request, the Director of the Planning and Zoning Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument acknowledging that this Declaration is null and void and of no further effect.

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

[signature pages follow]

IN WITNESS WHEREOF, I have executed this Declaration of Restrictions as of this \_\_\_\_\_ day of

\_\_\_\_\_, 2011.

**WITNESSES**

**SOUTH MIAMI HOSPITAL, INC.,**  
a Florida not-for-profit corporation

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

By: \_\_\_\_\_  
Lincoln Mendez, Chief Executive Officer

STATE OF FLORIDA

)

) SS

COUNTY OF MIAMI-DADE

)

The foregoing instrument was acknowledged before me by Lincoln Mendez, Chief Executive Officer, on behalf of **SOUTH MIAMI HOSPITAL, INC.**, a Florida not-for-profit corporation, for the purposes stated herein. He is personally known to me or has produced \_\_\_\_\_ as identification. Witness my signature and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2011, in the County and State aforesaid.

My Commission Expires:

\_\_\_\_\_  
Notary Public - State of Florida

\_\_\_\_\_  
Printed Name

EXHIBIT "A"

**Legal Description of the Property**

The West  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$ , LESS the North 55 feet and the West 53 feet for roads, and less beginning at the Northwest corner of the West  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$ , then South 378 feet, East 228 feet, North 378 feet, West 228 feet to the Point of Beginning, Township 57, Range 39, Section 2, Dade County, Florida.

LESS AND EXCEPT that land conveyed to Metropolitan Petroleum Company by that certain Quit Claim Deed recorded in Official Records Book 18184, Page 274, of the public records of Miami-Dade County, Florida.

December 21, 2010

**DRAFT**  
**ATTORNEY'S OPINION OF TITLE FOR RESTRICTIVE COVENANT**

Board of County Commissioners  
Miami-Dade County  
111 N.W. 1<sup>st</sup> Street, Suite 220  
Miami, FL 33128

Re: Attorney's Opinion of Title for Restrictive Covenant  
Property: 16.79 acres on the S.E. quadrant of S.W. 288<sup>th</sup> Street and S.W. 137<sup>th</sup> Avenue  
Folio No. 30-7902-000-0110

Ladies and Gentlemen:

A search of the public records of Miami-Dade County, Florida, from the beginning through November 1, 2010 at 8:00 AM, made by Stewart Title Guaranty Company under File No. 1007646 reveals the following matters with respect to the lands referenced above and more particularly described in Exhibit A attached hereto (the "Property"):

**A. Legal Description:**

See legal description as set forth in Exhibit A attached hereto and made a part hereof.

**B. Owner of Record:**

SOUTH MIAMI HOSPITAL, INC., a Florida non-profit corporation, f/k/a South Miami Hospital Foundation, Inc., a Florida non-profit corporation, by virtue of those certain conveyances recorded in Official Records Book 16521, Page 199, Official Records Book 16354, Page 2732, Official Records Book 14284, Page 1010, Official Records Book 13010, Page 1174, Official Records Book 10377, Page 1103, and Official Records Book 9819, Page 1440, all of the public records of Miami-Dade County, Florida.

**C. Mortgage Holders of Record:**

NONE.

**D. Easements, Rights-of-Way, and Other Matters of Record Affecting the Property:**

1. Unrecorded 3M Media Lease Agreement dated May 23, 1994, in favor of National Advertising Company, as evidenced by Memorandum of Lease Agreement dated

May 23, 1994, and recorded August 1, 1994, in Official Records Book 16459, Page 735, of the public records of Miami-Dade County, Florida.

2. Unrecorded Agricultural Lease in favor of Alger Farms, Inc., dated April 26, 2010.

**E. Rights-of-Way/Easements Abutting or Necessary for Legal Access to the Property:**

1. S.W. 288<sup>th</sup> Street abuts the north boundary of the Property.
2. S.W. 137<sup>th</sup> Avenue abuts the west boundary of the Property.

**F. Taxes and Assessments:**

Folio No.: 30-7902-000-0110

Status of 2010 Tax Year Payment: Paid

Assessed Value: \$41,998 (Agricultural)

Gross Amount: \$859.16

Amount Paid: \$824.79

The foregoing attorney's opinion of title is made for the purpose of furnishing the information required for the acceptance of the referenced restrictive use covenant pursuant to Section 2-116.1(9) of the Code of Miami-Dade County. It has been prepared expressly for the addressee of this opinion, and it is not to be relied upon by any other group or person for any other purpose.

EDWARDS COHEN

By: \_\_\_\_\_  
Rosel R. Pine, Esq.

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The West  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$ , LESS the North 55 feet and the West 53 feet for roads, and less beginning at the Northwest corner of the West  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$ , then South 378 feet, East 228 feet, North 378 feet, West 228 feet to the Point of Beginning, Township 57, Range 39, Section 2, Dade County, Florida.

LESS AND EXCEPT that land conveyed to Metropolitan Petroleum Company by that certain Quit Claim Deed recorded in Official Record Book 18184, Page 274, of the public records of Miami-Dade County, Florida.

# **APPENDIX G**

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

THIS PAGE INTENTIONALLY LEFT BLANK





The vacant and cleared application site viewed from the west side across SW 137 Avenue and showing a wall-fenced-in residential community on the eastern boundary of the property on the background.



The above-referenced residential neighborhood abutting the western portion of the application site with its main entrance fronting SW 288 Street as shown.





The southern portion of the application site is shown with tall nursery palm trees on the abutting property owned by the Two Sisters Nursery. Photo taken from across SW 137 Avenue.

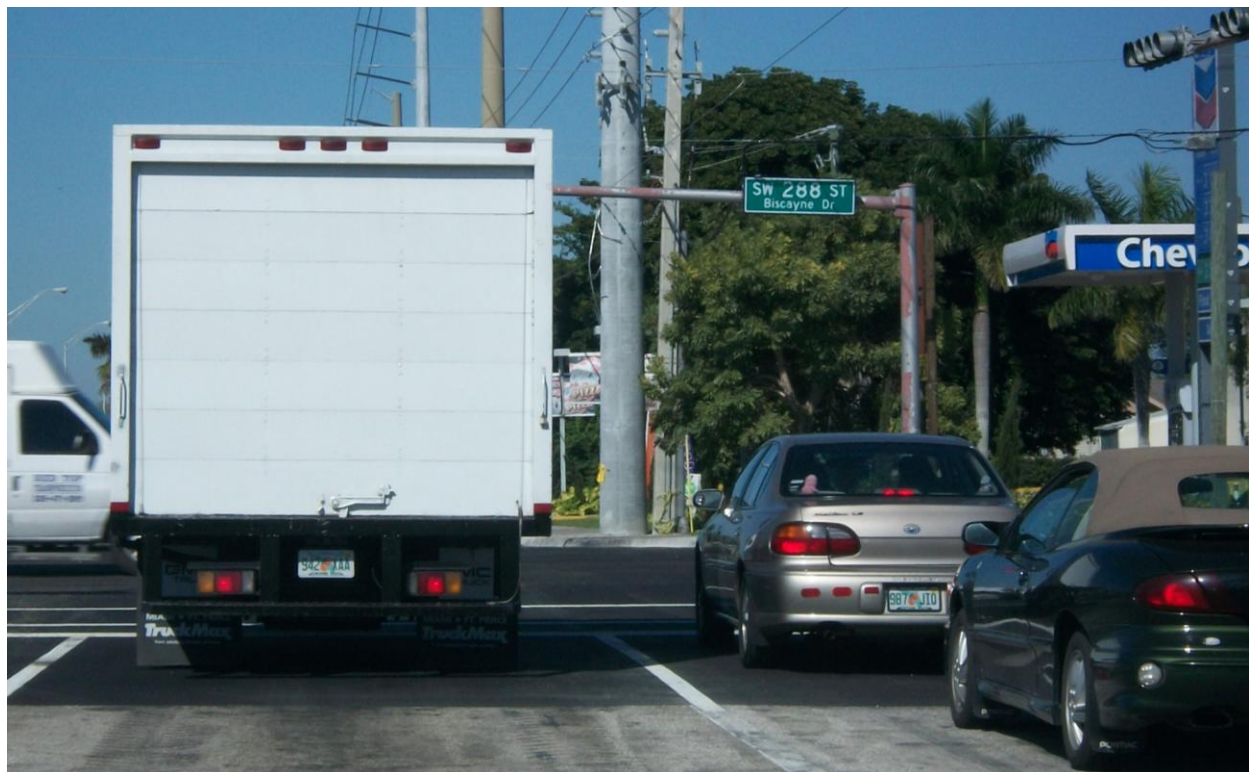


The Two Sisters Nursery on a property abutting the application site to the south. Photo also shows a clearly marked "Right Lane Bicycle Only" sign and lane along SW 137 Avenue.





West of the application site showing free-standing Bank of America with drive-thru facilities (to the left end), and free-standing Walgreen Pharmacy. These with anchor Publix Store constitute the Waterstone Shopping Center at the northwest corner of intersection of SW 137 Avenue and SW 288 Street. The prominent road on the photo is the SW 137 Avenue



The intersection of SW 137 Avenue and SW 288 Street around 2 P.M. The truck and the two cars are on northbound lanes on SW 137 Avenue about to cross SW 288 Street.





North of the application site across SW 288 Street showing a Chevron Gas station, U-Hall Trucks Rental Storage and a vacant grassy property used for temporary parking of the rental trucks. Further straight and behind the gas station canopy is Chase Bank.



Free-standing Wendys fast food restaurant with ped path directly north of the application site across SW 288 Street. The vacant grassy property referenced above is sandwiched by this Wendys and the Chevron gas station. To the right of Wendys is a small retail center with learning centers, barber shop, Boost mobile, etc.