

# **Application No. 3**

## **Commission District 10    Community Council 10**

### **APPLICATION SUMMARY**

Applicant/Representative: Fontainebleau Place, LLC/Juan J. Mayol, Esq., Richard A. Perez, Esq. and Tracy R. Slavens, Esq.  
Holland and Knight, LLP.  
701 Brickell Avenue, Suite 3000  
Miami, Florida 33131

Location: Northeast corner of the intersection West Flagler Street and NW 102 Avenue

Total Acreage: ±41.0 Gross Acres, ±39.04 Net Acres

Current Land Use Plan Map Designation: "Business and Office"

Requested Amendment to the CDMP: Modify existing Declaration of Restrictions in the Restrictions Table (Application No. 9 of the April 2008-09 Cycle) on Page I-74.1 of the CDMP Land Use Element. to replace the commitment to develop a minimum of 150 "elderly housing" dwelling units with a provision allowing the development of "minimum of 125 dwelling units and a maximum of 250 dwelling units" on the subject property.

Amendment Type: Standard

Existing Zoning/Site Condition: BU-2/Currently Vacant

### **RECOMMENDATIONS**

Staff: **TRANSMIT WITH CHANGE AND ADOPT**  
(September 13, 2013)

Westchester Community Council **DENY AND TRANSMIT** (September 25, 2013)

Planning Advisory Board (PAB)  
Acting as the Local Planning Agency: **TRANSMIT WITH CHANGE AND ADOPT**  
(October 21, 2013)

Board of County Commissioners: **TO BE DETERMINED** (November 20, 2013)

Final Action of Board of County Commissioners: **TO BE DETERMINED** (March 2014)

Staff recommends **TRANSMIT WITH CHANGE AND ADOPT** the proposed standard amendment to modify existing Comprehensive Development Master Plan (CDMP) Declaration of Restrictions in the Restrictions Table on Page I-74.7 of the CDMP pertaining to a ±41-acre property for the following reasons:

**Principal Reasons for Recommendations:**

1. The application proposes to modify a CDMP Declaration of Restrictions (covenant) that was accepted by the Miami-Dade Board of County Commissioners' (Board) upon approval of a CDMP amendment application. On May 6, 2009, the Board adopted Ordinance No. 09-28 that approved Application No. 9 of the April 2008 Cycle applications to amend the CDMP with acceptance of a proffered covenant. The CDMP amendment redesignated the ±41-acre subject property from "Low-Density Residential" to "Business and Office" on the Adopted 2015 and 2025 Land Use Plan (LUP) map and the accepted covenant was subsequently recorded in July 2009 (Official Records Book 26955, Pages 0723-0732). The recorded CDMP covenant restricts non-residential development on the property to 375,000 square feet of retail, commercial, personal services and requires a minimum of 150 elderly housing units to be developed on the property, among other things.

This current application seeks to modify the recorded covenant by replacing the provision that requires a minimum of 150 elderly dwelling units with a provision allowing for a minimum of 125 and a maximum of 250 dwelling units on the property (see proposed covenant change on page 3-7). This proposed modification would remove the restriction that any residential units built on the site be designated specifically for elderly housing. Expanding the range of residential uses that could be developed on the property is generally consistent with CDMP policy LU-1F.

The staff recommended change to the application is to maintain the requirement of a minimum 150 residential units be developed on the property instead of the proposed minimum of 125 units. This proposed change is consistent with the intent of the May 2009 Board approval that redesignated to the current "Business and Office" LUP map designation with a commitment from the applicant to include a minimum of 150 residential units on the property.

2. The covenant modification proposed in this application, if approved with change as discussed above, would allow for residential units other than elderly housing to be developed on the property. Consequently, approval of the application would not generate impacts to County services and facilities significantly higher or different than the impacts that would be generated by the development currently allowed on the property. County facilities and services have the capacity to adequately serve the application site and would continue to operate within their respective levels of service standards with the impacts that would be generated through the proposed covenant modification.

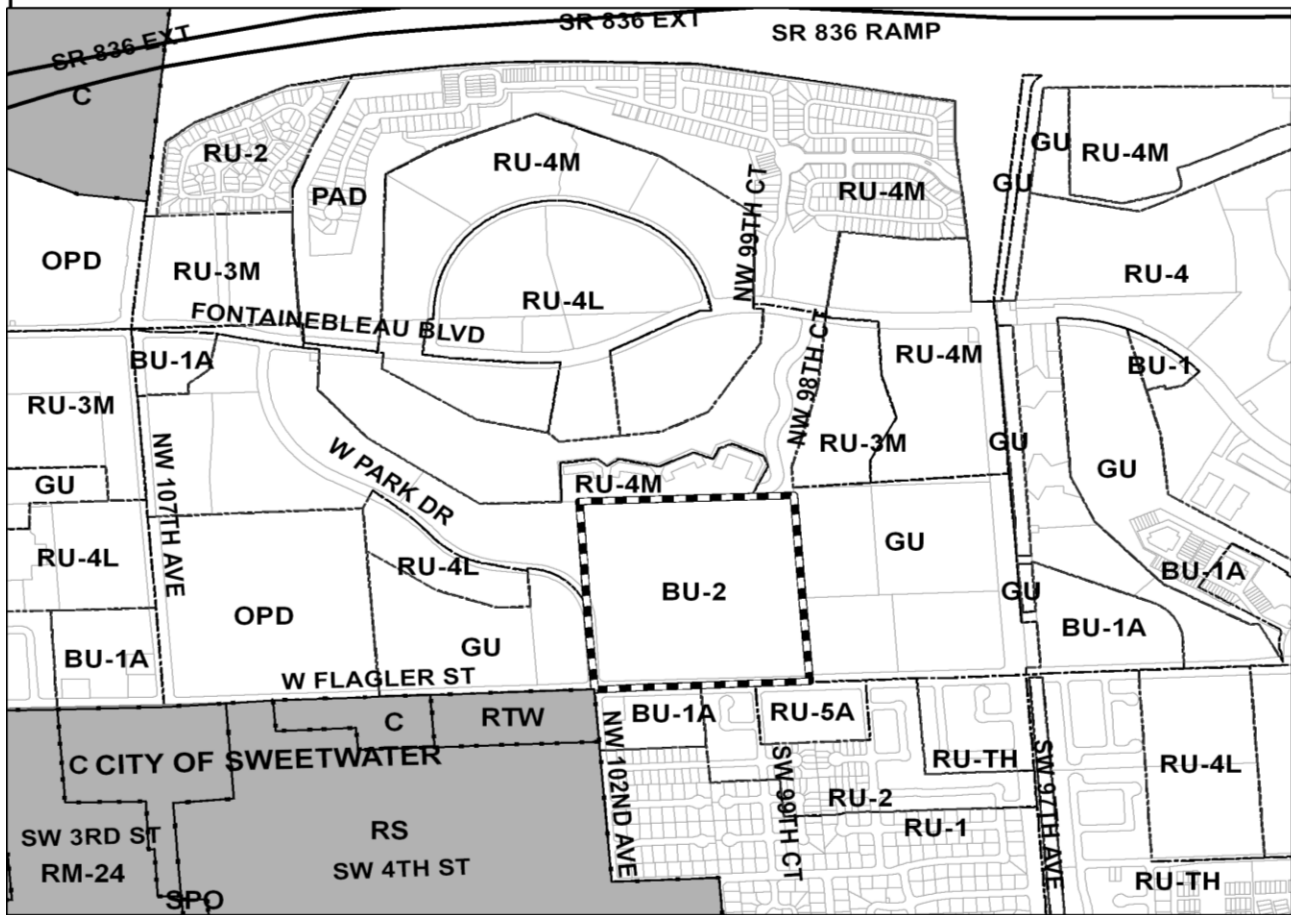
Furthermore, approval of the application would not impact any environmental, historic or archaeological resources.

# APPLICATION NO. 3 AERIAL PHOTO





# APPLICATION NO. 3 ZONING MAP



APPLICATION AREA



MUNICIPAL BOUNDARY

Source: Miami-Dade County  
Department of Regulatory and Economic Resources  
July 2013

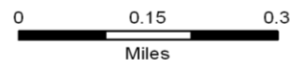
## MIAMI-DADE ZONING DISTRICTS

AU	AGRICULTURAL / RESIDENTIAL 5 ACRES GROSS
BU-1	BUSINESS DISTRICTS, NEIGHBORHOOD
BU-1A	BUSINESS DISTRICTS, LIMITED
BU-2	BUSINESS DISTRICTS, SPECIAL
GU	INTERIM DISTRICT
OPD	OFFICE PARK DISTRICT
PAD	PLANNED AREA DEVELOPMENT, 20 ACRES MINIMUM
RU-1	SINGLE-FAMILY RESIDENTIAL
RU-2	TWO-FAMILY RESIDENTIAL DISTRICT, 7,500 FT2 NET
RU-3M	MINIMUM APARTMENT HOUSE
RU-4	HIGH DENSITY APARTMENT HOUSE DISTRICT
RU-4L	LIMITED APARTMENT HOUSE DISTRICT

RU-4M	MODIFIED APARTMENT HOUSE
RU-5A	SEMI-PROFESSIONAL OFFICE
RU-TH	TOWNHOUSE

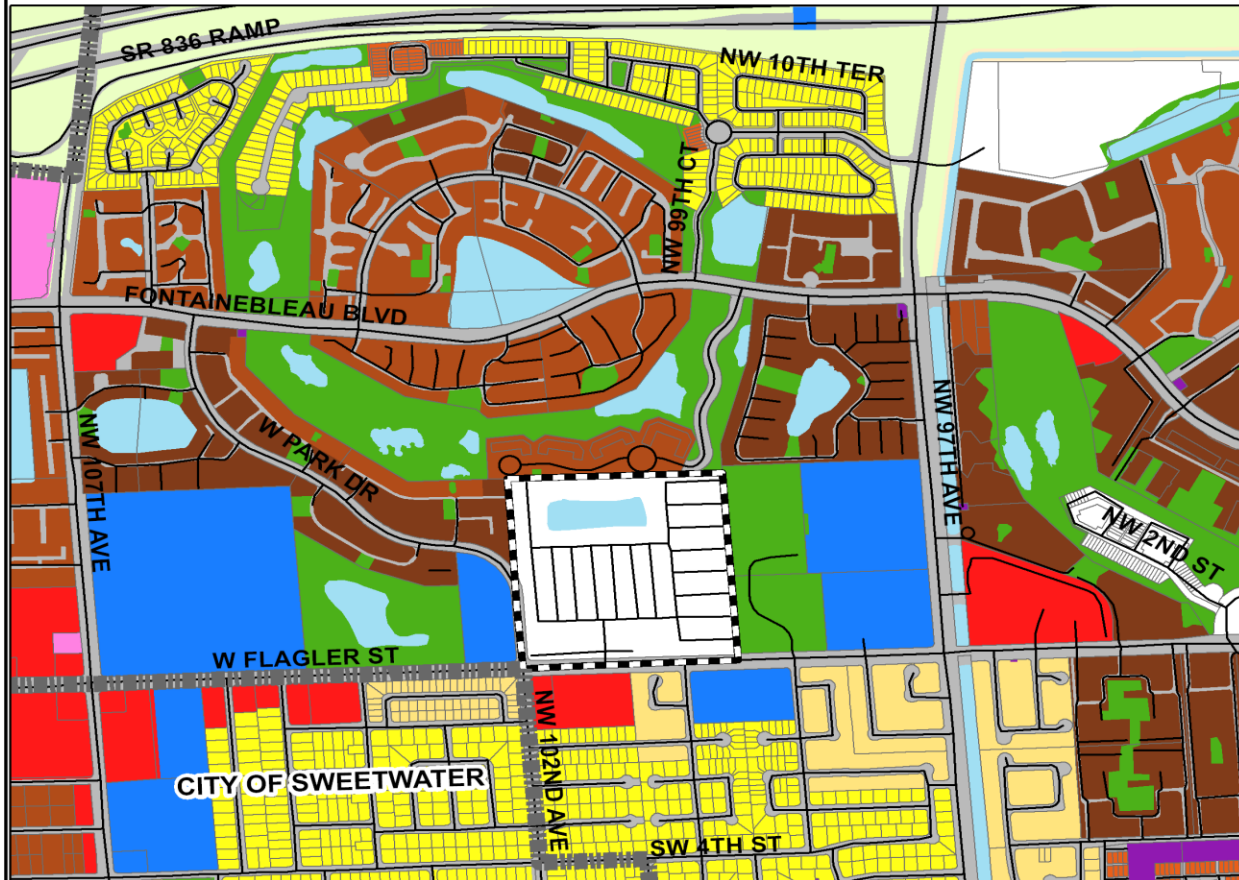
## SWEETWATER ZONING DISTRICTS

SPO	SEMI-PROFESSIONAL OFFICE
RTW	TWIN HOME RESIDENTIAL DISTRICT
RM-24	MULTIFAMILY
RS	SINGLE FAMILY RESIDENTIAL
C	COMMERCIAL





## APPLICATION NO. 3 EXISTING LAND USE



APPLICATION AREA



MUNICIPAL BOUNDARY

### EXISTING LAND USE

- SINGLE-FAMILY
- TWO-FAMILY DUPLEXES
- TOWNHOUSES
- LOW-DENSITY MULTI-FAMILY
- HIGH-DENSITY MULTI-FAMILY
- COMMERCIAL, SHOPPING CENTERS
- OFFICE
- MIXED USE-BUSINESS/RESIDENTIAL
- INSTITUTIONAL

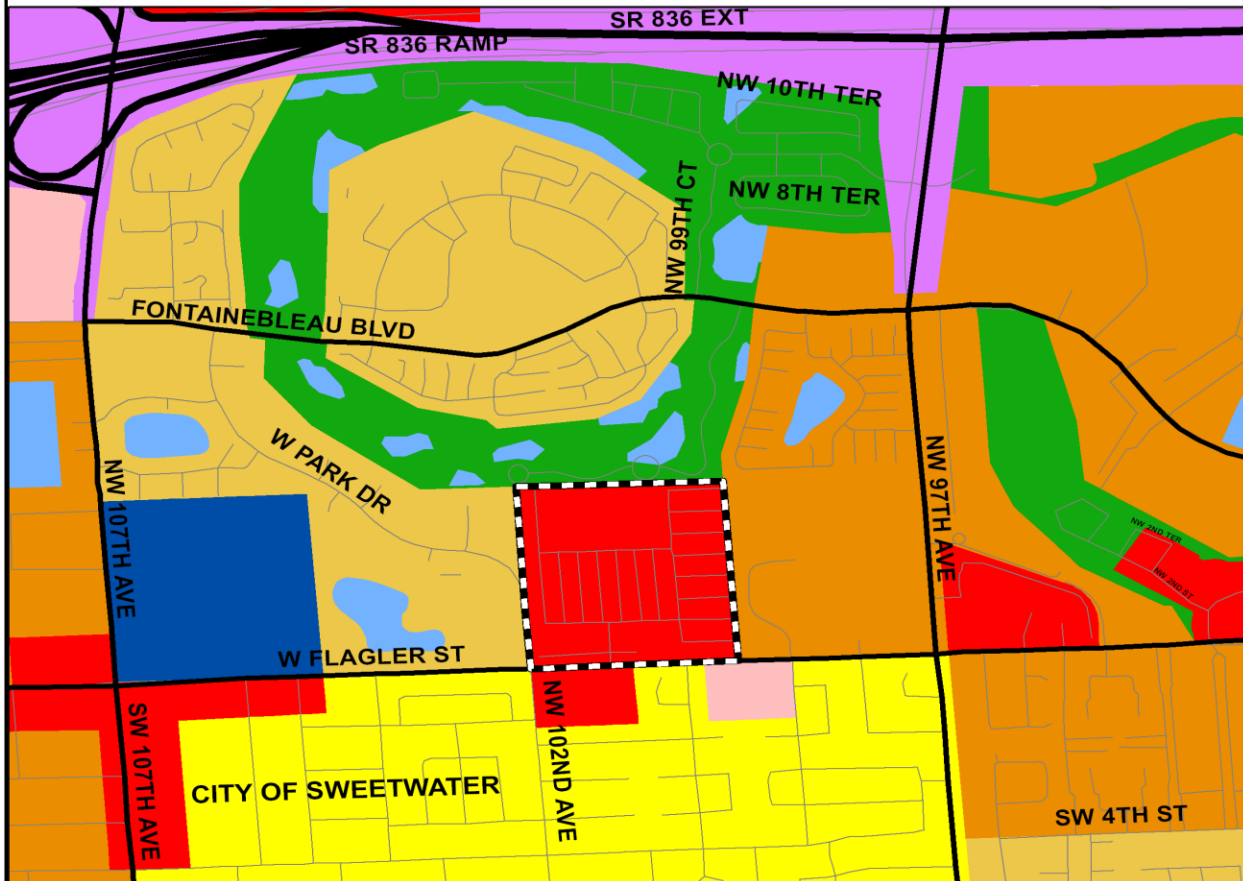
- COMMUNICATIONS, UTILITIES, TERMINALS
- STREETS, EXPRESSWAY
- STREETS, ROADS, EXPRESSWAYS, RAMPS
- PARKS, PRESERVES, CONSERVATION AREAS
- VACANT PRIVATELY OWNED, UNPROTECTED
- INLAND WATERS

Source: Miami-Dade County  
Department of Regulatory and Economic Resources  
July 2013

0 0.1 0.2  
Miles



# APPLICATION NO. 3 CDMP LAND USE



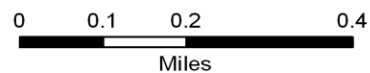
APPLICATION AREA

Source: Miami-Dade County  
Department of Regulatory and Economic Resources  
July 2013

## CDMP LAND USE

- LOW DENSITY (2.5-6 DU/AC)
- LOW-MEDIUM DENSITY (6-13 DU/AC)
- MEDIUM DENSITY (13-25 DU/AC)
- BUSINESS AND OFFICE
- OFFICE/RESIDENTIAL
- INSTITUTIONS, UTILITIES AND COMMUNICATION
- PARKS AND RECREATION
- WATER
- TRANSPORTATION (ROW, RAIL, METRORAIL, ETC.)

- EXPRESSWAYS
- MAJOR ROADWAYS (3 OR MORE LANES)



No Streets in Legend

# STAFF ANALYSIS

## Background/Land Use and Zoning History

The Miami-Dade County Board of County Commissioners on May 6, 2009 adopted Ordinance No. 09-289 that approved Application No. 9 of the April 2008-09 Cycle of applications to amend the Comprehensive Development Master Plan (CDMP). That approval redesignated a ±41.0 gross-acre property located at the northeast corner of West Flagler Street and NW 102 Avenue, from “Industrial and Office” to “Business and Office” on the Land Use Plan (LUP) with acceptance of a Proffered Declaration of Restrictions (covenant). Recorded CFN 2009R0541576 in the County’s Official Records Book 26955, pages 0723 through 7321 on July 27, 2009, the covenant limits the development of the 41 gross-acre property to 375,000 square feet of retail, commercial, personal services and offices and “150 or more dwelling units designated for elderly housing”.

In order to implement this development plan, the subject property, which had a GU (Interim) zoning district that allows uses based on the character of the neighborhood, was rezoned to BU-2 (Special Business District) through Resolution No. CZAB10-15-12, approved on July 24, 2012 by the Miami-Dade County Community Zoning Appeals Board 10. Prior to this zoning district change, the property was first rezoned from GU to IU-2 (Heavy Industry) on August 29, 1957 (Resolution No. 190) by the Miami-Dade County Board of County Commissioners, and later on June 12, 1973, rezoned back from IU-2 to GU (Resolution No. Z-186-73) by the Miami-Dade County Board of County Commissioners.

## CDMP Declarations of Restrictions

In this current application, the applicant is requesting that the residential provision in the recorded covenant, (see Appendix A of this report) be modified to allow up to 250 residential units on the property.

The existing covenant on record proffered by the Blue Partners, LLC (see Appendix F) has the following declarations including: (1) Permitted Uses, (2) Landscape Buffer, (3) Prohibited Uses, (4) Access Restrictions, (5) Water Conservations and Re-Use, (6) Transit Improvements, and (7) Miscellaneous. The provisions under the miscellaneous declaration item covers the covenant recordation responsibility, 30-year term running with 10-year successive renewable periods, terms of modifications, amendment and release,, enforcement, election of remedies, severability recording, acceptance of declaration definition of the owner.

The covenant proffered in this application (see Appendix E of this report) by the Fontainebleau Place, LLC maintains the declarations in the recorded covenant except the provision for residential units. The proposed modification is shown below with strike-through words proposed for deletion and underlined words proposed for replacement:

“1. Permitted Uses. Notwithstanding the redesignation of the Property to “Business and Office” on the County’s LUP map, the maximum development of the Property shall not exceed ~~the following: (a) 375,000 square feet of retail, commercial, personal services and offices; and (b) no less than 150 dwelling units designated for elderly housing, as such is defined under Section 202 of the Fair Housing Act of 1959 (12 USC 1701) and Chapter 11A of the Miami-Dade County Code (the “Code”), along with~~ (the “Commercial Component”). In addition to the Commercial Component, the development of the Property may include up



to two hundred fifty (250) dwelling units but no less than one hundred twenty-five (125) dwelling units (the “Residential Component”). ~~The~~ In the event that the residential Component is developed with an elderly housing facility, it may include such ancillary and accessory uses as may be desirable, necessary or complimentary to satisfy the service needs of the residents, such as, but not, limited to, counseling, medical nutritional, and physical therapy, provided that such ancillary and accessory uses shall not exceed fifteen percent (15%) of the floor area of ~~the~~ said elderly housing facility.

In an effort to enhance the compatibility of the proposed development of the Property with the existing residential development to the north and west, the north two (2) acres for the Property may only be occupied by a storm water retention area that may be required or desirable to develop the Property, driveways, pedestrian access, access roads, and landscaped or open space areas or ~~elderly housing~~ residential use. In addition, the following restrictions shall apply to the future development of the Property: (i) no building may be located any closer than one-hundred feet (100') from the adjacent residential property on the west; and (ii) no building or portion thereof may exceed a height of 2 stories within two-hundred (200') of the adjacent residential property on the west.”

## **Application Site**

### Location

The ±41.0 gross-acre site is located at the northeast corner of the intersection of West Flagler Street and SW 102 Avenue in southwest unincorporated, Miami-Dade, County.

### Existing Land Use

The application site is generally vacant and unmaintained and contains a lake. The site was previously improved with the former Blue Lakes Mobile Home park. (See Existing Land Use map on page 3-6: Photos of Site and Surroundings).

### Land Use Plan Map Designation

The application site is currently designated “Business and Office” on the CDMP Adopted 2015 and 2025 Land Use Plan (LUP) map, (see CDMP Land Use Map on page 3-7). The “Business and Office” category allows the full range of sales and service activities that includes retail, wholesale, personal and professional services, commercial and professional offices, hotels, motels, hospitals, entertainment and cultural facilities, and residences.

As discussed above, the application requests to modify the recorded CDMP Declaration of Restrictions that restrict the development of the application site.

### Zoning

The property associated with the application is currently zoned BU-2 (Special Business District). The purpose of this zoning district is “to provide large scale commercial and/or office facilities which service the needs of large urban areas” according to County Code Section 33-252, (see Zoning Map on page 2-5).

### Zoning History

Miami-Dade County zoning districts and zoning code regulations were first created in 1938. The subject property was initially designated GU (Interim). On August 29, 1957, Miami-Dade County

Board of County Commissioners (Board) adopted Resolution No. 190 approving a zoning district boundary change from GU to IU-2 (Heavy Industrial Manufacturing) on parcels that included the subject site.

On October 4, 1956, the Board denied the approval of a mobile home park on the subject property. However, in 1957, the BCC adopted Resolution No. 590 approving a Special Permit for a mobile home park and lake excavation; that same year, the Blue Lakes Mobile Home Park was established on the application site (see Resolution No. 590).

On June 12, 1973, the Board adopted Resolution No. Z-186-73 approving another zoning district boundary change from IU-2 to GU on parcels that included the subject property.

Lastly on July 24, 2012, following the CDMP redesignation of the property to Business and Office category, the Miami-Dade Community Zoning Appeals Board 10 adopted Resolution No. CZAB10-15-12 approving a zoning district boundary change from GU to its current BU-2. The resolution also approved a special exception to permit the subject residential development for the elderly, an unusual use to permit the filling of the existing lake on the site and three non-use variances of zoning regulations regarding treatment of boundary walls that would buffer the proposed development from the adjacent existing developments.

## **Adjacent Land Use and Zoning**

### Existing Land Uses

To the east of the application site, across NW 98 Court, is the Reuben Dario park, EWF Stirrup Elementary School and Reuben Dario Middle School. To the south of the application site across West Flagler Street are Church of Jesus Christ of Latter Day Saint, single-family residential homes in good condition and Plaza Del Rey shopping center, which contains Navarro Discount Pharmacy, Vicky Bakery, Sonoco gas station and food mart, Freddy's auto repairs, among other retail shops. To the west of the site is Our Lady of the Divine Catholic Church, The Women's Park and History Gallery, and the Florida International University College of Engineering campus, the India Summer Village 2-story townhouses and the Pinecrest Academy North Charter School. To the north of the property are 4-story multi-family condominiums (the Eastwind Lake Village Condominium) and townhouses (the Spring Lake Village).

### Land Use Plan Map Designations

Properties east of the application site are designated "Medium Density Residential" on the LUP map. Properties south of the site across West Flagler Street are designated "Office/Residential", "Low Density Residential" and "Business and Office". Properties to the west of the site are designated "Low-Medium Density Residential" and Institutions, Utilities and Communication while the properties north of the site, are designated "Parks and Recreation" and "Low-Medium Density Residential" on the LUP map. (See CDMP Land Use Map on page 3-7.)

### Zoning

The properties to the east of the application site across NW 98 Court are zoned GU (Interim), while properties to the south across West Flagler Street are zoned RU-5A (Semi-professional offices), RU-2 (2-family Residential Homes District) and BU-1A (Limited Business District). Properties to the west of the application site are zoned GU, RU-4L (Limited Apartment House 23 units per net acre) and RU-4M (Modified Apartment House 35.9 units per net acre). Properties to the north of the application site also zoned RU-4M and RU-4L (Limited Apartments House at 23 units per net acre (See Zoning Map on page 3-5).

## Supply and Demand

The combined vacant land for single-family and multi-family residential development in the Analysis Area (Minor Statistical Area 3.2) in 2013 was estimated to have a capacity for about 14,844 dwelling units, with about 69 percent of these units intended as multi-family. The annual average residential demand in this Analysis Area is projected to increase from 613 units per year in the 2013-2015 period to 1,054 units in the 2025-2030 period. An analysis of the residential capacity by type of dwelling units shows the depletion of single-family units occurring in 2023 and for multi-family beyond 2030 (See Table below). The supply of residential land for both single-family and multi-family units is projected to by the year 2029.

Residential Land Supply/Demand Analysis  
2013 to 2030:

ANALYSIS DONE SEPARATELY FOR EACH TYPE, I.E. NO SHIFTING OF DEMAND BETWEEN SINGLE & MULTI-FAMILY TYPE	STRUCTURE TYPE		
	SINGLE-FAMILY	MULTIFAMILY	BOTH TYPES
CAPACITY IN 2013	4,665	10,179	14,844
DEMAND 2011-2010	314	299	613
CAPACITY IN 2015	3,723	9,282	13,005
DEMAND 2015-2020	443	422	865
CAPACITY IN 2020	1,508	7,172	8,680
DEMAND 2020-2025	488	665	953
CAPACITY IN 2025	0	4,847	3,915
DEMAND 2025-2030	540	514	1,054
CAPACITY IN 2030	0	2,277	0
<b>DEPLETION YEAR</b>	<b>2023</b>	<b>2030+</b>	<b>2029</b>

Residential capacity is expressed in terms of housing units.

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

Source: Miami-Dade Department of Regulatory and Economic Enhancements, Planning Division, Planning Research Section, July 2013.

## Environmental Conditions

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

### Flood Protection

Federal Flood Zone	AE-8, AH-8 and X-99
Stormwater Management Permit	Surface Water Management General Permit
County Flood Criteria, National Geodetic Vertical Datum (NGVD)	+7 feet

### Biological Conditions

Wetlands Permit Required	No
Native Wetland Communities	No
Specimen Trees	No
Endangered Species Habitat	No
Natural Forest Community	No



#### Other Considerations

Within Wellfield Protection Area	No
Hazardous Waste	No
Contaminated Site	No

#### Drainage, Flood Protection and Stormwater Management

The application area is located in an AE-8, AH-8 and X-998 Federal Flood Zones and has a County Flood Criteria of +7.0 feet NGVD. A DERM Standard Water Management Surface Permit No. 13-05253-P was issued for a previously proposed development. Therefore, the new application, if approved, will require a modification to said permit. The proposed changes to the Declaration of Restrictions will not affect the level of service for flood protection provided a modification of the permit is obtained which meets the minimum development criteria.

The total impervious area will increase from 65% to 70%, approximately. Design in the area should accomplish the cut and fill criteria, also known as compensatory storage, in order to avoid impact to flood protection LOS on adjacent areas. The existing lake should be included in these considerations. New construction should not increase the flood hazard on adjacent properties. Fill encroachment must be prevented in order to avoid flood flow obstruction and reduce storage of runoff volume.

#### Tree Preservation

Tree Removal Permit TREE-4058-2012 was issued for this property on January 28, 2013, and is scheduled to expire on January 28, 2014. Said permit requires the preservation of specimen-sized trees as identified in the approved permitted site plans. An amendment to this permit is required prior to the removal and/or relocation of any additional trees that are subject to the Tree Preservation and Protection provisions of the Code. The site also contains prohibited trees as referenced in Section 24-49.9 of the Code. Per Section 24-49.9 of the Code, all prohibited trees are exempt from permitting and must be removed from the site prior to development.

#### **Water and Sewer**

##### Water Supply

The property is located within the MDWASD franchised water service area. The water supply will be provided by the Hialeah/Preston Water Treatment Plant which is presently producing water that meets Federal, State, and County drinking water standards. Currently, there is a MDWASD agreement (#21301) for the development of apartments, retail and restaurant use at the subject property. Said Agreement was executed on February 25, 2013. At the present time, there is adequate treatment and water supply capacity for the net increase in capacity proposed in this application; however, a Water Supply Certification will be required for this project at the time of development to determine water supply availability. At the time of development, the project will be evaluated for water supply availability and a water supply reservation will be made.

##### Water Treatment Plant Capacity

The County's adopted Level of Service (LOS) standard for water treatment is based on regional treatment system capacity. This LOS requires that the maximum daily flow cannot exceed 98% of the regional treatment system capacity, which is currently 439.74 mgd. Therefore, maximum daily flow cannot exceed 430.95 mgd. The current reported maximum daily flow is 353.6 mgd and there is 16.76 mgd in reserved capacity. As a result, the regional system has approximately 60.59 mgd or 13.78% of treatment plant capacity remaining.

As noted in the “Estimated Water Demand/Sewer Flow for Proposed Development by Land Use Scenario” table below, the maximum water demand for Business and Residential (Scenario 1) development under the current CDMP Land Use designations and previously accepted Declaration of Restrictions, is estimated at 65,400 gallons per day (gpd). The maximum water demand for Business and Residential (Scenario 1) development with the proposed modification to the Declaration of Restrictions, is estimated at 82,500 gpd. This represents an increase of approximately 17,100 gpd over the current demand. A Water Supply Certification Letter will be required at the time of development, at which time the proposed project will be evaluated for water supply availability and a water supply reservation will be made.

Estimated Water Demand/Sewer Flow  
For Proposed Development 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 CDMP Potential				
1	Business	375,000	10 gpd/100 sq. ft.	37,500
	Residential	155	180 gpd	27,900
Requested CDMP Designation				
1	Business	375,000	10 gpd/100 sq. ft.	37,500
	Residential	250	180 gpd	45,000

Source: Miami-Dade Water and Sewer Department; Department of Regulatory and Economic Resources, Planning Division; August 2013

#### Water System Connectivity

There is an existing 16-inch water main abutting the property on West Flagler Street from which the applicant may connect and extend a new 12-inch water main to provide service to the subject property. Any public water main extension within the property shall be 12-inch minimum diameter. If two or more fire hydrants are to be connected to a public water main extension, then the water system shall be looped with two (2) points of connection.

#### Sewer Treatment Plant Capacity

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 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 375.50 million gallons per day (mgd) and a 12-month average (period ending April 2013) of 322.85 mgd. The sum of the 12-month average and all reserved flows (30.61 mgd) represents 94.13% of the regional system design capacity. Therefore, the wastewater treatment system has 5.87% less 2% for a total of 3.87% or 14.53 mgd of capacity remaining.

### Sewer System Connectivity

The wastewater flows for this application will be transmitted to the Central District Wastewater Treatment Plant for treatment and disposal. Currently, there is average wastewater treatment capacity for this application consistent with Policy WS-2A(2) of the CDMP. There is an existing 12-inch sanitary sewer force main located in NW 102 Avenue north of W. Flagler Street to which the applicant shall install and connect a new 8-inch sewer force main northerly in NW 102 Avenue as required to provide service to the applicant's property. A sewage pump station will be required.

### **Solid Waste**

The Miami-Dade County Public Works and Waste Management Department (PWWM) Solid Waste Functions oversees the proper collection and disposal of solid waste generated in the County through direct operations, contractual arrangements, and regulations. In addition, the Department directs the countywide effort to comply with State regulations concerning recycling, household chemical waste management and the closure and maintenance of solid waste sites no longer in use.

The application site is located inside the PWWM Waste Collection Service Area (WCSA), which consists of all residents of the Unincorporated Municipal Service Area (UMSA) and eight municipalities.

### Level of Service Standard

CDMP Policy SW-2A establishes the adopted Level of Service (LOS) standard for the County's Solid Waste Management System. This CDMP policy requires the County to maintain sufficient waste disposal capacity to accommodate waste flows committed to the System through long-term contracts or interlocal agreements with municipalities and private waste haulers, and anticipated uncommitted waste flows, for a period of five years. The PWWM assesses the solid waste capacity on system-wide basis since it is not practical or necessary to make determination concerning the adequacy of solid waste disposal capacity relative to individual applications. As of FY 2012-2013, the PWWM is in compliance with the adopted LOS standard.

### Application Impacts

Application No. 3 is requesting a modification of an existing Declaration of Restrictions in the Restrictions Table (Application No. 9 of the April 2008-09 cycle) on Page I-74.1 of the CDMP to replace the commitment to develop a minimum of 150 "elderly housing" dwelling units with a provision allowing the development of "up to 250 dwelling units" on the subject property. Development of the property will most likely result in the construction of 250 multi-family units. Per Chapter 15 of the County Code, the PWWM does not actively compete for multi-family waste collection services at this time; waste collection services may be provided by a private waste hauler. The PWWM has determined that the requested amendment will have no impact or any associated costs to the County; therefore, the PWWM has no objections to the proposed amendment.

### **Parks**

The Miami-Dade County Parks, Recreation and Open Space Department has three Park Benefit Districts (PBDs). The subject application site is located inside Park Benefit District 1 (PBD-1), which encompasses the area of the County north of SW 8 Street and AIA/MacArthur Causeway.



### Level of Service Standard

CDMP Policy ROS-2A establishes the adopted minimum Level of Service (LOS) standard for the provision of recreation open space in the Miami-Dade County. This CDMP policy requires the County to provide a minimum of 2.75 acres of local recreation open space per 1,000 permanent residents in the unincorporated areas of the County and a County-provided, or an annexed or incorporated, local recreation open space of five acres or larger within a three-mile distance from residential development. The acreage/population measure of the LOS standard is calculated for each Park Benefit District. A Park Benefit District is considered below LOS standard if the projected deficiency of local recreation open space is greater than five acres. Currently, PBD-1 has a surplus capacity of 310.90 acres of parkland, when measured by the County's concurrency LOS standard of 2.75 acres of local recreation open space per 1,000 permanent residents.

The "County Local Parks" table below lists all the parks within a 3-mile radius of the application site; nine parks (Blue Lakes Park, Concord Park, Coral Estates Park, International Gardens Park, North Trail Park, Rockway Park, Ruben Dario Park and Southern Estates Park) are larger than the required five acres (or larger) park. The nearest local park to the application site is Ruben Dario Park, which is located immediately adjacent to and east of the application site.

County Local Parks  
Within a 3-Mile Radius of Application Site

Park Name	Acreage	Classification
Banyan Park	3.09	Neighborhood Park
Blue Lakes Park	6.40	Neighborhood Park
Concord Park	8.86	Neighborhood Park
Coral Estates Park	5.26	Community Park
Francisco Human Rights Park	2.88	Mini-Park
International Gardens Park	5.26	Neighborhood Park
North Trail Park	14.02	Community Park
Rockway Park	5.01	Community Park
Ruben Dario Park	14.97	Community Park
Southern Estates Park	13.00	Neighborhood Park
Sunset Heights Park	0.37	Mini-Park
Tamiami Canal Park	1.52	Neighborhood Park
Tamiami Trail Park (North)	1.81	Neighborhood Park
Westbrook Park	2.10	Neighborhood Park
Banyan Park	3.09	Neighborhood Park

Source: Miami-Dade County Parks, Recreation and Open Space Department, July 2013.

### Application Impacts

The potential development of the site under the existing CDMP land use designation has a potential population of 362, resulting in an impact of 1.00 acres based on the adopted minimum LOS standard for local recreational open space. The proposed change would result in a potential population of 585, or an increase of 223 persons, resulting in an impact of an additional 0.61 acres of local parkland that would be accommodated by the 310.91-acre park surplus capacity.

## **Fire and Rescue Service**

The application site is currently served by Miami-Dade County Fire Rescue Station No. 29 (Sweetwater), located at 351 SW 107 Avenue. This station is equipped with an Aerial, a Rescue, and a Battalion Chief and is staffed with eight (8) firefighter/paramedics 24 hours a day, seven days a week.

The Miami-Dade County Fire Rescue Department (MDFR) has indicated that the average travel time to incidents in the vicinity of the application site is approximately 6 minutes and 50 seconds. Performance objectives of national industry standards require the assembly of 15-17 firefighters on-scene within 8-minutes at 90% of all incidents. Travel time to incidents in the vicinity of the application site complies with the performance objective of national industry standards.

### Level of Service Standard for Fire Flow and Application Impacts

CDMP Policy WS-2A establishes the County's minimum Level of Service standard for potable water. This CDMP policy requires the County to deliver water at a pressure no less than 20 pounds per square inch (psi) and no greater than 100 psi, unless otherwise approved by the Miami-Dade Fire Rescue Department. A minimum fire flow of 3,000 gallons per minute (gpm) is required for business and industrial uses, and 750 gpm for single family and duplexes.

The current CDMP land use designation of "Business and Office" will allow a potential development on the application site that is anticipated to generate approximately 111 annual alarms. The proposed modification of the Declaration of Restrictions (covenant)—from a commitment to develop a minimum of 150 elderly housing dwelling units, to the development of up to 250 dwelling units on the subject property—will generate approximately 111 annual alarms. The 111 annual alarms will result in a severe impact to existing fire rescue services. Presently, fire and rescue service in the vicinity of the application site is adequate. The MDFR Department has no plans for new fire rescue stations in the vicinity of the application site.

The required fire flow for the proposed CDMP land use designation of "Business and Office" shall be 3,000 gpm. Fire hydrants shall be spaced a minimum of 300 feet from each other and shall deliver not less than 1,000 gpm. Presently, there are no fire flow deficiencies in the vicinity of the application site.

## **Public Schools**

### Level of Service Standard

The adopted Level of Service (LOS) standard for all public schools in Miami-Dade County is 100% utilization of Florida Inventory of School Houses (FISH) capacity with relocatable classrooms (CDMP Policy EDU-2A). This LOS standard, except for magnet schools, shall be applicable in each public school concurrency service area (CSA), defined as the public school attendance boundary established by Miami-Dade County Public Schools.

A planning level review, which is considered a preliminary school concurrency analysis, was conducted on this application based on the adopted LOS standard, the Interlocal Agreement (ILA) for Public Facility Planning between Miami-Dade County and Miami-Dade County Public Schools, and current available capacity and school attendance boundaries.

Section 7.5 of the ILA provides for "Public Schools Planning Level Review" (Schools Planning Level Review), of CDMP amendments containing residential units. This type of review does not

constitute a public school concurrency review and, therefore, no concurrency reservation is required. Section 7.5 further states that "...this section shall not be construed to obligate the County to deny or approve (or to preclude the County from approving or denying) an application."

#### Application Impact

This application, if approved, may increase the student population of the schools serving the application site by an additional 68 students – this number reflects an impact reduction of 19.5% for charter and magnet schools (schools of choice). Of the 68 students, 31 will attend elementary schools, 17 will attend middle schools students and 20 will attend senior high schools. The students will be assigned to those schools identified in the "Concurrency Service Area (CSA) Schools" and "Adjacent Concurrency Service Area Schools" in the table below. At this time, the schools have sufficient capacity available to serve the application.

Concurrency Service Area (CSA) Schools					
Facility Name	Net Available Capacity	Seats Required	Seats Taken	LOS Met	Source Type
EWf Stirrup Elementary	11	31	11	No	Current CSA
Ruben Dario Middle	0	17	0	No	Current CSA
Miami Coral Park Senior	399	20	20	Yes	Current CSA

Source: Miami-Dade County Public Schools, August 2013  
Miami-Dade County Department of Regulatory and Economic Resources, 2013

Adjacent Concurrency Service Area Schools					
Facility Name	Net Available Capacity	Seats Required	Seats Taken	LOS Met	Source Type
Seminole Elementary	66	20	20	Yes	Adjacent CSA
Lawton Chiles Middle	517	17	17	Yes	Adjacent CSA

Source: Miami-Dade County Public Schools, August 2013  
Miami-Dade County Department of Regulatory and Economic Resources, 2013

Section 9 of the ILA discusses implementation of school concurrency, indicating the test for school concurrency is at the time of a final subdivision, site plan or functional equivalent, not at the time of application for land use. Miami-Dade County Public Schools is required to maintain the adopted LOS standard throughout the five-year planning period. In the event that there is not sufficient capacity at the time of final subdivision, site plan or functional equivalent, the ILA and the Educational Element of the CDMP describe a proportionate share mitigation process.

#### **Aviation**

Miami-Dade County Aviation Department does not object to the proposed CDMP amendment provided that the proposed development complies with all applicable local, state and federal aviation regulations including Airport Zoning, Chapter 33, of the Code of Miami-Dade County.

## Roadways

Application No. 3 is located on the northeast corner of the intersection of West Flagler Street and NW 102 Avenue in unincorporated Miami-Dade County. Primary access to the application site is from West Flagler Street, a six-lane divided arterial roadway, which provides access to the west and east to other major north-south arterials such as NW 107, NW 97 and NW 87 Avenues and SR 836/Palmetto Expressway. East-west expressways and arterials in close proximity to the application site include: NW 25 Street, NW 12 Street, SR 836/Dolphin Expressway, West Flagler Street, and SR 90/SW 8 Street/Tamiami Trail. North-south expressways and arterials include: SR 821/Homestead Extension of the Florida Turnpike (HEFT), NW/SW 107 Avenue, NW/SW 97 Avenue, NW/SW 87 Avenue, and SR 826/Palmetto Expressway.

This application site was the subject of another CDMP amendment application, Application No. 9, filed by Blue Lake Development Corporation in the April 2008 CDMP Amendment Cycle. Application No. 9 sought to re-designate the application site from “Low-Medium Density Residential” to “Business and Office”, and was adopted with acceptance of a proffered declaration of restrictions by the Board of County Commissioners on May 6, 2009. The accepted declaration of restrictions limits the maximum development of the property to 375,000 square feet of retail, commercial, personal services and offices; and no less than 150 dwelling units designated for elderly housing.

The current Application No. 3, seeks to modify the existing declaration of restriction to replace the commitment to develop a minimum of 150 elderly housing dwelling units with a provision allowing the development of up to 250 dwelling units on the subject property.

The Miami-Dade County Department of Regulatory and Economic Resources in cooperation with the Department of Public Works and Waste Management (PWWM) performed a trip generation and traffic impact analysis (Concurrency analysis) to assess the traffic impact that the proposed change to the existing covenant would have on roadways adjacent to the application site and surrounding roadway network.

Traffic conditions are evaluated by the 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.

### Existing Conditions

Existing traffic conditions on major roadways adjacent to and in the vicinity of the application site, which are currently monitored by the County and the State, are acceptable (LOS B, C and D). The “Existing Traffic Conditions Roadway Lanes and Peak Period Level of Service (LOS)” table below shows that the current operating condition of all the roadways that are currently monitored in the vicinity of the application site.

Existing Traffic Conditions Roadway Lanes and Peak Period Level of Service (LOS)				
Roadway	Location/Link	Lanes	LOS Std.	LOS
NW 25 Street	NW 117 Ave. to NW 107 Ave.	4 DV	D	B (2011)
	NW 107 Ave. to NW 97 Ave.	4 DV	D	C (2011)
	NW 97 Ave. to NW 87 Ave.	4 DV	D	C (2011)
NW 12 Street	NW 117 Ave. to NW 112 Ave.	6 DV	D	C (2011)
	NW 107 Ave. to NW 87 Ave.	4 DV	E	C (2011)
SR/836/Dolphin Expressway	HEFT to NW 107 Ave.	6 LA	D	C (2012)
	NW 107 Ave. to NW 87 Ave.	6 LA	D	C (2012)
West Flagler Street	W 118 Ave. to W 114 Ave.	4 DV	E+20%	D (2011)
	W 114 Ave. to W 107 Ave.	6 DV	E+20%	C (2011)
	W 107 Ave. to W 97 Ave.	6 DV	E+20%	D (2011)
	W 97 Ave. to W 87 Ave.	6 DV	E+20%	D (2011)
SR 90/SW 8 St./Tamiami Trail	HEFT to SW 107 Ave.	6 DV	E+20%	C (2012)
	SW 107 Ave. to SW 87 Ave.	8 DV	E+20%	C (2012)
SW 24/26 Street/Coral Way	SW 117 Ave. to SW 107 Ave.	4 DV	E+20%	D (2011)
	SW 107 Ave. to SW 97 Ave.	4 DV	E+20%	B (2011)
	SW 97 Ave. to SW 87 Ave.	4 DV	E+20%	D (2011)
SR 821/HEFT	Okeechobee Rd. to SR 836	6 LA	D	B (2012)
	SR 836 to SW 8 Street	6 LA	D	C (2012)
	SW 8 St. to SW 40 Street	6 LA	D	B (2012)
SW 117 Avenue	SW 8 St. to SW 24 Street	2 DV	D	C (2011)
NW 107 Avenue	NW 25 St. to NW 12 Street	6 DV	D	C (2011)
SR 985/NW 107 Avenue	SR 836 to Flagler Street	6 DV	E	C (2012)
	Flagler St. to SW 8 Street	4 DV	E	C (2012)
	SW 8 St. to SW 24 Street	6 DV	E	C (2012)
NW/SW 97 Avenue	NW 25 St. to NW 12 Street	4 DV	D	B (2011)
	SW 8 St. to SW 24 Street	2 DV	D	D (2011)
SR 973/NW/SW 87 Avenue	NW 25 St. to NW 12 Street	6 DV	D	D (2011)
	SR 836 to Flagler Street	6 DV	E	C (2012)
	Flagler St. to SW 8 Street	4 DV	E	C (2012)
	SW 8 St. to SW 24 Street	4 DV	E	C (2012)

Source: Miami-Dade County Department of Regulatory and Economic Resources, Miami-Dade Public Works and Waste Management Department; and Florida Department of Transportation, July 2013.

Notes: () identifies the year traffic count was taken or the LOS traffic analysis revised.

DV= Divided Roadway; UD= Undivided Roadway; LA= Limited Access

LOS Std. = the adopted minimum acceptable peak period Level of Service standard for all State and County roadways.

### Trip Generation

One potential development scenario—Scenario 1—was analyzed for traffic impacts under the current CDMP land use designation of “Business and Office” and the requested modification to the accepted and recorded Declaration of Restrictions (OR Book 26995 Pgs. 723 through 732) to replace the commitment to develop a minimum of 150 “elderly housing” dwelling units with up to 250 dwelling units (proffered new Declaration of Restrictions) on the application site. Scenario 1 shows that if the application site were developed with 375,000 sq. ft. retail space and 250 dwelling units it would generate approximately 89 more PM peak hour vehicle trips than the potential development that may occur under the current CDMP land use designation and recorded declaration of restrictions, which limits development on the site to 375,000 sq. ft. of retail uses and no less than 150 dwelling units designated for elderly housing. Currently the application site has a site plan approved for 375,000 sq. ft. of retail and 155 multifamily units for the elderly. See “Estimated Peak Hour Trip Generation” table below.

Estimated Peak Hour Trip Generation By Current and Requested CDMP Land Use Designations			
Application Number	Current CDMP Designation and Assumed Use/ Estimated No. Of Trips	Requested CDMP Designation and Assumed Use/ Estimated No. Of Trips	Estimated Trip Difference Between Current and Requested CDMP Land Use Designation
3 Scenario 1	“Business and Office” 375,000 sq. ft. retail <sup>1</sup> and 155 MF Elderly housing/  1,177	“Business and Office” 375,000 sq. ft. retail <sup>2</sup> and 250 MF /  1,266	+ 89

Source: Institute of Transportation Engineers, Trip Generation, 7th Edition, 2003; Miami-Dade County Department of Regulatory and Economic Resources, July 2013.

Notes: <sup>1</sup> Scenario 1 assumes the application site developed with maximum potential development that may be allowed under the current CDMP land use designation of “Business and Office” and accepted and recorded declaration of restrictions—Declaration of Restrictions recorded in Official Records Book 26955, Pages 723 through 732, Miami-Dade Public Records, which limits commercial development to 375,000 sq. ft. of retail uses and no less than 150 units of elderly housing. A site plan has been already approved for the application site for 375,000 sq. ft. of commercial uses and 155 units of residential housing via Resolution No. CZAB10-15-12 passed and adopted by Community Zoning Appeals Board 10.

<sup>2</sup> This assumes the application site developed with the development scenario (375,000 sq. ft. retail and 250 multifamily dwelling units) as proposed in the proffered declaration of restrictions submitted by the applicant.

### Traffic Concurrency Evaluation

An evaluation of peak-period traffic concurrency conditions as of July 2013, which considers reserved trips from approved development not yet constructed, programmed roadway capacity improvements listed in the first three years of the County’s adopted 2014 Transportation Improvement Program (TIP), and the application’s traffic impacts, determined that all roadway segments analyzed will operate at acceptable levels of service during the peak hour period for the year 2016 (short term concurrency analysis year). See “Traffic Impact Analysis” table below.



Traffic Impact Analysis on Roadways Serving the Amendment Site  
Roadway Lanes, Existing and Concurrency Peak Period Operating Level of Service (LOS)

Sta. Num.	Roadway	Location/Link	Num. Lanes	Adopted LOS Std.*	Peak Hour Cap.	Peak Hour Vol.	Existing LOS	Approved D.O's Trips	Conc. LOS w/o Amend.	Amendment Peak Hour Trips	Total Trips With Amend.	Concurrency LOS with Amend.
Scenario 1 "Business and Office" (375,000 sq. ft. retail and 250 MF units)												
1218	NW 107 Avenue	SR 836 to Flagler St.	6 DV	E	5390	4237	C	74	C	87	4398	D
2580	SW 107 Ave.	Flagler St. to SW 8 St.	4 DV	E	3580	2716	C	24	C	149	2889	C
9156	W. Flagler Street	W 107 Ave. to W 97 Ave.	6 DV	E+20%	6300	2530	D	94	D	800	3242	D
9158	Flagler Street	NW 114 Ave. to NW 107 Ave.	6 DV	E+20%	6300	1842	C	69	C	230	2049	C
9494	NW 97 Avenue	NW 25 Street to NW 12 Street	4 DV	D	3080	2089	B	119	B	214	2142	B
9698	SW 97 Avenue	SW 8 Street to SW 24 Street	2 UD	D	2130	1124	D	53	D	106	1283	D

Source: Compiled by the Miami-Dade County Department of Regulatory and Economic Resources, Miami-Dade County Public Works and Waste Management Department and Florida Department of Transportation, July 2013.

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

\*County adopted roadway level of service standard applicable to the roadway segment: D (90% capacity); E (100% capacity); E+20% (120% capacity) for roadways serviced with mass transit having 20 minutes or less headways between the Urban Development Boundary (UDB) and the Urban Infill Area (UIA); E+50% (150% capacity) for roadways serviced with extraordinary mass transit inside the UIA. () Indicates the year traffic count was taken and/or Level of Service updated.

Scenario one assumes the application site developed with maximum potential development that may be allowed under the requested "Business and Office" land use designation and with the applicant's modification to previously accepted Declaration of Restrictions which limits residential development to 250 multi-family units.

### Future Conditions

The MPO's adopted 2014 Transportation Improvement Program lists the following roadway capacity improvement projects for construction in fiscal years 2013-2018 in the vicinity of the application site (see table below).

Programmed Road Capacity Improvements  
Fiscal Years 2013/2014 – 2017/2018

Roadway	From	To	Type of Improvement	Fiscal Year
HEFT/SR 821	SR 836/Dolphin Expy.	Bird Road	Widen from 8 to 10 lanes	2014/2015
SW 107 Avenue	W. Flagler St.	SW 5 St.	Add lanes	2013-2014 – 2014/2015
SW 107 Avenue	SW 1100 Block	SW 4 Street	Add lanes	2015/2016
SR 826/SR 836 Interchange	SW 8 Street NW 87 Ave.	SW 25 Street NW 57 Ave.	Interchange improvement and add lanes	2013/2014 – 2016-2017

Source: 2014 Transportation Improvement Program, Miami-Dade County Metropolitan Planning Organization, May 23, 2013.

The MPO's adopted 2035 Miami-Dade Long Range Transportation Plan (LRTP), Cost Feasible Plan, lists the following roadway capacity improvement projects for construction in the next 22 years (see table below).

Planned Roadway Capacity Improvements  
Fiscal Years 2013/2014 through 2034/2035

Roadway	From	To	Type of Improvement	Priority
HEFT	US-1	I-595	Toll system conversion to all electronic tolling	I
NW 107 Avenue	NW 41 St.	NW 25 St.	Widen from 4 to 6 lanes	II
NW 25 Street	NW 89 Court	SR 826	Widen from 4 to 6 lanes	II
NW 82 Avenue	NW 12 St.	NW 8 St.	New 4 lanes	IV

Source: Miami-Dade 2035 Long Range Transportation Plan, Metropolitan Planning Organization for the Miami Urbanized Area, October 2009.

Notes: Priority I – Project improvements to be funded by 2014; Priority II – Project improvements planned to be funded between 2015 and 2020; Priority III – Project improvements planned to be funded between 2021 and 2025; and Priority IV – Projects planned to be funded between 2026 and 2035.

### Application Impact

One potential development scenario—Scenario 1—was analyzed for traffic impacts under the current CDMP land use designation of “Business and Office” and the proffered new declaration of restrictions modifying the currently recorded Declaration of Restrictions (OR Book 26955, Pages 723 through 732) to replace the commitment to develop no less than 150 “elderly housing” dwelling units with up to 250 dwelling units on the application site. This scenario shows that if the application site were developed under the allowed uses of 375,000 sq. ft. retail with the new Declaration of Restrictions allowing up to 250 dwelling units it would generate approximately 89 more PM peak hour vehicle trips than the potential development that may occur under the current CDMP land use designation and recorded declaration of restrictions. See “Estimated Peak Hour Trip Generation” table.

### Applicant's Traffic Study

The applicant submitted a “CDMP Amendment Transportation Analysis–May 2013 CDMP Amendment Application No. 3 (July & August 2013)” traffic impact report prepared by Cathy Sweetapple & Associates in support of Application No. 3. The transportation consultant performed a trip generation analysis and a traffic concurrency analysis for the year 2018 to evaluate the proposed change to the declaration of restrictions using the *ITE Trip Generation*, 9<sup>th</sup> Edition, 2012. The trip generation and the traffic concurrency analyses are based on the site plan and zoning approval on July 24, 2012 by Zoning Appeals Board 10 pursuant to Resolution No. CZAB10-15-12 under DIC No. Z2012000038 and Tentative Plat (T-Plat 23292) approval on May 17, 2013. The approved site plan and plat call for the development of 375,000 sq. ft. of retail space and 155 dwelling units for the elderly. The CDMP amendment application seeks to change the type and number of dwelling units in the currently recorded covenant to 250 dwelling units. The additional number of dwelling units will generate 117 net new PM peak hour vehicle trips than the development proposal described in the recorded declaration of restrictions. The traffic impact report concludes that all the traffic count stations on roadway adjacent to the application site were found to have available capacity and projected to operate at acceptable levels of service during the PM peak hour period for the year 2018.

Miami-Dade County Public Works and Waste Management Department (PWWM) and Department of Regulatory and Economic Resources (RER) staff reviewed the Transportation Analysis report and determined that the transportation consultant performed the traffic concurrency analysis under the assumption that the trips generated by the approved T-Plat were already reserved, but they have not been reserved yet. Therefore, the analysis should have been performed for the full traffic impact of the development program.

### **Transit**

#### Existing Service

The application site and surrounding areas are currently served by Metrobus Routes 11 and 51. The service frequencies (headways) of these routes are shown in the “Metrobus Route Service Summary” Table below.

Metrobus Route Service Summary

Route(s)	Service Headways (in minutes)						Proximity to Bus Stop (miles)	Proximity to Bus Route (miles)	Type of Service
	Peak (AM/PM)	Off-Peak (Midday)	Evenings (After 8 pm)	Overnight	Saturday	Sunday			
11	(8/15)/ (8/15)	(12/24)	(20/40)	60	(12/24)	(15/30)	0	0	L
51	15	30	30	n/a	n/a	n/a	0	0	L

Source: 2013 Transit Development Plan, Miami-Dade Transit (June 2013 Line Up)

Notes: 'L' means Metrobus local route service

'F' means Metrobus feeder service to Metrorail

#### 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 2023 Recommended Service Plan within the 2013 Transit Development Plan. The planned improvements are shown in the “Metrobus Recommended

Service Improvements and Service Plan” table below.

Metrobus Recommended Service Improvements and Service Plan		
Route	Improvement Description	Implementation Year
11	No planned improvements.	n/a/
51 (Flagler MAX)	Route to be extended to future terminal at SW 147 Avenue and SW 8 Street.	2017
51 (Flagler MAX)	Route to be transformed to the Flagler Enhances Bus.	2018

Source: 2013 Transit Development Plan, Miami-Dade Transit (June 2013 Line Up)

### Major Transit Projects

Regarding future transit projects within the application area, MDT is developing premium transit services in the corridors approved in the People’s Transportation Plan and other major corridors. These services—enhanced bus corridors and express bus services—will incrementally build local ridership first to justify major improvements later. Enhanced bus services include modern-looking, high-tech buses running in straighter, more direct routes, and running more frequently with fewer stops. They will appear on various corridors including West Flagler Street.

The Enhanced Bus service will provide premium limited-stop transit service along Flagler Street from Downtown Miami to west Miami-Dade County. This service will connect the new Marlins Ballpark along NW 7 Street as well as serve the Metrorail Government Center Station, Miami-Dade College Wolfson Campus, American Airlines Arena, the Metropolitan Hospital, the Magic City Casino and the Mall of the Americas. In addition, this route will service Florida International University’s Modesto A. Maidique Campus and Engineering Campus, and will also serve a planned park-and-ride/bus terminal station at SW 8 Street and SW 147 Avenue. Service headways will be 12 minutes during the AM/PM peak-hour and 30 minutes during the mid-day. Revenue service is anticipated to begin in 2018 using 10 new 60-foot diesel/electric hybrid, clean diesel, compressed natural gas, or other alternative fuel buses.

### Application Impacts

A preliminary analysis was performed in the Traffic Analysis Zone (TAZ) 813 where the application site is located. The application’s transit impact is expected to be handled by the scheduled transit improvements in the area.

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

The following CDMP goals, objectives, policies, concepts and guidelines will be enhanced if the proposed covenant modification 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-1F. To promote housing diversity and to avoid creation of monotonous developments, Miami-Dade County shall vigorously promote the inclusion of a variety of housing types in all residential communities through its area planning, zoning, subdivision, site

planning and housing finance activities, among others. In particular, Miami-Dade County shall review its zoning and subdivision practices and regulations and shall amend them, as practical, to promote this policy.

- 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; 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.
- 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...
  - (ii) Enhance or impede provision of services at or above adopted LOS Standards
  - (iii) Be compatible...
- LU-10A: Miami-Dade County shall facilitate contiguous urban development, infill, redevelopment of substandard or undeveloped areas, high intensity activity centers, mass transit supportive development, and mixed used projects to promote energy conservation.

# APPENDICES

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# **APPENDIX A**

## **Amendment Application**

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**APPLICATION FOR A MODIFICATION OF  
DECLARATION OF RESTRICTIONS CONTAINED IN THE  
LAND USE ELEMENT OF THE MIAMI-DADE COUNTY  
COMPREHENSIVE DEVELOPMENT MASTER PLAN**

PLANNING & ZONING  
METROPOLITAN PLANNING SECT

1. APPLICANT

Fontainebleau Place, LLC  
3750 Yacht Club Drive  
Aventura, FL 33180

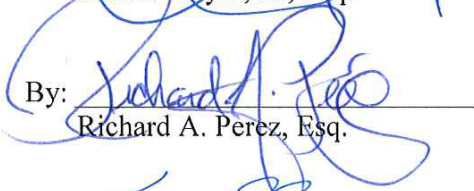
2. APPLICANT'S REPRESENTATIVES

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By:   
\_\_\_\_\_  
Juan J. Mayol, Jr., Esq.

Date

5.31.13

By:   
\_\_\_\_\_  
Richard A. Perez, Esq.

Date

5.31.13

By:   
\_\_\_\_\_  
Tracy R. Slavens, Esq.

Date

5/31/13

3. DESCRIPTION OF REQUESTED CHANGE

A. The following change to the Land Use Element is being requested:

1. Modification of Declaration of Restrictions contained in the Land Use Element table entitled "Restrictions Accepted by the Board of County Commissioners in Association with Land Use Plan Map Amendments. The Applicant requests a modification to that certain Declaration of Restrictions contained in the Land Use Element table entitled "Restrictions Accepted by the Board of County Commissioners in Association with Land Use Plan Map Amendments."

2. Modification of Declaration of Restrictions recorded in Official Records Book 26955 at Page 723 of the Public Records of Miami-Dade County, Florida. The Applicant requests a modification to that certain Declaration of Restrictions recorded in Official Records Book 26955 at Page 723 of the Public Records of Miami-Dade County, Florida.

B. Description of the Subject Area.

The subject property, which is legally described in Exhibit "A" (the "Property"), consists of approximately 41.0± gross acres (39.0± net acres) of land located in Section 5, Township 54, Range 40, in unincorporated Miami-Dade County. More specifically, the subject property is located at 10001 West Flagler Street, on the northeast corner of West Flagler Street and NW 102 Avenue, in unincorporated Miami-Dade County, Florida.

C. Acreage.

Subject Application Area: 41.0± gross acres (39.0± net acres)

Acreage Owned by Applicant: 39.0± gross acres (39.0± net acres)

D. Requested Change.

The Applicant seeks a modification to that certain Declaration of Restrictions contained in the Land Use Element table entitled "Restrictions Accepted by the Board of County Commissioners in Association with Land Use Plan Map Amendments" and as recorded in Official Records Book 26955 at Page 723 of the Public Records of Miami-Dade County, Florida and, in turn, a modification to that certain Declaration of Restrictions contained in the Land Use Element table entitled "Restrictions Accepted by the Board of County Commissioners in Association with Land Use Plan Map Amendments."

4. REASONS FOR AMENDMENT

The intent of this application is to modify the permitted residential housing types permitted on the Property, consisting of +/-41 gross acres located on the northeast corner of West Flagler Street and NW 102 Avenue, in unincorporated Miami-Dade County, Florida, as established under the terms of that certain Declaration of Restrictions, recorded in Official Records Book 26955 at Page 723 of the Public Records of Miami-Dade County, Florida (the "Declaration"). The Declaration limits the type of residential development permitted on the Property to elderly housing. A copy of the Declaration is attached hereto as Exhibit "C." The Applicant is seeking the approval of a modification of the Declaration to expand the residential development options given the scarcity of funding for elderly housing development and in consideration of the ongoing and anticipated growth in population in the area surrounding the Property.

The Property is located on the northeast corner of the intersection West Flagler Street and NW 102 Avenue in the western portion of Miami-Dade County. West Flagler Street is a major east/west arterial for this area of the County and connects the Turnpike to Downtown Miami. The section of West Flagler Street where the Property is located is developed predominantly with residential uses. In fact, the Property is surrounded by residential uses to the south, west, and north and Ruben Dario Park to the east. Approximately 0.4 mile to the west of the Property is the Florida International University College of Engineering and Computing campus.

The Property was approved for a Land Use Plan amendment to "Business and Office" with the acceptance of the Declaration pursuant to Application No. 9 of the April 2008 Comprehensive Development Master Plan Amendment Cycle. Recently, a site plan was approved for the Property that contemplated a mix of retail and residential use, to wit, elderly housing pursuant to Resolution No. CZAB10-15-12, passed and adopted on July 24, 2012. The residential portion of the approved site plan is located on a three (+/-3) acre tract in the northeast corner of the Property (the "Residential Parcel"). Throughout the land use amendment and rezoning processes, the owner of the property sought options to develop the elderly housing component. However, to date, the owner has been unsuccessful. The Applicant is under contract to purchase the residential parcel and seeks to expand the development options for the Residential Parcel. The proposed modification of the Declaration would provide the Applicant with greater flexibility to develop the "Residential Parcel."

The proposed modification of the Declaration would allow various types of multi-family residential use that would be designed in accordance with Miami-Dade County Code requirements as follows:

FROM:

"1. Permitted Uses. Notwithstanding the re-designation of the Property to "Business and Office" on the County's LUP map, the maximum development of the Property shall not exceed the following: (a) 375,000 square feet of retail, commercial, personal services and offices; and (b) no less than 150 dwelling units designated for elderly housing, as such term is defined under Section 202 of the Fair Housing Act of 1959 (12 USC 1701) and Chapter 11A of the Miami-Dade County Code (the "Code"), along with such ancillary and accessory uses as may be desirable, necessary or complementary to satisfy the service needs of the residents, such as, but not limited to, counseling, medical, nutritional, and physical therapy, provided that such ancillary and accessory uses shall not exceed fifteen percent (15%) of the floor area of the elderly housing facility.

In an effort to enhance the compatibility of the proposed development of the Property with the existing residential development to the north and west, the north two (2) acres of the Property may only be occupied by a storm water retention area that may be required or desirable to develop the Property, driveways, pedestrian access, access roads, and landscaped or open space areas or elderly housing. In addition, the following building restrictions shall apply to the future development of the Property: (i) no building may be located any closer than



one-hundred feet (100') from the adjacent residential property on the west; and (ii) no building or portion thereof may exceed a height of 2 stories within two-hundred feet (200') of the adjacent residential property on the west."

TO:

"1. Permitted Uses. Notwithstanding the re-designation of the Property to "Business and Office" on the County's LUP map, the maximum development of the Property shall not exceed 375,000 square feet of retail, commercial, personal services, and offices (the "Commercial Component"). In addition to the Commercial Component, the development of the Property may include up to two hundred fifty (250) dwelling units (the "Residential Component"). The Residential Component may include such ancillary and accessory uses as may be desirable, necessary or complementary to satisfy the service needs of the residents, such as, but not limited to, counseling, medical, nutritional, and physical therapy, provided that such ancillary and accessory uses shall not exceed fifteen percent (15%) of the floor area of the housing facility.

In an effort to enhance the compatibility of the proposed development of the Property with the existing residential development to the north and west, the north two (2) acres of the Property may only be occupied by a storm water retention area that may be required or desirable to develop the Property, driveways, pedestrian access, access roads, and landscaped or open space areas or residential use. In addition, the following building restrictions shall apply to the future development of the Property: (i) no building may be located any closer than one-hundred feet (100') from the adjacent residential property on the west; and (ii) no building or portion thereof may exceed a height of 2 stories within two-hundred feet (200') of the adjacent residential property on the west."

Modifying the Declaration to provide an expanded universe of housing options will greatly enhance the ability to include residential uses as part of a mixed use development on the Property. Of course, elderly housing will remain one of the development options.

The Property is located within Minor Statistical Area (MSA) 3.2. MSA 3.2 is generally bounded by U.S. 27 (Okeechobee Road) on the north, S.W. 8<sup>th</sup> Street on the south, and S.W. 177<sup>th</sup> Avenue (Krome Avenue) on the west. It is also adjacent to MSA 5.4, which is bounded by S.W. 8<sup>th</sup> Street on the north, SR 826 and S.W. 70<sup>th</sup> Avenue on the east, S.W. 72<sup>nd</sup> Street on the south, and S.W. 117<sup>th</sup> Avenue on the west. The population of MSA 3.2 is projected to increase 14% from 2010 to 2020, from 147,957 to 168,682 and an additional 16% to 196,142 by 2030. Approximately one half of the land within MSA 3.2 is outside of the Urban Development Boundary, thereby further reducing the amount of developable land within the area. The Property is also in an area identified as "Fountainebleau" by the U.S. Census, which is generally the area between SW 8<sup>th</sup> Street and the SR 836 Extension and between SR 826 Extension and NW 117<sup>th</sup> Avenue. The 2010 Census estimated the total population of Fountainebleau as 59,764 with 84.4% of the population under the age of 65. In addition, the housing status data for Fountainebleau indicates a lack of available housing for the sub-area's population. The 2010

Census data showed a vacancy rate of only 934 units for available for rent or sale, which is in no way sufficient to accommodate the projected population growth for the area. These statistics are an indication of the growing demand for a wide variety of housing options for residents of all ages and demographics in both Fountainebleau and MSA 3.2 as a whole.

The modification would thus satisfy the CDMP directive that all communities be self-sufficient to the maximum possible extent. Furthermore, Policy LU-1C states, in relevant part, that "the County shall give priority to infill development on vacant sites in currently urbanized areas" and Policy LU-10A states that "Miami-Dade County shall facilitate contiguous urban development, infill, redevelopment of substandard or underdeveloped urban areas... to promote energy conservation." The Property obtained its land use designation in 2009 and its current zoning approvals were granted in 2012. However, the expansion of the residential component of the project to include other options in addition to elderly housing will facilitate and enhance the development of the Property. Therefore, this application seeks the approval of the proposed modification language to permit an expanded residential use on the Property in furtherance of the implementation of the following CDMP policies:

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.

POLICY 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.

POLICY 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.

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

POLICY LU-1F: To promote housing diversity and to avoid creation of monotonous developments, Miami-Dade County shall vigorously promote the inclusion of a variety of housing types in all residential communities through its area planning, zoning, subdivision, site planning, and housing finance activities

among others. In particular, Miami-Dade County shall review its zoning and subdivision practices and regulations and shall amend them, as practical, to promote this policy.

OBJECTIVE LU-7: Miami-Dade County shall require all new development and redevelopment in existing and planned transit corridors and urban centers to be planned and designed to promote transit-oriented development (TOD), and transit use, which mixes residential, retail, office, open space and public uses in a pedestrian-friendly environment that promotes the use of rapid transit services.

POLICY LU-7I: Miami -Dade County will review development incentives to encourage higher density, mixed-use and transit-oriented development at or near existing and future transit stations and corridors.

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.

POLICY 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.

OBJECTIVE LU-9: Miami-Dade County shall continue to maintain, update and enhance the Code of Miami-Dade County, administrative regulations and procedures, and special area planning program to ensure that future land use and development in Miami-Dade County is consistent with the CDMP, and to promote better planned neighborhoods and communities and well designed buildings.

POLICY LU-9D: Miami-Dade County shall continue to investigate, maintain, and enhance methods, standards, and regulatory approaches which facilitate sound, compatible mixing of uses in projects and communities.

OBJECTIVE LU-10: Energy efficient development shall be accomplished through metropolitan land use patterns, site planning, landscaping, building design, and development of multi-modal transportation systems.

POLICY LU-10A: Miami-Dade County shall facilitate continuous urban development, infill, redevelopment of substandard or underdeveloped urban areas,

high intensity activity centers, mass transit supportive development, and mixed use projects to support energy conservation.

OBJECTIVE HO-1: Promote housing choice for all Miami-Dade County citizens regardless of race, ethnicity, age, sex, family composition, disability or sexual orientation such that residential segregation indices are reduced to a value of 50 or less.

Based on the foregoing, the Applicant believes that the approval of this application would be an appropriate improvement to the future land use on the Property and will help to expand the available housing options in this area of Miami-Dade County.

5. ADDITIONAL MATERIAL SUBMITTED

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

Attachments: Legal Description of Subject Property – Exhibit "A"  
Location Map for Application – Exhibit "B"  
Draft Modification of Declaration of Restrictions instrument and Declaration of Restrictions recorded in ORB 26955, PG 723 – Exhibit "C"  
Disclosure of Interest Form – Exhibit "D"  
Aerial Photograph – Exhibit "E"  
Section Sheet – Exhibit "F"

## **EXHIBIT "A"**

### **Legal Description of Subject Property:**

Tracts 8, 9, 10, and 11 of Block 1 of Richardson-Kellet Land Co. Subdivision according to the Plat thereof as recorded in Plat Book 1, at Page 19, of the Public Records of Miami-Dade County, Florida.

## **EXHIBIT "B"**

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

#### **APPLICANT / REPRESENTATIVE**

Fontainebleau Place, LLC / Juan J. Mayol, Jr. Esq. & Richard A. Perez, Esq.

#### **DESCRIPTION OF SUBJECT AREA**

The Property consists of approximately  $\pm 41.0$  gross acres ( $\pm 39.0$  net acres) of land located in Section 5, Township 54, Range 40, in unincorporated Miami-Dade County, Florida. The Applicant owns 100% of the subject property. The Property, located on the northeast corner of West Flagler Street and NW 102 Avenue, is more specifically described in Exhibit "A" to this application.

#### **LOCATION MAP**



- Declaration of Restrictions subject property



**EXHIBIT "C"**

**1) DRAFT Modification of Declaration of Restrictions instrument**

**2) Declaration of Restrictions recorded in Official Records Book 26955 at Page 723 of the Public Records of Miami-Dade County, Florida.**

This instrument was prepared by:

Name: Juan J. Mayol, Jr., Esq.  
Address: Holland & Knight LLP  
701 Brickell Avenue  
Suite 3000  
Miami, Florida 33131

(Space reserved for Clerk of Court)

**MODIFICATION OF DECLARATION OF RESTRICTIONS  
RECORDED AT OFFICIAL RECORDS BOOK 26955 AT PAGE 723**

THIS MODIFICATION OF DECLARATION OF RESTRICTIVE COVENANTS is made this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by **Fontainebleau Place, LLC**, a Florida limited liability company (the "Owner"), in favor of Miami-Dade County, a political subdivision of the State of Florida (the "City").

**WITNESSETH:**

**WHEREAS**, the Owner holds fee simple title to that certain parcel of land located in unincorporated Miami-Dade County, Florida, which is more particularly described in the attached Exhibit "A" (the "Property"); and

**WHEREAS**, a Declaration of Restrictions (hereinafter referred to as the "Declaration") in favor of Miami-Dade County, was recorded in the Public Records of Miami-Dade County in Official Records Book 26955 at Page 723, which placed certain restrictions and conditions on the development of the Property, a copy of which is attached as Exhibit "B";

**WHEREAS**, the Miami-Dade County Board of County Commissioners held a public hearing on \_\_\_\_\_ wherein it adopted Ordinance No. \_\_\_\_\_ (the "Ordinance") to approve a modification to the Declaration;

**WHEREAS**, the Ordinance approved the modification of Paragraph No. 1 of the

Declaration as follows:

Paragraph No. 1:

FROM:

"1. Permitted Uses. Notwithstanding the re-designation of the Property to "Business and Office" on the County's LUP map, the maximum development of the Property shall not exceed the following: (a) 375,000 square feet of retail, commercial, personal services and offices; and (b) no less than 150 dwelling units designated for elderly housing, as such term is defined under Section 202 of the Fair Housing Act of 1959 (12 USC 1701) and Chapter 11A of the Miami-Dade County Code (the "Code"), along with such ancillary and accessory uses as may be desirable, necessary or complementary to satisfy the service needs of the residents, such as, but not limited to, counseling, medical, nutritional, and physical therapy, provided that such ancillary and accessory uses shall not exceed fifteen percent (15%) of the floor area of the elderly housing facility.

In an effort to enhance the compatibility of the proposed development of the Property with the existing residential development to the north and west, the north two (2) acres of the Property may only be occupied by a storm water retention area that may be required or desirable to develop the Property, driveways, pedestrian access, access roads, and landscaped or open space areas or elderly housing. In addition, the following building restrictions shall apply to the future development of the Property: (i) no building may be located any closer than one-hundred feet (100') from the adjacent residential property on the west; and (ii) no building or portion thereof may exceed a height of 2 stories within two-hundred feet (200') of the adjacent residential property on the west."

TO:

"1. Permitted Uses. Notwithstanding the re-designation of the Property to "Business and Office" on the County's LUP map, the maximum development of the Property shall not exceed 375,000 square feet of retail, commercial, personal services, and offices (the "Commercial Component"). In addition to the Commercial Component, the development of the Property may include up to two hundred fifty (250) dwelling units (the "Residential Component"). The Residential Component may include such ancillary and accessory uses as may be desirable, necessary or complementary to satisfy the service needs of the residents, such as, but not limited to, counseling, medical, nutritional, and physical therapy, provided that such ancillary and accessory uses shall not exceed fifteen percent (15%) of the floor area of the housing facility.

In an effort to enhance the compatibility of the proposed development of the Property with the existing residential development to the north and west, the north two (2) acres of the Property may only be occupied by a storm water

retention area that may be required or desirable to develop the Property, driveways, pedestrian access, access roads, and landscaped or open space areas or residential use. In addition, the following building restrictions shall apply to the future development of the Property: (i) no building may be located any closer than one-hundred feet (100') from the adjacent residential property on the west; and (ii) no building or portion thereof may exceed a height of 2 stories within two-hundred feet (200') of the adjacent residential property on the west."

**NOW, THEREFORE,** IN ORDER TO ASSURE Miami-Dade County that the representations made by the Owner during its consideration of the Application will be abided by, the Owner freely, voluntarily, and without duress, hereby agrees as follows:

1. Paragraph No. 1 of the Declaration now reads as follows:

"1. Permitted Uses. Notwithstanding the re-designation of the Property to "Business and Office" on the County's LUP map, the maximum development of the Property shall not exceed 375,000 square feet of retail, commercial, personal services, and offices (the "Commercial Component"). In addition to the Commercial Component, the development of the Property may include up to two hundred fifty (250) dwelling units (the "Residential Component"). The Residential Component may include such ancillary and accessory uses as may be desirable, necessary or complementary to satisfy the service needs of the residents, such as, but not limited to, counseling, medical, nutritional, and physical therapy, provided that such ancillary and accessory uses shall not exceed fifteen percent (15%) of the floor area of the housing facility.

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2. Except as hereby amended, all other restrictions in the Declaration shall remain in full force and effect.

**[Signature Pages Follow]**

IN WITNESS WHEREOF, Fontainebleau Place, LLC, has caused these present to be signed in its name on this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

**WITNESSES:**

**Fontainebleau Place, LLC**  
a Florida limited liability company

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
Witness

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

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name / Title

Address:  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF FLORIDA                    )  
  ) SS:  
COUNTY OF MIAMI-DADE         )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of Fontainebleau Place, LLC, a Florida limited liability company, on behalf of said partnership, who is personally known to me or has produced \_\_\_\_\_ as identification.

My Commission Expires:

\_\_\_\_\_  
Notary Public – State of Florida

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

**EXHIBIT "A"**

**Legal Description of the subject property:**

Tracts 8, 9, 10, and 11 of Block 1 of Richardson-Kellet Land Co. Subdivision according to the Plat thereof as recorded in Plat Book 1, at Page 19, of the Public Records of Miami-Dade County, Florida.

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

## **EXHIBIT "C"**

**1) DRAFT Modification of Declaration of Restrictions instrument**

**2) Declaration of Restrictions recorded in Official Records Book 26955 at Page 723 of the Public Records of Miami-Dade County, Florida.**



1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

CFN 20090541576  
DR Bk 26955 Pgs 0723 - 732 (10pgs)  
RECORDED 07/27/2009 14:05:32  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

This Instrument was Prepared by:

Name: Juan J. Mayol, Jr., Esq.  
Address: Holland & Knight LLP  
701 Brickell Avenue  
Suite 3000  
Miami, Florida 33131

(Space Reserved for Clerk of the Court)

A/1A

### **DECLARATION OF RESTRICTIONS**

**WHEREAS, Blue Lake Development Corporation**, a Florida corporation (the "Owner"), holds fee simple title to that certain parcel of land in Miami-Dade County, Florida, described in Exhibit "A", attached hereto, and hereinafter referred to as the "Property";

**WHEREAS, Blue Partners, LLC**, a Florida limited liability company (the "Applicant"), is the contract purchaser of the Property and has applied for an amendment to the Miami-Dade County Comprehensive Development Master Plan (the "CDMP") that is pending as Application No. 9 in the April 2008 Cycle (the "Application");

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

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

1. **Permitted Uses.** Notwithstanding the re-designation of the Property to "Business and Office" on the County's LUP map, the maximum development of the Property shall not exceed the following: (a) 375,000 square feet of retail, commercial, personal services

10

and offices; and (b) no less than 150 dwelling units designated for elderly housing, as such term is defined under Section 202 of the Fair Housing Act of 1959 (12 USC 1701) and Chapter 11A of the Miami-Dade County Code (the "Code"), along with such ancillary and accessory uses as may be desirable, necessary or complementary to satisfy the service needs of the residents, such as, but not limited to, counseling, medical, nutritional, and physical therapy, provided that such ancillary and accessory uses shall not exceed fifteen percent (15%) of the floor area of the elderly housing facility.

In an effort to enhance the compatibility of the proposed development of the Property with the existing residential development to the north and west, the north two (2) acres of the Property may only be occupied by any storm water retention areas that may be required or desirable to develop the Property, driveways, pedestrian access, access roads, and landscaped or open space areas or elderly housing. In addition, the following building restrictions shall apply to the future development of the Property: (i) no building may be located any closer than one-hundred feet (100') from the adjacent residential property on the west; and (ii) no building or portion thereof may exceed a height of 2 stories within two-hundred feet (200') of the adjacent residential property on the west.

2. **Landscaped Buffer.** Prior to the issuance of a certificate of use and occupancy for any retail or office building within the Property, the Owner shall set aside and maintain as a landscaped area, the west twenty-five (25) feet, where the Property abuts the existing residential area to the west, and the northern fifteen (15) feet of the Property (the "Landscaped Buffer"). The Owner shall install the following within the Landscaped Buffer: (a) a six foot high CBS wall, which wall shall be installed along the outside line (i.e., adjacent to the residential area) of the Buffer (except for pedestrian access points on the north); (b) a hedge, consisting of ficus or

such similar species as may be approved by the Department of Planning and Zoning, to be installed on top of an earthen berm (which berm shall be three feet (3') in height, said hedge to be maintained at a height of no less than six (6) feet; and (c) two staggered rows of trees, of such species as may be approved by the Department of Planning and Zoning, which shall be planted at a minimum height of twelve (12) to fourteen (14) feet, and not farther than twenty-five (25) feet on center.

3. **Prohibited Uses.** Notwithstanding the approval of the Application, the establishment and maintenance of the following uses on the Property shall be prohibited:

- (a) private clubs, as defined in Section 33-247(35) of the Code;
- (b) nightclubs, as defined in Section 33-253(6) of the Code;
- (c) no portion of the premises within any building to be constructed on the Property (regardless of the percentage of the total floor area), even if screened to keep such area from the clear view of minors, may be used for the display, sale or rental of videotapes, printed matter, pictures, films, graphic or any materials, which activities require the exclusion of minors pursuant to Chapter 847, Florida Statutes;

- (d) donated goods center;
- (e) automobile light truck sales;
- (f) billiard and pool rooms;
- (g) motorcycle sales and repairs;
- (h) open air theatre;
- (i) skating rinks;
- (j) rental trucks.

4. **Access Restrictions.** The Owner agrees that the Property shall be developed in such a way as to prohibit delivery trucks from entering or exiting the Property from West Park Drive (102<sup>nd</sup> Avenue).

5. **Water Conservation and Re-Use.** The Owner hereby agrees to implement the following water conservation and re-use standards for the development of the Property:

(i) The development of the Property shall include appropriate pipes to permit the future connection of the Property into any regional wastewater re-use system that may be constructed by the County for irrigation purposes.

(ii) Upon the construction of a regional wastewater re-use system by Miami-Dade County that includes a connection point abutting the Property, the Owner (or its successors or assigns) shall connect the water re-use pipes in the Property to such regional wastewater re-use system.

6. **Transit Improvements.** In an effort to accommodate public transportation in the area, the Owner shall coordinate with Miami-Dade Transit and allow encroachments onto the Property, as necessary, to provide for a bus pull-out bay and bus shelter along the Property's frontage on West Park Drive (N.W. 102<sup>nd</sup> Avenue) and W. Flagler Street. The Owner's obligations under this Paragraph shall expire upon the approval of a final plat for the Property. Notwithstanding the approval of a final plat, the Owner shall cooperate with the County to allow the installation of a bus pull-out bay and/or shelter if said installation can be accomplished without altering the approved final plat for the Property.

7. **Miscellaneous.**

A. **Covenant Running with the Land.** This Declaration of Restrictions on the part of Owner shall constitute a covenant running with the land and shall be recorded by the Owner, at Owner's expense, in the public records of Miami-Dade County, Florida, and shall

remain in full force and effect and be binding upon Owner and their heirs, successors, and assigns until such time as the same is modified or released with the approval of the County. These restrictions, during their lifetime, shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the public welfare.

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

**C. Modification, Amendment, Release.** This Declaration of Restrictions may be modified, amended, or released as to the land herein described, or any portion thereof, by a written instrument executed by the fee simple owner(s) of the Property, provided that the same is also approved by the Board of County Commissioners. Any such modification, amendment or release shall be subject to the provisions governing amendments to Comprehensive Plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation which may, from time to time, govern amendments to comprehensive plans (hereinafter "Chapter 163"). Such modification, amendment or release shall also be subject to the provisions governing amendments to comprehensive plans as set forth in Section 2-116.1 of the Code of Miami-Dade County, or successor regulation governing amendments to the Miami-Dade comprehensive plan. Notwithstanding anything in this paragraph, in the event that the Property is incorporated within a new municipality which amends, modifies, or declines to adopt the provisions of Section 2-

116.1 of the Code of Miami-Dade County, then modifications, amendments or releases of this Declaration of Restrictions shall be subject to Chapter 163 and the provisions of such ordinances as may be adopted by such successor municipality for the adoption of amendments to its comprehensive plan; or, in the event that the successor municipality does not adopt such ordinances, subject to Chapter 163 and by the provisions for the adoption of zoning district boundary changes. Should this Declaration of Restrictions be so modified, amended or released, the Director of the Planning and Zoning Department or the executive officer of the successor of said Department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

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

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

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

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

recording. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the application, in its entirety, then this Declaration of Restrictions shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Planning and Zoning Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration of Restrictions is null and void and of no further effect.

**H. Acceptance of Declaration.** Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the County retains its full power and authority to, with respect to the Property, deny each such application in whole or in part and to decline to accept any conveyance with respect to the Property.

**I. Owner.** The term "Owner" shall include the Owner, and its heirs, successors and assigns.

**[Signature Pages Follow]**

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 24 day of April, 2009.

WITNESSES:

Mari C. Josberger  
Signature  
MARI C. JOSBERGER  
Printed Name

LeAnne Rapée  
Signature  
LeAnne Rapée  
Printed Name

**Blue Lake Development Corporation**  
a Florida corporation

By: Bruce Rapée  
Name: Bruce Rapée  
Title: President

STATE OF Florida )  
COUNTY OF Dade ) SS

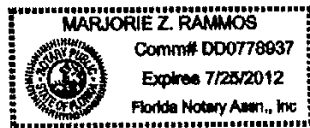
The foregoing instrument was acknowledged before me by Bruce Rapée as President of Blue Lake Development Corporation, a Florida corporation, and for the purposes stated herein on behalf of the corporation. He is personally known to me or has produced as identification.

Witness my signature and official seal this 24<sup>th</sup> day of April, 2009, in the County and State aforesaid.

My Commission Expires:

Marjorie Z. Rammos  
Notary Public

Marjorie Z. Rammos  
Printed Name





**JOINDER BY MORTGAGEE  
CORPORATION**

The undersigned, Premier American Bank, a bank organized under the laws of the State of Florida, as Mortgagee under that certain Mortgage from Blue Lake Development Corporation, a Florida corporation, recorded in Official Records Book 25326, Page 2867, in the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing Declaration of Restrictions, does hereby consent to the execution of this Declaration of Restrictions by Blue Lake Development Corporation, Florida, a Florida corporation, and agrees that in the event Mortgagee or any other party shall obtain title to the property, in whole or in part, the property will be subject to this Declaration of Restrictions.

IN WITNESS WHEREOF, these presents have been executed this 29 day of April, 2009.

**WITNESSES:**

**Premier American Bank**, a bank organized under the laws of the State of Florida

[Signature]  
\_\_\_\_\_  
Joe L. Pruna  
Print or Type Name

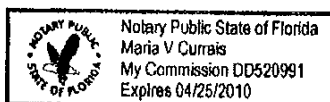
[Signature]  
\_\_\_\_\_  
Shelia Morales  
Print or Type Name

By: [Signature]  
\_\_\_\_\_  
Title: VICE PRESIDENT  
Print name: JANMARIO LALAN  
Address: 5301 BLUE LAGOON DR. #1200  
MIAMI, FL 33126

STATE OF FLORIDA       )  
                                      ) SS  
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 29 day of April, 2009 by Tan Carlos Llach, of Premier American Bank, a bank organized under the laws of the State of Florida, on behalf of the company. He/She is personally known to me or has produced \_\_\_\_\_, as identification and did/did not take an oath.

[Signature]  
\_\_\_\_\_  
Notary Public -State of \_\_\_\_\_  
Print Name \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

Tracts 8, 9, 10, and 11 of Block 1 of Richardson-Kellet Land Co.  
Subdivision according to the Plat thereof as recorded in Plat Book  
1, at Page 19, of the Public Records of Miami-Dade County,  
Florida.

# 5496584\_v13

## EXHIBIT "D"

### 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:** Fontainebleau Place, LLC

3750 Yacht Club Drive

Aventura, FL 33180

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
Fontainebleau Place, LLC	Fontainebleau Place, LLC	30-4005-001-0080	+/- 39 acres

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

APPLICANT	OWNER	CONTRACTOR FOR PURCHASE	LESSEE	OTHER (Attach Explanation)
	X	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

%

- 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 Fontainebleau Place, LLC

NAME, ADDRESS, AND OFFICE ( if applicable)

PERCENTAGE OF STOCK

Jabber One, LLC, c/o 3750 Yacht Club Dr, Aventura, FL 33180

50%

SEE ATTACHED FOR JABBER ONE, LLC DISCLOSURE INFORMATION

i3 Fontainebleau, LLC c/o 6101 Aqua Ave. #303, Miami Beach, FL 33141

50%

SEE ATTACHED FOR i3 FONTAINEBLEAU, LLC DISCLOSURE INFORMATION

- 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: \_\_\_\_\_

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: \_\_\_\_\_

NAME AND ADDRESS OF PARTNERS

PERCENTAGE OF INTEREST

consist of corporation(s), another trust(s), partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

TRUSTEE'S NAME: \_\_\_\_\_

BENEFICIARY'S NAME AND ADDRESS

PERCENTAGE OF INTEREST

- c. 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: \_\_\_\_\_

NAME AND ADDRESS OF PARTNERS

PERCENTAGE OF OWNERSHIP

- d. 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

Fountain Residential Partners, LLC

See attached

Date of Contract October 9, 2013

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

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.

FONTAINEBLEAU PLACE, LLC,  
a Florida limited liability company

By:   
Robert L. Shapiro, Manager

Sworn to and subscribed before me

this 21<sup>st</sup> day of October, 2013

My Commission Expires:

  
Notary Public, State of Florida at Large (SEAL)



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 pension or entity holds more than a total of five (5) percent of the ownership interest in the partnership, corporation or trust; or of any entity, the ownership interest of which are held in a partnership, corporation or trust consisting of more than 5,000 separate interests and where no one person or entity holds more than a total of 5% of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.

**Disclosure of Interest for Jabber One, LLC:**

Robert L. Shapiro, 3750 Yacht Club Dr, Aventura, FL 33180 - 100%

**Disclosure of Interest for i3 Fontainebleau, LLC:**

Alan Amdur, 6101 Aqua Ave. #303, Miami Beach, FL 33141 - 70%

Amdur Investments, Ltd., 1 Grove Isle Drive #1509, Miami, Florida 33133 - 30%

Amdur Investments Ltd., a Florida limited partnership, is owned:

1% Amdur Investments, Inc., a Florida corporation- which is the general partner  
33% Alan Amdur  
33% Adam Amdur  
33% Marc Amdur

Amdur Investments, Inc., a Florida corporation, is owned by Isabelle Amdur, as Trustee of the Isabelle Amdur Revocable Trust. Mrs. Amdur is the sole beneficiary of the trust.

**Disclosure of Interest for Fountain Residential Partners, LLC:**

K. Brent Little, 2626 Cole Ave., Suite 620, Dallas, TX 75204	16.60%
Jonathan W. Clayton, 2626 Cole Ave., Suite 620, Dallas, TX 75204	12.45%
Trevor C. Tollett, 2626 Cole Ave., Suite 620, Dallas, TX 75204	12.45%
FIP Residential FRP, L.P., 201 Main Street, Suite 2001, Ft. Worth, TX 76102	7.5%
Commodore Student Housing, LLC, a Texas limited liability company 100 Crescent Court, Suite 1620, Dallas, TX	51.0%

FIP Residential FRP, L.P. is owned by:

28VVR, LLC, a Texas limited partnership, with Kelly R. Thompson being the sole member

All limited partnership interests are owned by Kelly R. Thompson

Commodore Student Housing, LLC is owned by:

20% Jack T. Smith, 100 Crescent Court, Suite 1620, Dallas, TX

80% Commodore Partners, Ltd., a Texas limited partnership  
100 Crescent Court, Suite 1620, Dallas, TX

Commodore Partners, Ltd. is owned by:

14.776%	Carl Westcott
14.776%	Jimmy Elizabeth Westcott
34.875%	Court H. Westcott Living Trust
34.875%	Chart H. Westcott Living Trust
0.70%	Carl Westcott LLC, a Texas limited liability company 100 Crescent Court, Suite 1620, Dallas, TX

The sole beneficiary of the Court H. Westcott Living Trust is Court H. Westcott

The sole beneficiary of the Chart H. Westcott Living Trust is Chart H. Westcott

Carl Westcott LLC is owned by:  
100% Carl Westcott



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# **APPENDIX B**

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

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# Miami-Dade County Public Schools

*giving our students the world*

Superintendent of Schools  
Alberto M. Carvalho

**Miami-Dade County School Board**

Perla Tabares Hantman, Chair  
Dr. Martin Karp, Vice Chair  
Dr. Dorothy Bendross-Mindingall  
Susie V. Castillo  
Carlos L. Curbelo  
Dr. Lawrence S. Feldman  
Dr. Wilbert "Tee" Holloway  
Dr. Marta Pérez  
Raquel A. Regalado

August 26, 2013

**VIA ELECTRONIC MAIL**

Mr. Juan J. Mayol, Esquire  
Holland & Knight  
701 Brickell Avenue, Suite 3000  
Miami, Florida 33131

[Juan.Mayol@hklaw.com](mailto:Juan.Mayol@hklaw.com)

**RE: PUBLIC SCHOOL CONCURRENCY - PRELIMINARY ANALYSIS  
CDMP MAY 2013 APP #3  
LOCATED AT 10001 WEST FLAGLER STREET  
PH3013072200737 - FOLIO No.: 3040050010080**

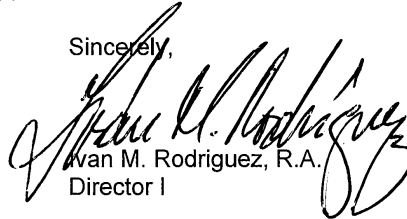
Dear Applicant:

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

As noted in the Preliminary Concurrency Analysis (Schools Planning Level Review), the proposed development would yield a maximum residential density of 250 multi-family units, which generate 68 students; 31 elementary, 17 middle and 20 senior high students. **At this time, all three school levels have sufficient capacity available to serve the application.** However, a final determination of Public School Concurrency and capacity reservation will only be made at the time of approval of final plat, site plan or functional equivalent. **As such, this analysis does not constitute a Public School Concurrency approval.**

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

Sincerely,



Ivan M. Rodriguez, R.A.  
Director I

IMR:ir  
L-137  
Enclosure

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

*Facilities Planning, Design and Sustainability*  
Ana Rijo-Conde, AICP, Deputy Chief Facilities and Eco-Sustainability Officer  
1450 N.E. 2nd Ave. • Suite 525 • Miami, FL 33132  
305-995-7285 • 305-995-4760 (FAX) • [arijo@dadeschools.net](mailto:arijo@dadeschools.net)



## Concurrency Management System (CMS)

Miami Dade County Public Schools

### Miami-Dade County Public Schools

#### Concurrency Management System Preliminary Concurrency Analysis

MDCPS Application Number: PH3013072200737 Local Government (LG): Miami-Dade  
 Date Application Received: 7/22/2013 1:07:56 PM LG Application Number: CDMP May 2013 App #3  
 Type of Application: Public Hearing Sub Type: Land Use  
 Applicant's Name: Juan J. Mayol, Jr., Richard A. Perez, Tracy R. Sla  
 Address/Location: 701 Brickell Av., Ste 3000, Miami FL 33131  
 Master Folio Number: 3040050010080  
 Additional Folio Number(s):

PROPOSED # OF UNITS 250  
 SINGLE-FAMILY DETACHED UNITS: 0  
 SINGLE-FAMILY ATTACHED UNITS: 0  
 MULTIFAMILY UNITS: 250

CONCURRENCY SERVICE AREA SCHOOLS						
CSA Id	Facility Name	Net Available Capacity	Seats Required	Seats Taken	LOS Met	Source Type
5381	E W F STIRRUP ELEMENTARY	11	31	11	NO	Current CSA
5381	E W F STIRRUP ELEMENTARY	0	20	0	NO	Current CSA Five Year Plan
6121	RUBEN DARIO MIDDLE	0	17	0	NO	Current CSA
6121	RUBEN DARIO MIDDLE	0	17	0	NO	Current CSA Five Year Plan
7271	MIAMI CORAL PARK SENIOR	399	20	20	YES	Current CSA
ADJACENT SERVICE AREA SCHOOLS						
4921	SEMINOLE ELEMENTARY	66	20	20	YES	Adjacent CSA
6161	LAWTON CHILES MIDDLE	517	17	17	YES	Adjacent CSA
*An Impact reduction of <u>19.5%</u> included for charter and magnet schools (Schools of Choice).						

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

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

# **APPENDIX C**

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

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**May 2013 CDMP Amendment Application No. 3  
CDMP Amendment Transportation Analysis**

**Executive Summary**

This Application has been submitted by Fontainebleau Place, LLC and reflects a modification to a previously approved Declaration of Restrictions approved during the *April 2008 CDMP Amendment Cycle* for the site now known as Fontainebleau Square located in Section 5, Township 54, Range 40 on 41.0 gross acres (39.0 net acres), and bounded by W. Flagler Street on the south and NW 102 Avenue on the west. The approved Declaration of Restrictions permits up to 375,000 square feet of retail, commercial, personal services and office uses and at least 150 dwelling units designated for elderly housing. Consistent with the Declaration, Fontainebleau Square received site plan and zoning approval on July 24, 2012 pursuant to Resolution No. CZAB10-15-12, and received Tentative Plat approval on May 17, 2013 for T-Plat 23292. Due to the difficulty in finding a developer for the elderly housing component, the Applicant seeks to expand the type of dwelling units permitted by the Covenant and establishes 250 dwelling units an upper limit on the number of housing units proposed. See Table 1 below for a summary of the uses approved and proposed in the Declaration of Restrictions.

Table 1 – Summary of the Approved and Proposed Changes to the Declaration of Restrictions		
Approved Declaration of Restrictions	Proposed Declaration of Restrictions	Net New Uses and Trips
375,000 SF - Retail-Commercial-Office 349 Gross AM Peak Hour Trips 1,452 Gross PM Peak Hour Trips	375,000 SF – Retail-Commercial-Office 349 Gross AM Peak Hour Trips 1,452 Gross PM Peak Hour Trips	No change for the Commercial Component
150 or more DU – Elderly Housing	No more than 250 DU – Analyzed as Apartments	Units Capped at 250 DU – Flexibility as to Unit Type
30 AM Peak Hour Trips – Senior Housing 38 PM Peak Hour Trips – Senior Housing	128 AM Peak Hour Trips - Apartments 155 PM Peak Hour Trips - Apartments	98 Net New AM Peak Hour Trips – for Apartments 117 Net New PM Peak Hour Trips – for Apartments

**Vehicular Access**

The subject property is located adjacent to West Flagler Street, (a 6 lane divided Urban Minor Arterial) which stretches 11 miles across Miami-Dade County connecting Downtown Miami with Sweetwater and providing regional access to local businesses and residential neighborhoods.

**Transit Access**

Miami-Dade Transit provides extraordinary transit access (at better than 20 min headways) accessible on eastbound and westbound West Flagler Street immediately adjacent to the Amendment Site. MDT Routes 11 and 51 - Flagler Max provide weekday AM and PM peak hour service at 10-15-20 minute headways, Saturday service at 15-30 minute headways and Sunday service at 40 minute headways. The Applicant has already incorporated a double long bus bay and transit shelter into the approved site plan to maximize transit access to and from the Amendment Site.

**Traffic Concurrency Standards**

Pursuant to the Miami-Dade County Concurrency Management System, all study area traffic count stations on roadways adjacent to the Amendment Site have been found to operate at acceptable levels of service during the peak hour period for the Year 2018 Short Term Planning Horizon, accounting for:

- Existing peak hour period traffic;
- Previously approved committed development traffic;
- The gross PM peak hour trips from the Approved Declaration of Restrictions; plus
- The Net New PM peak hour trips from the Proposed Changes to the Declaration of Restrictions for the Residential Component of the Amendment Site.

Available capacity and acceptable levels of service were found to be maintained for the adjacent count stations and study area roadway segments, meeting the traffic concurrency standards from the Miami-Dade County CDMP.



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# **APPENDIX D**

## **Fiscal Impact Analysis**

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

On October 23, 2001, the Board of County Commissioners adopted Ordinance No. 01-163 requiring the review procedures for amendments to the Comprehensive Development Master Plan (CDMP) to include a written evaluation of fiscal impacts for any proposed land use change. The following is a fiscal evaluation of the May 2013 Cycle Application No. 3 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 owner(s) 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 Public Works and Waste Management Department (PWWM) assesses solid waste disposal 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 PWWM 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 as of FY 2012-2013.

#### Residential Collection and Disposal Service

Currently, the household waste collection fee is \$439 per residential unit, which also covers costs for waste disposal, bulky waste pick up, illegal dumping clean-up, trash and recycling center operations, curbside recycling, home chemical collection centers, and code enforcement. As of September 30, 2012, the average residential unit generated 2.15 tons of waste, which includes garbage, trash and recycled waste.

#### Waste Disposal Capacity and Service

The cost of providing disposal capacity for Waste Collection Service Area (WCSA) customers, municipalities and private haulers is paid for by system users. For FY 2012-2013, the PWWM charges at a contract disposal rate of \$63.65 per ton to PWWM Collections and to those private haulers and municipalities with long-term disposal agreements. The short-term disposal rate is \$83.92 per ton in FY 2012-2013. These rates adjust annually with the Consumer Price Index, South Region. In addition, the PWWM charges a Disposal Facility Fee to private haulers equal to 15 percent of their annual gross receipts, which is used to ensure availability of disposal capacity in the system. Landfill closure is funded by a portion of the Utility Service Fee charged to all retail customers of the County's Water and Sewer Department.

## **Water and Sewer**

The Miami-Dade County Water and Sewer Department (WASD) provides for the majority of water and sewer service needs 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 the actual labor and materials 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 \$1.2948 per 1,000 gallons for water and \$1.4764 per 1,000 gallons for sewer.

The applicant requests a modification of a recorded covenant that is listed in the Restrictions Table on Page I-74.1 of the CDMP Land Use Element over a ±41 gross-acre property, replacing a "150 minimum dwelling units for the elderly housing" with "a minimum of 125 and a maximum of 250 dwelling units". If the application site is developed as requested with 375,000 square feet of retail (already approved from the previous amendment on the property) and a maximum 250 multi-family units, the water connection charges/impact fees would be \$104,250 and water service line and meter connection fees would cost \$2,600. Sewer connection charges/impact fees for the land use would be \$420,000 and the annual operating and maintenance costs would total \$75,862.

## **Flood Protection**

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

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

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

### **Public Schools**

The proposed amendment could result in 68 additional students, if approved and the 250 dwelling units built. The average cost for K-12 grade students amounts to \$7,058 per student. Of the 68 students, 31 will attend elementary schools, 17 will attend middle schools students and 20 will attend senior high schools. The total annual operating cost for additional students residing in this development, if approved, would total \$225,856. Since there is sufficient concurrency capacity to accommodate the additional students, there are no capital costs. If at the time of issuing a development order and reserving student stations for the development, pursuant to the school concurrency, there is not sufficient capacity, the capital costs will be addressed at that time.

### **Fire Rescue**

The Miami-Dade County Fire and Rescue Department indicates that fire and rescue service in the vicinity of the subject application is adequate and that no stations are planned in the vicinity of the application site.

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# **APPENDIX E**

## **Proffered Declaration of Restrictions**



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This instrument was prepared by: 2013 AUG 22 P 4: 55

Name: Juan J. Mayol, Jr., Esq.  
Address: Holland & Knight LLP  
701 Brickell Avenue  
Suite 3000  
Miami, Florida 33131

(Space reserved for Clerk of Court)

**MODIFICATION OF DECLARATION OF RESTRICTIONS  
RECORDED AT OFFICIAL RECORDS BOOK 26955 AT PAGE 723**

THIS MODIFICATION OF DECLARATION OF RESTRICTIVE COVENANTS is made this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by **Fontainebleau Place, LLC**, a Florida limited liability company (the "Owner"), in favor of Miami-Dade County, a political subdivision of the State of Florida (the "City").

**WITNESSETH:**

**WHEREAS**, the Owner holds fee simple title to that certain parcel of land located in unincorporated Miami-Dade County, Florida, which is more particularly described in the attached Exhibit "A" (the "Property"); and

**WHEREAS**, a Declaration of Restrictions (hereinafter referred to as the "Declaration") in favor of Miami-Dade County, was recorded in the Public Records of Miami-Dade County in Official Records Book 26955 at Page 723, which placed certain restrictions and conditions on the development of the Property, a copy of which is attached as Exhibit "B";

**WHEREAS**, the Owner has applied for an amendment to the Miami-Dade County Comprehensive Development Master Plan (the "CDMP") identified as Application No. 3 in the May 2013 Amendment Cycle (the "Application") for the purpose of modifying the Declaration;

**WHEREAS**, the Miami-Dade County Board of County Commissioners held a public

hearing on \_\_\_\_\_ wherein it adopted Ordinance No. \_\_\_\_\_ (the "Ordinance")  
to approve a modification to the Declaration;

**WHEREAS**, the Ordinance approved the modification of Paragraph No. 1 of the  
Declaration as follows:

Paragraph No. 1:

FROM:

"1. Permitted Uses. Notwithstanding the re-designation of the Property to "Business and Office" on the County's LUP map, the maximum development of the Property shall not exceed the following: (a) 375,000 square feet of retail, commercial, personal services and offices; and (b) no less than 150 dwelling units designated for elderly housing, as such term is defined under Section 202 of the Fair Housing Act of 1959 (12 USC 1701) and Chapter 11A of the Miami-Dade County Code (the "Code"), along with such ancillary and accessory uses as may be desirable, necessary or complementary to satisfy the service needs of the residents, such as, but not limited to, counseling, medical, nutritional, and physical therapy, provided that such ancillary and accessory uses shall not exceed fifteen percent (15%) of the floor area of the elderly housing facility.

In an effort to enhance the compatibility of the proposed development of the Property with the existing residential development to the north and west, the north two (2) acres of the Property may only be occupied by a storm water retention area that may be required or desirable to develop the Property, driveways, pedestrian access, access roads, and landscaped or open space areas or elderly housing. In addition, the following building restrictions shall apply to the future development of the Property: (i) no building may be located any closer than one-hundred feet (100') from the adjacent residential property on the west; and (ii) no building or portion thereof may exceed a height of 2 stories within two-hundred feet (200') of the adjacent residential property on the west."

TO:

"1. Permitted Uses. Notwithstanding the re-designation of the Property to "Business and Office" on the County's LUP map, the maximum development of the Property shall not exceed 375,000 square feet of retail, commercial, personal services, and offices (the "Commercial Component"). In addition to the Commercial Component, the development of the Property may include up to two hundred fifty (250) dwelling units but no less than one hundred twenty-five (125) dwelling units (the "Residential Component"). In the event that the Residential Component is developed with an elderly housing facility, it may include such ancillary and accessory uses as may be desirable, necessary or complementary to

satisfy the service needs of the residents, such as, but not limited to, counseling, medical, nutritional, and physical therapy, provided that such ancillary and accessory uses shall not exceed fifteen percent (15%) of the floor area of said elderly housing facility.

In an effort to enhance the compatibility of the proposed development of the Property with the existing residential development to the north and west, the north two (2) acres of the Property may only be occupied by a storm water retention area that may be required or desirable to develop the Property, driveways, pedestrian access, access roads, and landscaped or open space areas or residential use. In addition, the following building restrictions shall apply to the future development of the Property: (i) no building may be located any closer than one-hundred feet (100') from the adjacent residential property on the west; and (ii) no building or portion thereof may exceed a height of 2 stories within two-hundred feet (200') of the adjacent residential property on the west."

**NOW, THEREFORE,** IN ORDER TO ASSURE Miami-Dade County that the representations made by the Owner during its consideration of the Application will be abided by, the Owner freely, voluntarily, and without duress, hereby agrees as follows:

1. Paragraph No. 1 of the Declaration now reads as follows:

"1. Permitted Uses. Notwithstanding the re-designation of the Property to "Business and Office" on the County's LUP map, the maximum development of the Property shall not exceed 375,000 square feet of retail, commercial, personal services, and offices (the "Commercial Component"). In addition to the Commercial Component, the development of the Property may include up to two hundred fifty (250) dwelling units but no less than one hundred twenty-five (125) dwelling units (the "Residential Component"). In the event that the Residential Component is developed with an elderly housing facility, it may include such ancillary and accessory uses as may be desirable, necessary or complementary to satisfy the service needs of the residents, such as, but not limited to, counseling, medical, nutritional, and physical therapy, provided that such ancillary and accessory uses shall not exceed fifteen percent (15%) of the floor area of said elderly housing facility.

In an effort to enhance the compatibility of the proposed development of the Property with the existing residential development to the north and west, the north two (2) acres of the Property may only be occupied by a storm water retention area that may be required or desirable to develop the Property, driveways, pedestrian access, access roads, and landscaped or open space areas or residential use. In addition, the following building restrictions shall apply to the future development of the Property: (i) no building may be located any closer than one-hundred feet (100') from the adjacent residential property on the west; and (ii)

no building or portion thereof may exceed a height of 2 stories within two-hundred feet (200') of the adjacent residential property on the west."

2. Except as hereby amended, all other restrictions in the Declaration shall remain in full force and effect.

**[Signature Pages Follow]**

DRAFT

IN WITNESS WHEREOF, Fontainebleau Place, LLC, has caused these present to be signed in its name on this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

**WITNESSES:**

**Fontainebleau Place, LLC**  
a Florida limited liability company

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
Witness

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

By: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name / Title

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF FLORIDA )

) SS:

COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of Fontainebleau Place, LLC, a Florida limited liability company, on behalf of said partnership, who is personally known to me or has produced \_\_\_\_\_ as identification.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public – State of Florida

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

**EXHIBIT "A"**

**Legal Description of the subject property:**

Tracts 8, 9, 10, and 11 of Block 1 of Richardson-Kellet Land Co. Subdivision according to the Plat thereof as recorded in Plat Book 1, at Page 19, of the Public Records of Miami-Dade County, Florida.

DRAFT

**EXHIBIT "B"**

**Declaration of Restrictions recorded in Official Records Book 26955 at Page 723 of the Public Records of Miami-Dade County, Florida:**

DRAFT



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# **APPENDIX F**

## **Photos of Site and Surroundings**

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The property site governed by the existing covenant viewed northward from West Flagler Street



E. W. Stirrup Elementary School, one of the institutional uses east of the subject property





Retail stores at the Plaza Del Rey shopping center south of the subject property across West Flagler Street



The Our Lady of Divine Catholic west of the subject property across West Park Drive (theoretical NW 102 Avenue).