



**BERCOW RADELL & FERNANDEZ**  
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2013 JUL -1 P 4: 24  
PLANNING & ZONING SECT  
METROPOLITAN PLANNING SECT

VIA HAND DELIVERY

July 1, 2013

Mr. Mark Woerner  
Assistant Director of Planning  
Long Range Planning  
Stephen P. Clark Center  
111 NW First Street, 12th Floor  
Miami, FL 33128

Re: Application to Amend the Comprehensive Development Master Plan  
No.: 6 - Standard Amendment Application for the Property located at  
SW 137<sup>th</sup> Avenue and SW 143<sup>rd</sup> Street for Master Development, Inc.

Dear Mr. Woerner:

Pursuant to Table 2 - Tentative Schedule of Activities for the May 2013-2014 CDMP Amendment Cycle, attached please find the report from Miami Economic Associates, Inc. along with a draft Covenant reflecting the intensity limitations. The Covenant will be refined and supplemented by the end of July in accordance with the application guidelines. The traffic study will be submitted under separate cover, as discussed with Jeff Bercow on Thursday, June 27, 2013.

Thank you for your assistance with this matter. Should you have any questions or comments, please do not hesitate to contact our office.

Respectfully submitted,

Monika H. Entin

Encl.  
MHE

# Miami Economic Associates, Inc.

June 27, 2013

Mr. Jack Osterholt  
Director,  
Department of Regulatory and Economic Resources  
Miami, FL 33128

**Re: Application to Amend the CDMP Amendment #6, May 2013 Cycle  
Property located at SW 137<sup>th</sup> Avenue and SW 143<sup>rd</sup> Street**

Dear Mr. Osterholt:

Miami Economic Associates, Inc. (MEAI) has performed an analysis with respect to the above-captioned application to amend the Miami-Dade County Comprehensive Development Master Plan (CDMP), which was filed on behalf of Master Development, Inc. The proposed amendment, if adopted, would re-designate 13.7 net acres of land situated at the location indicated above (the "subject property") from Industrial and Office to Business and Office in order to allow the Applicant, which is the contract purchaser of the property, to develop a commercial project with approximately 120,000 rentable square feet of retail and restaurant space as well as a banking facility. Our analysis evaluated the following:

- Whether re-designation of the subject property would adversely impact the County's future ability to accommodate industrial uses;
- Whether the need exists for additional commercially-designated land in the portion of the County in which the subject property is located; and
- The extent to which re-designation of the property would produce economic and fiscal benefits for Miami-Dade County and/or its residents.

The materials that follow, which are organized as shown below, summarize the findings of our analysis.

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### **Summary of Findings**

MEAI believes that the proposed amendment to re-designated 13.7 net acres of land situated on the west side of SW 137<sup>th</sup> Avenue and immediately north of SW 143<sup>rd</sup> Street from Industrial and Office use to Business and Office Use should be adopted. We base this belief on the findings of our analysis presented below.

#### Impact of the Reduction of Industrial Land Inventory

- The subject property, which contains a total of 13.7 net acres of vacant land, is comprised of 12 parcels. Three of the parcels located along the northeast section of the Property, which contain a total of 4.7 net acres, are currently zoned Industrial, Light Manufacturing (IU-1). However, the remaining 9 parcels, containing a total of 9 acres, are currently zoned Limited Business District (BU-IA), which means that they can already be developed with commercial uses. Accordingly, the effect of re-designating the property from Industrial and Office use to Business and Office Use would be reduce the inventory of vacant industrial land by 4.7 acres.
- The subject property is located in MSA 6.2, which together with MSA 6.1 constitute the western sub-tier of the Miami-Dade County's south-central tier. Historically, MSA 6.2 has captured in excess of 95 percent of the demand for land designated for industrial use in the overall south-central tier. MSA 6.2 is still the focal area for industrial development in the south-central tier; however, the level of activity has declined significantly in recent years. Illustratively, in 2007 the staff of the County's Planning Department estimated in a document titled *Planning Considerations Report* that 26.91 acres of industrial land were absorbed on an average annual basis. Data contained Appendix B, which was entitled *Planning Considerations (Appendix B)*, to the initial recommendations report that the Miami-Dade County Department of Regulatory and Economic Resources (the Department) issued with respect to the 2013 EAR-based applications to amend the CDMP shows that the average annual level of absorption of industrial property in MSA 6.2 was estimated in 2012 to be 21.28 acres, a level less than 80 percent that estimated in 2007.
- Historically, the entire frontage on the east side of SW 137<sup>th</sup> Avenue between SW 120<sup>th</sup> Street and SW 136<sup>th</sup> Street as well as the frontage along the west side of SW 137<sup>th</sup> Avenue between SW 136<sup>th</sup> Street and SW 144<sup>th</sup> Street were designated for industrial use, reflecting the proximity of these areas to Tamiami Airport. Today there are six parcels, including several large ones, on the east side of SW 137<sup>th</sup> Avenue between SW 120<sup>th</sup> Street and SW 136<sup>th</sup> Street that have been re-designated for commercial use and are developed accordingly. The northwestern corner of the intersection of SW 137<sup>th</sup> Avenue and SW 136<sup>th</sup> Street is also occupied by a commercial use, Lexus of West Kendall. Finally, commercial use is now allowed on land along the frontage of SW 137<sup>th</sup> Avenue within the boundary of the Airport itself. These amendments to the CDMP reflect: 1) the fact that SW 137<sup>th</sup> Avenue is one of the most significant north-south traffic arteries within the southwestern portion of

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Miami as well as the route of several transit lines; and 2) the need for commercial space to serve the population of MSA 6.2.

- In Appendix B, it is estimated that MSA 6.2 contained a total of 818.3 acres of industrially-designated land in 2012 inclusive of developed land and 192.6 vacant acres. It further estimated the remaining supply of vacant industrially-designated land would be fully depleted by 2021 assuming an average annual depletion rate of 21.28 acres. Since that time those estimates were prepared, two applications have been considered to amend the CDMP that would, if both are adopted, reduce the supply on vacant industrial land in the MSA 6.2 by slightly more than 61 acres. Their adoption would reduce the remaining vacant industrial inventory in MSA 6.2 to approximately 131.6 acres and hasten the projected depletion date to approximately 2018. Both of the applications referred to received either full or qualified support from the County's Planning Department. It is likely that the Department's support of these applications was largely predicated on the fact that both applications provided for additional residential supply; however, in both instances the Department commented on the fact that properties involved had gone undeveloped for many years. It is probable that they also recognized that Appendix B shows that on a countywide basis there is adequate vacant industrially-designated land available to accommodate demand to well past 2035.
- In this regard, the following two points should be noted:
  - As discussed above, historically the entire west frontage of SW 137<sup>th</sup> Avenue between SW 136<sup>th</sup> Street and SW 144<sup>th</sup> Street was designated for industrial use; however, at no point was any of the land in that area developed with industrial uses. Further, even if the subject property is re-designated for commercial uses, nearly 14 vacant acres would continue to be available in that area for industrial uses.
  - Removal of the 4.7 acres from the County's remaining inventory of vacant industrial land would impact the depletion date in MSA 6.2 by the equivalent of 0.22 years or less than 3 months. Further, it would have virtually no significant adverse impact of the date of depletion currently being estimated for industrial land supply countywide.
- Based on the preceding information, MEAI believes that adoption of the proposed amendment regarding the subject property would not have significant impact on the County's future capability to accommodate industrial development in the County.

#### Need for Additional Commercially-designated Land

- As discussed in the introduction to this letter report, re-designation of the subject property from Industrial and Office to Business and Office is being sought to allow for the development of a commercial project of approximately 120,000 leasable square of retail and restaurant space as well as a banking facility. Given the location and the

size of the proposed project, MEAI believes it will derive its primary support from households living in MSA 6.2; however, it will draw secondary market support from households in the portions of MSA 7.2 that are located outside the Urban Development Boundary where no comparable commercial development is allowed and where the preponderance of residents seem to prefer to travel north rather than east to shop.

- MEAI believes that development of the subject property with commercial uses rather than industrial uses is more in keeping with the character of the area in which it is located and more compatible with the residential uses that already exist along the east frontage of SW 137<sup>th</sup> Avenue between SW 136<sup>th</sup> Street and SW 144<sup>th</sup> Street and on both sides south of SW 144<sup>th</sup> Street. Commercial use of the subject property would also be more compatible with the residential use proposed for development on the parcel across SW 143 Street. With respect to being more in keeping with the character of the area, we re-iterate that significant commercial uses now occupy previously industrially-designated land on the east side of SW 137<sup>th</sup> Avenue between SW 120<sup>th</sup> Street and SW 136<sup>th</sup> Street as well as the northwest corner of the intersection of SW 137<sup>th</sup> Avenue and SW 136<sup>th</sup> Street. Commercial uses are also now approved along Tamiami Airport's frontage of SW 137<sup>th</sup> Avenue.
- Data contained in Appendix B shows that MSA 6.2 was underserved in terms of commercial acreage in 2012. Specifically, it was estimated that at that point in time MSA 6.2 contained 779.6 acres of commercial land inclusive of 240.5 vacant acres which means that MSA 6.2 would have a ratio of commercial land to population in 2020 of 4.9 acres/1,000 residents, a figure well below the projected countywide ratio of 5.5 acres/1,000 residents. It should be noted that this calculation does not take into account the residents of the western portion of MSA 7.2. If they were accounted for, the ratio of commercial acreage to market area population would be even lower.
- Of greater concern than the overall adequacy of the supply of commercial acreage in MSA 6.2 is the fact that the acreage that does exist is poorly distributed within the MSA. MSA 6.2 extends approximately 6 miles from north to south. Within the first mile traveling southward from SW 88<sup>th</sup> Street, i.e. the portion of MSA 6.2 located between SW 88<sup>th</sup> Street and SW 104<sup>th</sup> Street, there are approximately 357 acres of commercially-designated land, inclusive of both developed and vacant acreage. This constitutes nearly 46 percent of MSA 6.2's total commercial acreage. However, the 2010 Census indicates that that area contains only about 25 percent of its population. In contrast, the remainder of MSA 6.2 has 422.6 commercial acres, approximately 54 percent, but 75 percent of its population.
- The County's Guidelines for Urban Form (GUF) dictate that the section line roads should be the physical boundaries of neighborhoods and intersections of section line roads shall serve as the focal points of activity, i.e. activity nodes that serve the community in terms of its commercial needs. If all four section line road intersections of an individual section were developed with activity nodes of 10 acres each, the section would contain 40 acres of land for commercial use. The GUF were

formulated based on the concept, set forth in CDMP Policy 8B, that the distribution of neighborhood and community-serving retail sales uses and personal and professional offices throughout the County's urban area shall reflect the spatial distribution of the residential population so that each community be as self-sustaining as possible to, among other things, promote pedestrianism and/or to reduce trip length. The portion of MSA 6.2 located south of SW 104<sup>th</sup> Street has approximately 20 predominately residential sections. If these sections had been developed in accordance with the GUF, there would be 800 acres of commercial use within them. Instead the area south of SW 104<sup>th</sup> Street, inclusive of both commercially-designated land within the predominantly residential sections as well as sections with limited or no residential use, has less than 53 percent of that amount.

- Development of the subject property would place additional commercial uses within a localized area comprised of 3.5 sections of land that is bounded by SW 136<sup>th</sup> Street on the north, SW 137<sup>th</sup> Avenue on the east, SW 152<sup>nd</sup> Avenue on the south and SW 162<sup>nd</sup> Avenue on the west. This area currently has fewer than 30 acres of community-serving commercial uses inclusive of the shopping centers located on the north side of SW 152<sup>nd</sup> Street at SW 137<sup>th</sup> Avenue and S.W. 157<sup>th</sup> Avenue as well as the small facility located within the County Walk planned community. The population of the area in 2010 totaled 14,269 people, which means that the area had only slightly more than 2 acres of community-serving retail per 1,000 residents at that point in time. In the period since, no additional commercial acreage and only minimal population have been added. The only other major commercial use currently within the defined area is the Lexus of West Kendall facility in the northwest corner of the intersection of SW 137<sup>th</sup> Avenue and SW 136<sup>th</sup> Street, which draws from a regional market that extends well beyond MSA 6.2.

It is also noted that there is only one major vacant parcel remaining in the localized area defined above which is located at the intersection of section line roads. It is a parcel of approximately 8.34 acres at the intersection of SW 136<sup>th</sup> Street and SW 157<sup>th</sup> Avenue. However, this parcel is surrounded by Tamiami Airport and industrial uses on 3 of its 4 sides, which makes it unlikely to be the site for the development of community-serving commercial uses, particularly retail uses. Accordingly, the localized area in which the subject property is situated is particularly undersupplied in terms of community-serving commercial uses both currently and for the foreseeable future.

- The subject property is not located at the intersection of section line roads. Accordingly, its development with commercial uses would not be consistent with the basic development approach outlined in the GUF. However, the CDMP text permits exceptions, specifically stating the "exceptions may occur ... to conform the density, intensity, use, building envelop, traffic generation and demand on service and infrastructure of a proposed new to such contextual elements as the general pattern of use, intensity and infrastructure which exists in an established neighborhood."

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- Based on the preceding information, MEAI believes that re-designation of the subject property to permit commercial development should be approved because it will provide needed commercial uses in an underserved portion of its market area.

#### Economic and Fiscal Benefits

- Re-designation of the subject property for commercial uses would not only address the need for more commercially-designated land generally in MSA 6.2 and the area south of SW 104<sup>th</sup> Street specifically, it would generate economic and fiscal benefits for Miami-Dade County and/or its residents. The bulleted paragraphs that follow describe the most significant of these benefits:

- The term "economic benefits" refers to the positive impact that a project such as the commercial development that the Applicant is proposing would have on the overall economy of Miami-Dade County. Development of the proposed project is expected to cost \$22.0 million in terms of the hard cost of construction and will provide a basis for approximately 175 man-years of direct construction employment during the development period as well as approximately 155 indirect and induced jobs<sup>1</sup>.

It is anticipated once the proposed retail facility is completed, the permanent workforce on-site would total 240 people on a full-time equivalent basis, who will earn an average of between \$20,000 and \$25,000 annually depending on the mix of tenants that actually occupy the space.<sup>2</sup> Finally, it is estimated that the operations of the proposed retail facility would provide support for approximately 266 indirect and induced jobs.<sup>3</sup>

- The term "fiscal benefits" refers to the positive impacts that a project such as the proposed retail facility would have on the finances of Miami-Dade County and the other governmental jurisdictions in which it would be located. MEAI estimates that during the development period of the proposed commercial facility, impact fees totaling \$1,058,916 will be paid for roads, police and fire and general building permit fees in the amount of \$17,670 will be paid. Additional fees that cannot currently be estimated because the construction plans for the project have not been finalized will need to be paid by the various trades involved in the construction.<sup>4</sup>

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<sup>1</sup> The estimate of direct construction employment assumes that 45 percent of the moneys expended on hard construction would be spent on labor that the average worker on a non-residential construction project would earn approximately \$56,900. The estimate of average earnings is based on the QCEW reports compiled by the Florida Department of Economic Opportunity for 2012.

<sup>2</sup> The estimate of employment assumes 2 FTE per 1,000 square of space. The estimate of earnings is based on the QCEW reports compiled by the Florida Department of Economic Opportunity for 2012.

<sup>3</sup> The estimates of indirect and induced employment were developed using the Regional Input-Output (I-O) Modeling System (RIMS) developed by the U.S. Commerce Department

<sup>4</sup> The fees estimated above are based on the current fee schedules of Miami-Dade County.

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When construction is completed, it will generate ad valorem taxes for Miami-Dade County on an annual recurring basis in the amount of \$229,248 and for the Miami-Dade County Public School District in the amount of \$191,952.<sup>5</sup> These amounts are nearly 2.8 times the amount of taxes collected on the subject property this year. It will also generate occupational license fees and utility taxes and franchise fees on an annual recurring basis for Miami-Dade County.<sup>6</sup>

The Applicant recognizes that it will be responsible for payment of the costs associated with any improvements required to County infrastructure at the time of development although it may seek to have such expenditures, when appropriate, credited against impact fees it is obligated to pay. It is expected that once construction has been completed, the amount paid in ad valorem taxes will more than cover the incremental costs, if any, associated with providing the project with County services, which would primarily be police and fire protection. It is, therefore, anticipated that the proposed project would be at least revenue neutral, potentially revenue positive. We base this conclusion on the following considerations.

- While there are vacant parcels of land to the immediate north and south of it, the subject property is located in an area that is generally built out and being provided with both police and fire protection by Miami-Dade County. Given the size of the subject property, the commercial development being proposed on it is likely to at most add a small increment of expense to the cost of providing those services to the general area.
- The cost of police and investigative services is primarily paid for out of ad valorem tax collections made by the County for its General Fund and its UMSA Fund. Review of the County's 2012-13 Budget shows that only about 40 percent of the tax revenues collected for the General and UMSA funds would be used to pay for police and investigative services. The remainder of the funds collected in the two funds identified were expected to be used either for governmental activities that are not likely to increase because of the proposed commercial project such as general administration or not be impacted

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<sup>5</sup> The ad valorem taxes estimated above assume a taxable value of \$24.0 million and are based on the millage rates approved by the County and the Public School District in September, 2012. The assumed taxable value is based that of comparable facilities within MSA 6.2. The amount shown above for Miami-Dade County includes funds that will be paid into the County General Fund, the County Debt Service Fund, the UMSA Fund, the Library Fund, the Fire-Rescue Operating Fund and the Fire-Rescue Debt Service Fund.

<sup>6</sup> The amount of revenues that will be generated in the form of occupational license fee and utility taxes and franchise fees cannot be estimated at this time based on the information that is currently available. To estimate the occupational fees that will be collected on a recurring annual basis would require knowing number and mix of tenants by type of retailer and the size of each. To estimate utility taxes and franchise would require knowing the extent to the levels of usage of water, electricity and telecommunications services of the prospective tenants of the proposed retail facility

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by it such as parks. Further, portions of the amounts spent on police and investigative services were expended on the operations of specialized police units such as the organized crime and domestic violence units that are not likely to be expanded because of the proposed project.<sup>7</sup>

- The cost of providing fire services is paid for out of the ad valorem tax collections made by the County for its Fire-Rescue Fund. Review of the County's 2012-13 Budget shows that the County expected that the ad valorem tax revenues collected in that fund would exceed the amount to be expended on suppression and rescue activities with the surplus being used to fund activities that would likely not increase directly as a result of the proposed commercial project.

### Closing

MEAI believes that the proposed amendment to the CDMP which would re-designate the subject property for Business and Office use should be adopted to allow for the development of approximately 120,000 leasable square feet of community-serving retail and restaurant space and a bank facility. We base this belief on the following factors:

- Re-designation of the property will effectively remove only 4.7 acres from the County's supply of vacant industrial land and will not have a significant adverse impact the future ability to accommodate industrial development in the County;
- A need exists for additional community-serving commercial uses in the portion of the County where the property is located; and
- The proposed commercial project will provide a significant number of jobs on both a non-recurring basis during the development period and on a permanent basis thereafter. It will also generate significant revenues for Miami-Dade County on both a non-recurring and recurring basis and is likely to be at least revenue neutral, potentially revenue positive.

Sincerely,  
Miami Economic Associates, Inc.



Andrew Dolkart  
President

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<sup>7</sup> In calculating the percentage of ad valorem revenues spent for police and investigative services, MEAI did not include the amounts spent on departmental administration and support services. We do not believe that those costs are likely to increase because of the proposed project.

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PLANNING & ZONING  
METROPOLITAN PLANNING SECT

This instrument was prepared by:

Jeffrey Bercow

Bercow Radell & Fernandez, P.A.

200 S. Biscayne Blvd.

Suite 850

Miami, FL 33131

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**DECLARATION OF RESTRICTIONS**

**WHEREAS**, the undersigned Owner, 75 ACRES, LLC holds the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property," which is supported by the attorney's opinion: and

**WHEREAS**, the Property is approximately 13.7 net acres of land, and is located along the northwest corner of SW 137<sup>th</sup> Avenue and SW 143<sup>rd</sup> Street;

**WHEREAS**, the Property is the subject of Comprehensive Development Master Plan ("CDMP") Amendment Application No. 6 of the May 2013 CDMP Cycle of Amendment Applications ("CDMP Amendment Application");

**WHEREAS**, the CDMP Amendment Application seeks to change the Property's land use designation from "Industrial and Office" use to "Business and Office" use;

**IN ORDER TO ASSURE** the County that the representations made by the owner during 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:

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**Property.** The entire Property shall be designated for Commercial and Office use.

**Permitted Uses.** The Property shall only be used for uses that are consistent with the Business and Office land use designation, including but not limited to retail, bank, restaurant and other commercial uses. Development of the Property shall not exceed a total of 120,000 square feet of total development, which may include retail, restaurant, service and office uses.

**[ADDITIONAL COVENANT PROVISIONS MAY FOLLOW IN FINAL DRAFT]**

**Covenant Running with the Land.** This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami- Dade County and the public welfare. The Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

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

**Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may

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adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

**Authorization for Miami-Dade County to Withhold Permits and Inspections.**

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

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

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

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

**Recordation and Effective Date.** This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the Application, in its entirety,

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

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

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

[Execution Pages Follow]