



January 4, 2008

South Florida Regional Planning Council
3440 Hollywood Boulevard, Suite 140
Hollywood, Florida 33021

**RE: Miami-Dade County Proposed Comprehensive Plan Amendment
Package No. 08-1 (April 2007 Cycle - Application No. 8)**

We have received a copy of the South Florida Regional Planning Council (SFRPC) staff memo dated January 7, 2008, which provides comments to the referenced Miami-Dade County CDMPC Amendments. On behalf of the Applicant, we wish to respond to two concerns raised by SFRPC staff specifically regarding Proposed Amendment No. 8.

SFRPC Staff states that this amendment "will exacerbate overcrowding and congestion on SW 177th Avenue and SW 88th Street in the vicinity of the site." We respectfully disagree with this statement and offer the following information in rebuttal.

The Applicant has provided two (2) separate traffic studies to Miami-Dade County and to SFRPC which address the traffic impacts of the Application. The primary study was performed by Cathy Sweetapple & Associates, in conjunction with Kimley Horn and Associates. This study used the FSUTMS computer model to analyze the long term traffic impacts of the Amendment and found that the Amendment will not create negative impacts on the roadway system. County staff has not disagreed with the results of this study nor have they noted any problems with the process or data used for the study. Additionally, Fandrei Consulting, Inc. (FCI), in conjunction with Transport Analysis Professionals, performed detailed analyses of the impacts of the proposed application on the existing roadways in the vicinity of the application site. This "Concurrency" study used up to date data and analysis techniques. The FCI study found that there is adequate capacity on roadways within the general area of the site to accommodate the impacts of the Application.

Although not noted in the SFRPC memo, it is important to note that the Applicant has proffered a Declaration of Restrictions requiring the Applicant to fully fund, construct and dedicate a 4-lane, half section line road (SW 172 Avenue; See attached copy of the aforementioned Declaration of Restrictions). This will improve both current and future traffic conditions in the area by providing a vital link between development to the south of the subject property and Kendall Drive to the north of the property. This will save Miami-Dade County approximately \$7,000,000.

Additionally, SFRPC staff states that "It is also anticipated that [this Amendment] will severely impact the response time for fire and rescue services." Again, I respectfully disagree with this generalized statement and offer the following clarifying comments:

We respectfully note that the provision of the 4-lane SW 172nd Avenue will improve fire rescue response time in the area. Specifically, there is a 1200-unit residential unit neighborhood (known as "Vizcaya") under construction south of the subject property. Without the approval of the proposed amendment - and the construction and dedication of the SW 172nd Avenue extension (made possible only through the approval of this amendment) - fire rescue services will have a much more difficult time responding to the residents of Vizcaya.

Also, there is no established Level of Service (concurrency) standard for Fire Rescue services. Rather, any impacts created by the proposed amendment to the fire rescue system will be mitigated vis-à-vis the payment of the County-required impact fees at the time of building permit application. Therefore, the amendment does not violate any County standard with respect to fire rescue services at this stage of the CDMPC amendment evaluation process.

For these reasons, I respectfully request that the SFRPC find Application No. 8 to be generally consistent with the Strategic Regional Policy Plan for South Florida.

Respectfully submitted,

FANDREI CONSULTING, INC.

Henry A. Fandrei, P.E., PTOE
Principal

This instrument was prepared by:
Name: Chad Williard, Esq.
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Suite 1000
Coral Gables, Florida 33134
305-443-1500

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

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

WHEREAS, the Property is the subject of Comprehensive Development Master Plan Amendment Application No. 8 of the April 2007 Amendment Cycle, seeking a change from "Agriculture" to "Business & Office" (the "CDMP Application");

WHEREAS, the intent of the Applicant is to seek approval of the "Business & Office" designation for the Property, subject to the terms and conditions set forth below;

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:

SW 172 Avenue Right of Way. The Owner agrees, subject to the approval of the CDMP Application and subject to the approval of the Florida Department of Transportation ("FDOT") and/or the Miami-Dade County Public Works Department ("M-D PWD," to construct and dedicate to Miami-Dade County, a seventy foot (70') wide right-of-way containing four (4), travel lanes - identified as SW 172 Avenue (the "Roadway Improvement") - prior to the issuance of any Certificate of Occupancy on the Property. The Roadway improvement shall: extend SW 172 Avenue from the southern boundary of the Property to the northern boundary of the Property and be at the Owner's sole cost and expense.

County Inspection. As further part of this Declaration, it is hereby understood and agreed that any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

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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. Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

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

Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of the land covered by the proposed amendment, modification or release, 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 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 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.

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

Authorization for Miami-Dade County (or successor municipal corporation) 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 (or any successor municipal corporation) 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 (or any successor municipal corporation), and inspections made and approval of occupancy given by the County (or any successor municipal corporation), 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.

Covenant Running with the Land. This Declaration shall constitute a covenant running with the land and shall be recorded, at the Owners' expense, in the public records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the undersigned Owners, and their heirs, successors and assigns, including the Applicant, unless and until the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, the then owner(s) of the real property and for the public welfare.

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

Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owners 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

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

Acceptance of Declaration. 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 and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance or dedication.

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

[Execution Pages Follow]

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Witnesses:

Paola A. Giraldo

Print Name: PAOLA A. GIRALDO

Kathy Jones

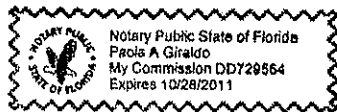
Print Name: KATHY JONES

Roberta Bloom
Roberta Bloom

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 7 day of
NOV. 2007 by Roberta Bloom, who is personally known to me or produced
W/M as identification.

Paola A. Giraldo



Notary Public, State of Florida
at large
My Commission Expires

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Signed, witnessed, executed and acknowledged this 7 day of NOVEMBER 2007.

Witnesses:

Paola S. Giraldo

Print Name: PAOLA GIRALDO

Sam Bloom
Sam Bloom

Kathy Jones

Print Name: KATHY JONES

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 7 day of NOV. 2007 by Sam Bloom, who is personally known to me or produced N/A as identification.

Paola S. Giraldo



Notary Public, State of Florida
at large
My Commission Expires

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Section-Township-Range:
Folio number:

(Public Hearing)