

**APPLICATION NO. 5
STANDARD AMENDMENT APPLICATION**

Applicant	Applicant's Representative
Brown Development Group, LLC. 5901 SW 74 Street, Suite 403 South Miami, Florida 33143	Juan J. Mayol, Jr., Esq., Hugo P. Arza, Esq., Richard A Perez, Esq., Alejandro J. Arias, Esq. Pedro Gassant, Esq. Holland & Knight, LLP 701 Brickell Avenue Suite 3000 Miami, Florida 33131 (305) 374-8500 (305) 789-7799 (fax)

Requested Amendment to the Land Use Plan Map

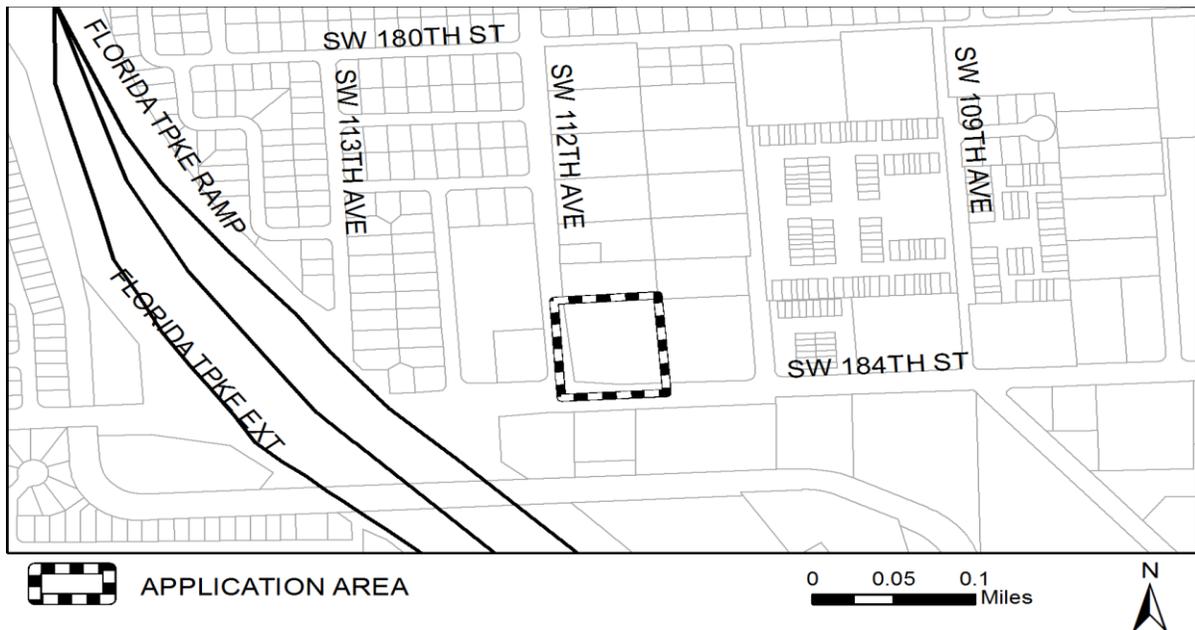
1. Redesignate the application site on the Land Use Plan map
From: "Office/Residential"
To: "Business and Office"

2. Revise the Restrictions Table in the Land Use Element on page I- 74.1 of the CDMPLand Use Element. to include the proffered Declaration of Restrictions, if accepted by the Board of County Commissioners

Location: Northeast corner of the intersection of SW 184 Street and SW 112 Avenue.

Acreege of Application area: ±2.19 gross acres; ±1.98 net acres

Acreege Owned by Applicant: 0 acres



Notes:

1. This page is not part of the Application that was filed by the applicant.
2. The Disclosure of Interest published herein contains only those applicable pages; all others were deleted.

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

1. APPLICANT

Brown Development Group, LLC
5901 SW 74 St, Suite 403
South Miami, FL 33143

2. APPLICANT'S REPRESENTATIVES

Juan J. Mayol, Jr., Esq.
Hugo P. Arza, Esq.
Richard A. Perez, Esq.
Alejandro J. Arias, Esq.
Pedro Gassant, Esq.
Holland & Knight LLP
701 Brickell Avenue, Suite 3300
(305)374-8500 (phone)
(305)789-7799 (fax)

PLANNING & ZONING
METROPOLITAN PLANNING SECT
2015 JUN -1 P 3:22

By: _____



Juan J. Mayol, Jr., Esq.
Hugo P. Arza, Esq.
Richard A. Perez, Esq.
Alejandro J. Arias, Esq.
Pedro Gassant, Esq.

06 -01-15

Date

3. DESCRIPTION OF REQUESTED CHANGE

A. The following changes to the Land Use Element Land Use Plan Map (item A.1 (d) in the fee schedule) is requested:

1. A Change to the Land Use Element, Land Use Plan Map. The Applicant requests a change to the Land Use Element's Land Use Plan Map to re-designate the subject property from "Office/Residential" to "Business and Office."

B. Description of the Subject Area.

1. The subject property, which is legally described in Exhibit A (the "Property"), consists of approximately ± 2.19 gross acres of land

located in Section 31, Township 56 South. Range 40 east, in unincorporated Miami-Dade County. More specifically, the subject property is located on the northeast corner of the intersection of SW 112th Avenue and SW 184th Street.

2. Acreage.

Application area: ± 2.19 gross acres (± 1.98 net acres)

Acreage Owned by Applicant: None

3. Requested Change.

a. It is requested that the subject property be re-designated on the LUP Map from “Office/Residential” to “Business and Office.”

b. It is requested that this application be processed as a Small-Scale amendment under the expedited procedures.

4. REASONS FOR AMENDMENT

The Property is located on the corner of the intersection of Eureka Drive (SW 184th Street), a section line roadway that is designated as a “Major Roadway” on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP), and SW 112th Avenue, a half-section line roadway. The Property is designated “Office/Residential” on the LUP Map. The Property is the only land designated Office/Residential within one square mile of Eureka Drive and SW 112th Avenue.

Considering that the Property is designated “Office/Residential,” the Property is severely underdeveloped. The “Office/Residential” land use designation generally contemplates small to large-scale office parks and, if applicable, residential uses of a higher density than the surrounding residential area. Currently, however, the Property is used only as a day nursery for children and is zoned to allow for a maximum of 100 children to be cared for in the nursery. Moreover, a sizeable portion of the Property is undeveloped and unutilized.

The Property is nearly surrounded by land designated Business and Office and used for commercial purposes. Immediately to the west of the Property is a gas station. To the south of the Property is land designated, almost exclusively, for Business and Office. Specifically, to the south of the Property is an automotive service station, a gas station and two retail shopping plazas. Re-designation of the Property to Business and Office would therefore further the CDMP’s goal of placing business developments in clusters, near adjacent commercial uses at the intersection of section or half-section roadways.

The CDMP strongly encourages the concentration of commercial facilities along major roadways and in locations where countywide access is convenient. As mentioned above, the Property fronts Eureka Drive, a major arterial road, and is located approximately two blocks from the Florida Turnpike. In addition, the Property is located within one block of a bus stop for Route

137 (the 137 West Dade Connection), which stops near the intersection of Eureka Drive and 112th Avenue, passes directly in front of the Property. Thus, re-designation of the Property to Business and Office would promote the CDMP's goal of locating business developments near major roadways.

In addition, the Property is located at the intersection of Eureka Drive and SW 112th Avenue. Although SW 112th Avenue is not a section line road, because of the location of the Turnpike along the alignment of SW 117th Avenue, SW 112th functions as a section aerial for most of its trajectory in South Dade. As such, the intersection of these two major roadways creates an 'activity node' in accordance with the CDMP's guidelines for urban form. The guidelines further encourage that commercial uses should be located within such activity nodes.

The Property is also conveniently located near residential communities. Furthermore, because the Property is located near residential communities, it provides a convenient access to employment and furthers the CDMP's goal of reducing traffic impacts by creating employment near housing and reduces the dependence on automobile transportation and encourages foot and bicycle traffic for potential employees and customers who live in the nearby residential communities. As noted in the CDMP, the "proximity of housing and retail uses will allow residents to walk or bike for some daily trips." *See* CDMP, Land Use Element, pg I-46.

The Property is located in Minor Statistical Area (MSA) 5.8. According to the 2010 EAR, commercial land in MSA 5.8 is scheduled to be depleted by 2024. Re-designation of the Property would help enhance the supply of commercial land by promoting infill in a location that already serves as a major Business and Office node. In addition, the Property is well served by water, sewer and other utilities, or may be readily connected to County services at no cost to the County.

In short, the Applicant believes that the re-designation of the Property from Office/Residential to Business and Office on the LUP Map would (1) promote the future development of the Property in a manner that would be entirely compatible with the surrounding area, (2) promote the CDMP's goal of locating business within activity nodes, (3) reduce traffic impacts by reducing the dependence on automobile transportation for potential employees and residents who live in the nearby residential communities, and (4) augment the supply of commercial land in MSA 5.8. The Applicant will submit a Declaration of Restrictions to provide additional guidance for the future development of the Property.

Approval of the requested Amendment would further implementation of the following CDMP objectives and policies:

LAND USE OBJECTIVE LU-1: The location and configuration of Miami-Dade County's urban growth through the year 2030 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 warrant, rather than sprawl.

LAND USE 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.

LAND USE 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.

LAND USE POLICY LU-1G: Business developments shall preferably be placed in clusters or nodes in the vicinity of major roadway intersections, and not in continuous strips or as isolated spots, with the exception of small neighborhood nodes. Business developments shall be designed to related to adjacent development, and large uses should be planned and designed to serve as an anchor for adjoining smaller businesses or the adjacent business district. Granting of commercial or other non-residential zoning by the County is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways.

LAND USE 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 and bicycle friendly environment that promotes the use of rapid transit services.

LAND USE POLICY LU-7I: Miami-Dade County will continue to review development incentives to encourage higher density, mixed use and transit-oriented development at or near existing and future transit stations and corridors, and continue to update its land development regulations to remove impediment and promote transit-oriented development.

LAND USE OBJECTIVE LU-8: Miami-Dade County shall maintain a process for periodic amendment to the Land Use 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.

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

LAND USE OBJECTIVE LU-9: Miami-Dade County shall continue to main, 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 neighborhood and communities and well designed buildings

LAND USE POLICY LU-9I: Miami-Dade County shall continue ot update and enhance its land development regulations and area planning program to facilitate development of better

planned neighborhoods and communities, and well designed buildings, and shall encourage and assist municipalities to do the same.

LAND USE POLICY LU-9J: Miami-Dade County shall continue to use the design guidelines established in its urban design manual as additional criteria for use in the review of all applications for new residential, commercial and industrial development in unincorporated Miami-Dade County, and shall consider the inclusion of such guidelines into its land development regulations.

LAND USE POLICY LU-9N: Miami-Dade County shall continue to update its land development regulations on a regular basis in order to address code amendments recommended by CDMP policy, code deficiencies or changing conditions.

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

LAND USE POLICY LU-10A: Miami-Dade County shall facilitate contiguous urban development, infill, redevelopment of substandard or underdeveloped urban areas, moderate to high intensity activity centers, mass transit supportive development, and mixed-use projects to promote energy conservation. To facilitate and promote such development Miami-Dade County shall orient its public facilities and infrastructure planning efforts to minimize and reduce deficiencies and establish the service capacities needed to support such development.

5. LOCATION MAP for APPLICATION

Attached.

6. COMPLETED DISCLOSURE FORMS

Attached.

7. ADDITIONAL MATERIAL SUBMITTED

Legal Description (See Exhibit A)

Section Sheet (See Exhibit B)

Aerial (See Exhibit C)

Draft Declaration of Restrictions (Exhibit D)

Resolution No.2-ZAB-80-64 (Exhibit E)

Resolution No.2-ZAB-228-62 (Exhibit F)

Additional items in support of this Application may be submitted at a later date.

Exhibit "A"

Legal Description for Property:

The SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 31, Township 56 South, Range 40 East, less the following parcel of land, more particularly described as follows:

Begining at the South $\frac{1}{4}$ corner of Said Section 31; thence along the West line of the SE $\frac{1}{4}$ of the aforementioned Section 31 N 4°07'15" W (Bearings derived from the State Plane Coordinate System, Florida East Zone, N.G.S. 1974 Adjustment) - 83.02 feet to a point; thence N 87°09'57" E - 20.00 feet to a point; thence S 71°30'08" E - 63.24 Feet to a point; thence S 87°16' 53" E - 258.66 feet to a point of intersection with the East line of the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of the aforementioned Section 31, thence S 4°05'41" E - 35.01 feet to a point of intersection with the South line of the SE $\frac{1}{4}$ of Said Section 31; thence along the South line of the SE $\frac{1}{4}$ of aforementioned Section 31, S 87°10'13" W - 335.26 feet to the POINT OF BEGINNING.

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

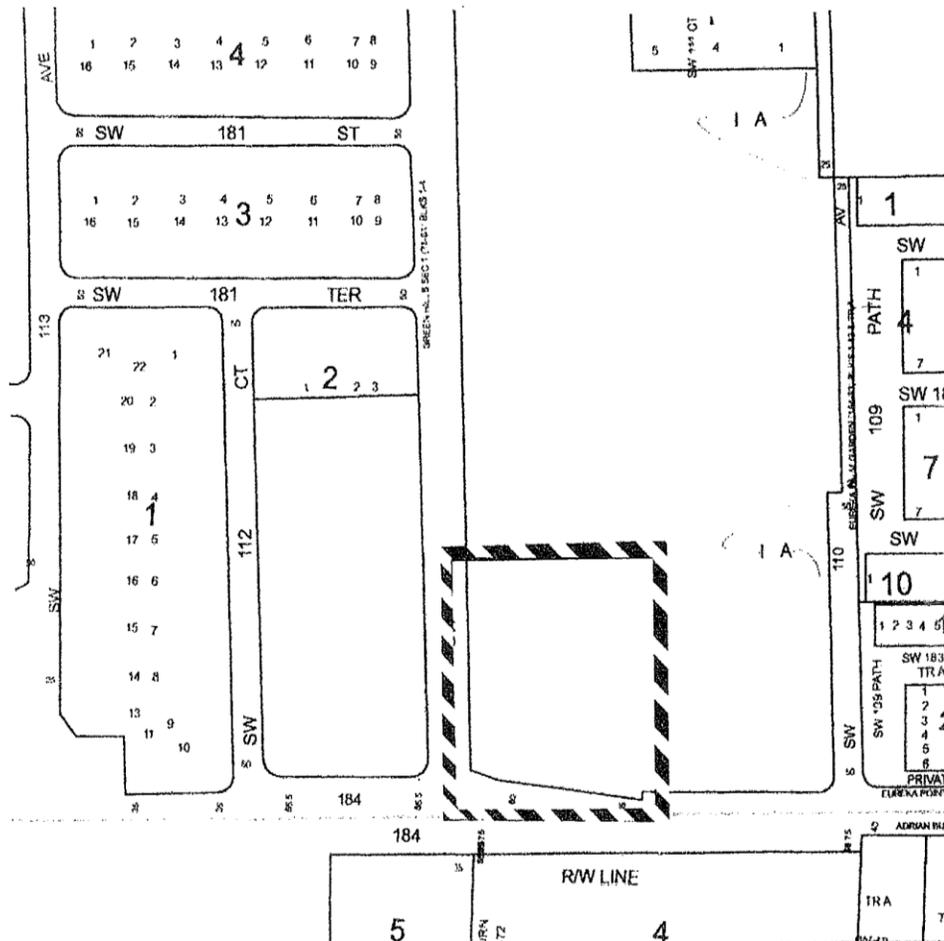
APPLICANTS/REPRESENTATIVE

Brown Development Group, LLC / Juan J. Mayol, Jr., Esq. and Pedro Gassant, Esq.

DESCRIPTION OF SUBJECT AREA

The Property contains approximately 2.19 gross acres (± 1.98 net acres) of land located in Section 31, Township 56 South, Range 40 East, located on the northeast corner of the intersection of SW 112 Avenue and SW 184 Street in unincorporated Miami-Dade County. The Property is more specifically described in Exhibit "A" to this application.

LOCATION MAP



DISCLOSURE OF INTEREST

This form or a facsimile must be filed by all applicants having an ownership interest in any real property covered by an application to amend the Land Use Plan map. Submit this form with your application. Attach additional sheets where necessary.

1. APPLICANT (S) NAME AND ADDRESS:

APPLICANT A: Brown Development Group, LLC, a Florida limited liability company, 5901 SW 74 Street, Suite 403, Miami, FL 33183

APPLICANT B:

APPLICANT C:

APPLICANT D:

APPLICANT E:

APPLICANT F:

APPLICANT G:

Use the above alphabetical designation for applicants in completing Sections 2 and 3, below.

2. **PROPERTY DESCRIPTION:** Provide the following information for all properties in the application area in which the applicant has an interest. Complete information must be provided for each parcel.

APPLICANT	OWNER OF RECORD	FOLIO NUMBER	SIZE IN ACRES
A. Brown Development Group, LLC (Contract Purchaser)		30-5031-000-0240	± 1.9 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	LESSEE	CONTRACTOR FOR PURCHASE	OTHER Explanation)	(Attach
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A. Brown Development Group, LLC (Contract Purchaser & Applicant)

The Estate of Susan Hamilton-Smith (Owner)

4. DISCLOSURE OF APPLICANT'S INTEREST: Complete all appropriate sections and indicate N/A for each section that is not applicable.

a. If the applicant is an individual (natural person) list the applicant and all other individual owners below and the percentage of interest held by each.

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

N/A

b. If the applicant is a CORPORATION, list the corporation's name, the name and address of the principal stockholders and the percentage of stock owned by each. [Note: where the principal officers or stockholders, consist of another corporation (s), trustee(s), partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.]

CORPORATION NAME:

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

N/A

c. If the applicant is a TRUSTEE, list the trustee's name, the name and address of the beneficiaries of the trust, and the percentage of interest held by each. [Note: where the beneficiary/beneficiaries consist of corporation(s), partnership(s), or other similar entities, further disclosure shall be required which discloses the identity of the individual (s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

**TRUSTEES
NAME: N/A**

NAME AND ADDRESS

PERCENTAGE OF INTEREST

See Exhibit 1

Date of Contract: 5/06/ 2015

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

5. DISCLOSURE OF OWNER'S INTEREST: Complete only if an entity other than the applicant is the owner of record as shown on 2.a., above.

a. If the owner is an individual (natural person) list the applicant and all other individual owners below and the percentage of interest held by each.

INDIVIDUAL'S NAME AND ADDRESS

PERCENTAGE OF INTEREST

N/A

b. If the owner is a CORPORATION, list the corporation's name, the name and address of the principal stockholders and the percentage of stock owned by each. [Note: where the principal officers or stockholders consist of another corporation(s), trustee(s) partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

- e. If the owner is party to a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries, or partners. [Note: where the principal officers, stockholders, beneficiaries, or partners consist of another corporation, trust, partnership, or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

NAME, ADDRESS, AND OFFICE (if applicable)	<u>PERCENTAGE OF INTEREST</u>
See Exhibit 1	

Date of Contract: 5/06/2015

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.

Applicant's Signatures and Printed Names

[Signature], VICTOR BROWN
MANAGING member

Sworn to and subscribed before me

this 27 day of MAY, 2015

Kathleen K Jones
Notary Public, State of Florida at Large (SEAL)



My Commission Expires: 11/30/15

Disclosure shall not be required of any entity, the equity interest in which are regularly traded on an established securities market in the United States or other country; or pension funds or pension trusts of more than five thousand (5,000) ownership interests; any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests including all interests at each level of ownership, and no one pension or entity holds more than a total of five (5) percent of the ownership interest in the partnership, corporation or trust; or of any entity, the ownership interest of which are held in a partnership, corporation or trust consisting of more than 5,000 separate interests and where no one person or entity holds more than a total of 5% of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.

EXHIBIT 1

4. e. If the applicant is party to a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries, or partners. [Note: where the principal officers, stockholders, beneficiaries, or partners consist of another corporation, trust, partnership, or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

Name of Applicant: Brown Development Group, LLC

Principal Members: D. Brown Family Investments, LLC¹ 5901 SW 74 Street, Suite 403,
South Miami, FL 33143 47.5% ownership interest

V. Brown Family Investments, LLC² 5901 SW 74 Street, Suite 403,
South Miami, FL, 33143 47.5% ownership interest

Steven Brown 5901 SW 74 Street, Suite 403,
South Miami, FL, 33143 5.0% ownership interest

5.e. If the owner is party to a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries, or partners. [Note: where the principal officers, stockholders, beneficiaries, or partners consist of another corporation, trust, partnership, or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

Name of Owner: The Estate of Susan Hamilton-Smith

Principal Beneficiary: Kevin Lennon, as the Personal Representative of the Estate of Susan Hamilton-Smith, and as the sole devisee of the Property under the applicable Will.

¹ The ownership interest in D. Brown Family Investments, LLC is held by David Brown, who holds 95% in the LLC and the David Brown Family Trust Agreement, which holds 5% in the LLC. The ownership interest in the David Brown Family Trust Agreement is equitably divided among Jack Brown (33.33%), Jenna Brown (33.33%) and Ava Brown (33.33%).

² The ownership interest in V. Brown Family Investments, LLC is held by Victor Brown, who holds 95% in the LLC and the Victor Brown Family Trust Agreement, which holds 5% in the LLC. The ownership interest in the V. Brown Family Trust Agreement is equitably divided among Nicholas Brown (33.33%), Harrison Brown (33.33%), June Brown (33.33%).

EXHIBIT 'D'

This instrument was prepared by:

Name: Juan J. Mayol, Esq.
Address: Holland & Knight LLP
701 Brickell Avenue, Suite 3300
Miami, FL 33131

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the Estate of Susan Hamilton-Smith, (the "Owner") holds fee simple title to that certain parcel of land in Miami-Dade County, Florida, which is more particularly described in Exhibit "A" to this Declaration;

WHEREAS, Brown Development Group, LLC, a Florida limited liability company (the "Applicant"), is the contract purchaser of the Property and is applying for an amendment to the Miami-Dade County Comprehensive Development Master Plan (the "CDMP") in the May 2015 Cycle (the "Application"); and

WHEREAS, the Application seeks to re-designate the Property from "Office/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 (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; Prohibition on Residential Development.** 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 30,000 square feet of such uses as may be permitted

under the Business and Office land use designation; provided, however, that no residential development shall be allowed on the Property.

2. **Miscellaneous.**

A. **Covenant Running with the Land.** This Declaration on the part of the Owner shall constitute a covenant running with the land and shall be recorded, at the Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owners 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 Owners, 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.

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 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 Declaration of Restrictions 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 then owner(s) of the Property, provided

that the same is also approved by the Board of County Commissioners of Miami-Dade County, Florida. 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, Florida or successor regulation governing amendments to the CDMP. In the event that the Property is incorporated within a new municipality or annexed into an existing municipality, and the successor municipality amends, modifies, or declines to adopt the provisions of Section 2-116.1 of the Code of Miami-Dade County, Florida, 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. It is provided, however, that in the event that the successor municipality approves a modification or deletion of this Declaration of Restrictions, such modification or deletion shall not be effective until approved by the Board of County Commissioners of Miami-Dade County, Florida in accordance with applicable procedures. Should this Declaration be so modified, amended, or released, the Director of the Department of Regulatory and Economic Resources or the executive officer of a successor 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 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. The prevailing party in any action or suit pertaining to or arising out of this Declaration of Restrictions shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity, or both.

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

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

G. Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County (or any successor municipality), and inspections made and approval of occupancy given by the County (or any successor municipality), 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 of Restrictions.

H. County Inspection. As further part of this Declaration of Restrictions, it is hereby understood and agreed that any official inspector of Miami-Dade County, Florida, 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 the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

I. 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.

J. Recordation and Effective Date. This Declaration of Restrictions shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner(s) following the approval of the Application by the Board of County Commissioners of Miami-Dade County, Florida. This Declaration of Restrictions 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, 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 Department of Regulatory and Economic Resources 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.

K. Acceptance of Declaration. Acceptance of this Declaration of Restrictions does not obligate the County in any manner, nor does it entitle the Owner(s) 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.

L. Owners. The term "Owners" shall include the Owners and their successors and assigns.

[Signature Page Follow]

EXHIBIT "A"

LEGAL DESCRIPTION

Folio No. 30-5031-000-0240

The SW ¼ of SW ¼ of SE ¼ of Section 31, Township 56 South, Range 40 East, less the following parcel of land, more particularly described as follows:

Begin at the South ¼ corner of Said Section 31; thence along the West line of the SE ¼ of the aforementioned Section 31 N 4 ° 07 ' 15" W (Bearings derived from the State Plane Coordinate System, Florida East Zone, N.G.S. 1974 Adjustment) - 83.02 feet to a point; thence N 87 ° 09 ' 57" E - 20.00 feet to a point; thence S 71 ° 30 ' 08" E - 63.24 feet to a point; thence S 87°16' 53" E - 258.66 feet to a point of intersection with the East line of the SW ¼ of SW ¼ of SW ¼ of SE ¼ of the aforementioned Section 31, thence S 4°05 ' 41" E - 35.01 feet to a point of intersection with the South line of the SE ¼ of Said Section 31; thence along the South line of the SE ¼ of aforementioned Section 31, S 87 °10' 13" W - 335.26 feet to the POINT OF BEGINNING.

EXHIBIT E

31-55-40
IV-98
Item No. 64-20

RESOLUTION NO. 2-ZAB-80-64

The following resolution was offered by Mr. Frank P. Reynolds, Jr. seconded by Mr. Harry K. Hurst, and upon poll of members present, the vote was as follows:

Paul Brookman	aye	C. O. Paden	aye
Francis A. Calhoun, Jr.	absent	Frank P. Reynolds, Jr.	aye
Joseph Fields	aye	I. Tommy Thomas	aye
Carl Gardner	aye	G. V. W. Trice, Jr.	absent
Joseph H. Gardner	aye	Martin Woolin	absent
Harry K. Hurst	aye	Andrew Lee	aye
John W. Norton	aye		

WHEREAS, Leola Tsukano has applied for an UNUSUAL USE to permit a day nursery and kindergarten.

SUBJECT PROPERTY: SW $\frac{1}{2}$ SW $\frac{1}{2}$ SE $\frac{1}{2}$ SE $\frac{1}{2}$ in Section 31, Township 55 South, Range 40 East. LOCATION: 21101 SW 154 St. (Kureka Dr.), Dade County, Florida, and

Applicant's day nursery was previously approved with a maximum of 50 children. Applicant now requests a permit for a maximum of 100 children; and

WHEREAS, an inspection of the subject property was made and a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested unusual use, under certain conditions, would be compatible with the area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board that the requested unusual use be and the same is hereby approved, subject to the following conditions:

1. That a detail plot use plan be submitted to and meet with the approval of the Zoning Director; said plan shall include but not be limited to, location of structure or structures, offstreet parking areas and driveways, walls, hedges and fences, landscaping, etc.

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2. That the use be made to conform to the requirements and/or recommendations of the State Welfare Department and Dade County Fire Department and Dade County Department of Public Health.
3. That the use be established and maintained in accordance with the approved plan.
4. That the use be approved for and be restricted to a maximum of one-hundred (100) children.
5. That the use be restricted to children in the age group of two (2) to five (5) years.
6. That a four-foot by six-foot (4' x 6') sign be approved in connection with the use; said sign be of a type and at a location to be approved by the Zoning Director.
7. That the permit be automatically renewable annually by the Dade County Building and Zoning Department upon compliance with all terms and conditions and be subject to cancellation upon violation of any of the conditions or when, in the opinion of the Metropolitan Dade County Zoning Appeals Board after public hearing, it is determined that the use is detrimental and/or incompatible to the surrounding neighborhood.

The Zoning Director is hereby directed to make the necessary notations upon the maps and records of the Dade County Building and Zoning Department and to issue all permits in accordance with the terms and conditions of this Resolution.

PASSED AND ADOPTED this 19th day of February, 1964.

Heard 2/19/64
No. 64-2-45
3/3/64
RF

March 5, 1964

Leola Tsukano
11101 S. W. 134 Street
Miami, Florida

Re: Leola Tsukano, request for unusual use to permit a day nursery & kindergarten, 11101 SW 134 St., hearing No. 64-2-45.

Enclosed herewith is a copy of Resolution No. 2-7AB-30-64, adopted by the Metropolitan Dade County Zoning Appeals Board, approving your application concerning the above subject matter.

Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. The required plot use plan should be submitted to this office in triplicate for approval before any detailed plans are prepared, inasmuch as building permits will not be issued prior to the approval of said plan.

You are hereby advised that there is a 14-day appeal period established by the Metropolitan Dade County Zoning Procedure Ordinance (61-30) and that no permits (or certificate of use and occupancy) can be issued until the appeal period expires, and only if no appeal has been filed.

Very truly yours,

METROPOLITAN DADE COUNTY
BUILDING AND ZONING DEPT.

CCC/ hf

Enc. Chester C. Czebrinski
Assistant Director
cc: State Welfare Dept., Attn. Miss Hazel Adams, District Dir.
Fire Safety Bureau, Dade Co. Fire Dept., Capt. Walker
Dade Co. Dept. of Public Health, Dr. Cato

Hearing File (current file - 64-2-45)
Hearing File (previous hearing file - 62-4-51, Chas. H. Gottschalk)
Mr. Dayton

EXHIBIT 'F'

31-55-40
IV-98
62-153

Resolution No. 2-ZAB-288-62

The following resolution was offered by Mr. Milton Sirkin, seconded by Mr. Andrew Lee, and upon poll of members present, the vote was as follows:

William Ader	absent	Kenneth Markham	aye
Paul Brockman	aye	Frank P. Reynolds, Jr.	aye
Francis A. Calhoun, Jr.	aye	Harold E. Ross, Jr.	aye
Carl Gardner	aye	Milton Sirkin	aye
Joseph H. Gardner	aye	C.V.W. Trice, Jr.	aye
Harry K. Hurst	aye	I. Tommy Thomas	aye
Andrew Lee	aye		

WHEREAS, Charles H. Gottschalk has applied for an UNUSUAL USE to permit a day nursery ON SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, Township 35 South, Range 40 East. 11101 SW 184 St. (Eureka Dr.), Dade County, Florida, and

WHEREAS, an inspection of the subject property was made and a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested unusual use, under certain conditions, would be compatible with the area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board that the requested unusual use be and the same is hereby approved, subject to the following conditions:

1. That a detail plot use plan be submitted to and meet with the approval of the Zoning Director; said plan shall include but not be limited to, location of structure or structures, offstreet parking areas and driveways, walls, hedges and fences, landscaping, et.
2. That the use be made to conform to the requirements and/or recommendations of the State Welfare Department and Dade County Fire Department and Dade County Department of Public Health.
3. That the use be established and maintained in accordance with the approved plan.
4. That the use be approved for and be restricted to a maximum of forty-eight (48) to fifty (50) children.
5. That the use be restricted to children in the age group of two (2) to five (5) years.
6. That a 4' x 6' sign be approved in connection with the use; said sign be of a type and at a location to be approved by the Zoning Director.
7. That the permit be automatically renewable annually by the Dade County Building and Zoning Department upon compliance with all terms and conditions and be subject to cancellation upon violation of any of the conditions or when, in the opinion of the Metropolitan Dade County Zoning Appeals Board after public hearing, it is determined that the use is detrimental and/or incompatible to the surrounding neighborhood.

31-55-40
IV-98
62-153

The Zoning Director is hereby directed to make the necessary notations upon the maps and records of the Dade County Building and Zoning Department and to issue all permits in accordance with the terms and conditions of this resolution.

PASSED AND ADOPTED this 18th day of April, 1962.

Heard: 4-18-62
No. 62-4-51
4-23-62
bs

Mr. Dayton
Hearing File
Miami State Welfare Dept.
Dade County Fire Dept.
Dade County Department of Public Health

April 23, 1940

Charles E. Gottschalk
3141 S. W. 10th Street
Miami, Florida

Re: Application for unusual use, 11101 SW 10th St., Sec. 11-33-10.

Enclosed herewith is a copy of Resolution No. ^{228-6r} ~~2-243-228-6r~~,
adopted by the Metropolitan Dade County Zoning Appeals Board, approving
your application concerning the above subject matter.

Please note the conditions under which said approval was granted, inasmuch
as strict compliance therewith will be required. The required plot use
plan should be submitted to this office in triplicate for approval before
any detailed plans are prepared, inasmuch as building permits will not be
issued prior to the approval of said plan.

Certificate of Use and Occupancy will be required, and will be issued
upon completion of construction authorized by this resolution.

Very truly yours,

METROPOLITAN DADE COUNTY
BUILDING AND ZONING DEPT.

CCC/HR
Enclosure

Chester C. Czebrinski
Assistant Director