

Note: The following case(s) is/are included in this ad.
Click on the process number or applicant's name to go directly to the ad.

Process No.	Applicant Name
<u>01-428</u>	<u>CHURCH OF JESUS CHRIST ALMIGHTY</u>
<u>02-135</u>	<u>PALMS CONVALESCENT CARE, INC.</u>
<u>03-369</u>	<u>WEST KENDALL HOLDINGS L. L. C.</u>

THE FOLLOWING HEARING WAS DEFERRED FROM 4/29/04 TO THIS DATE:

HEARING NO. 04-2-CC-2 (02-135)

20-52-42
BCC
Comm. Dist. 2

APPLICANT: PALMS CONVALESCENT CARE, INC.

- (1) UNUSUAL USE and SPECIAL EXCEPTION to permit the expansion of an existing non-conforming use; to wit: a 25-bed expansion to a nursing home.
- (2) Applicant is requesting to permit a lot coverage of 48% (40% maximum allowed).
- (3) Applicant is requesting to permit a landscape buffer varying from 2' to 5' greenbelt (7' buffer required).

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 & #3 may be considered under §33-311(A)(16) (Alternative Site Development Option for BU Zoning District) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Zoning Department entitled "Plaza North Nursing and Rehabilitation Center," as prepared by Russell Mackenzie and Associates, P. A., dated received 5/15/02 and consisting of 13 sheets. Plans may be modified at public hearing.

SUBJECT PROPERTY: Lots 201 and 202, of ARCH CREEK ESTATES, Plat book 46, Page 73.

LOCATION: 14601 N.E. 16 Avenue, Miami-Dade County, Florida.

SIZE OF PROPERTY: 1.54 Acres

PRESENT ZONING: BU-1 (Business – Neighborhood)

THE FOLLOWING HEARING WAS DEFERRED FROM 1/7/04 TO THIS DATE:

HEARING NO. 03-12-CZ11-1 (01-428)

25-54-39
BCC
Comm. Dist. 10

APPLICANT: CHURCH OF JESUS CHRIST ALMIGHTY

THE DIRECTOR OF THE DEPARTMENT OF PLANNING & ZONING is respectfully appealing the decision of Community Zoning Appeals Board #11 on CHURCH OF JESUS CHRIST ALMIGHTY, which approved the following:

MODIFICATION of Condition #2 of 4-ZAB-19-91, passed and adopted by the Zoning Appeals Board, reading as follows:

FROM: "2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Sketch of Survey,' as prepared by Manuel G. Vera and Assoc., Inc., dated 7-5-90 and plans entitled 'Proposed Day Care for Iglesia Bautista Filadelfia,' as prepared by R. M., dated 1-25-90, consisting of 2 sheets, except as herein modified to relocate all parking spaces to the northerly portion of the property."

TO: "2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Ministerio Jesucristo El Todopoderoso,' as prepared by Vertex Architecture, consisting of 8 sheets and dated, signed and sealed 10/6/03."

The purpose of this request is to allow the applicant to submit a new site plan for a new sanctuary addition for an existing religious facility.

Upon a demonstration that the applicable standards have been satisfied, approval of such request may be considered under §33-311(A)(7) or §33-311(A)(17) (Alternative Site Development Option for Modification or Elimination of Conditions or Covenants After Public Hearing).

The aforementioned plans are on file and may be examined in the Zoning Department. Plans may be modified at public hearing.

SUBJECT PROPERTY: The east ½ of the NE ¼, of the NE ¼, of the NW ¼, of Section 25, Township 54 South, Range 39 East, less the north 50' and less the east 35' for right-of-way purposes.

LOCATION: 12200 S.W. 56 Street, Miami-Dade County, Florida.

SIZE OF PROPERTY: 3.35 Acres

PRESENT ZONING: GU (Interim)

APPLICANT: WEST KENDALL HOLDINGS L. L. C.

- (1) TO MAKE A SUBSTANTIAL DEVIATION DETERMINATION pursuant to §380.06(19) of the Florida Statutes with respect to the following amendments and requests:
- (2) MODIFICATION of General Provisions of Development of Regional Impact Resolution No. Z-6-01, reading as follows:

TYPE OF DEVELOPMENT:

FROM: "A multi-use development consisting of office, retail, community medical facility/wellness center, community/youth center, home for the aged (senior assisted living facility), hotel, movie theatre, and a public transportation terminal (Metrobus terminals for multiple routes)."

TO: "A multi-use development consisting of office, retail, hospital, community/youth center/municipal use, hotel, movie theater, home for the aged (senior assisted living facility) or alternatively a senior residential building, and a public transportation terminal (Metrobus terminals for multiple routes)."

GENERAL DESCRIPTION:

FROM: "The applicant is requesting approval of a multi-use development project entitled 'The Kendall Town Center,' consisting of 500,000 square feet of office/community medical facility/wellness center; 1,350,000 square feet of retail; 100,000 square feet of community youth center/municipal uses; 10-12 screen 2,400-seat movie theatre; a 220-room hotel; a 200-bed home for the aged (senior assisted living facility); and a public transportation terminal (Metrobus terminals for multiple routes). The applicant is also requesting to rezone the subject property from GU (Interim District) to BU-2 (Special Business District and BU-3 (Liberal Business District)."

TO: "The applicant is requesting approval of a multi-use development project entitled 'The Kendall Town Center,' consisting of up to 350,000 square feet of office space; up to 50,000 square feet of community/youth center/municipal use (including a police substation or mini-station); up to 750,000 square feet of retail use (including restaurants); an up to 24- screen 4,300-seat movie theatre including ancillary uses; up to 145 hotel rooms; an up to 300-bed hospital (said hospital not designed to serve the citizens of more than one county) with ancillary uses; an up to 200-bed/unit home for the aged (senior assisted living facility) or, alternatively, an up to 125-unit senior residential building; and a public transportation terminal (Metrobus terminals for multiple routes). The property is zoned BU-2 (Special Business District), in part, and BU-3 (Liberal Business District), in part. The property is intended to be used for those uses generally permitted in those zoning districts, as specifically provided herein."

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OWNER:

FROM: "Gunhild Milner, et al."

TO: "West Kendall Holdings L. L. C."

DEVELOPER:

FROM: "West Kendall Center, L. P."

TO: "West Kendall Holdings L. L. C."

AUTHORIZED AGENT:

FROM: "Ann E. Pope, Vice President
West Kendall Center L. P.
235 Altara Avenue
Coral Gables, FL 33134
(305) 441-1401"

TO: "West Kendall Holdings L. L. C.
C/o The Rouse Company
10275 Little Patuxent Parkway
Columbia, Maryland 21044
Attn: General Counsel"

- (3) MODIFICATION OF Conditions #7, 11, 12, 13, 14, 15, 16, 17, 18, 29, 33 & 34 of Development of Regional Impact Resolution No. Z-6-01, reading as follows:

FROM: "7. The project is not anticipated to include laboratories, storage facilities, warehouse space or other uses which would have a significant hazardous materials generation/usage impact as defined in Rule 9J-2044(2)(f) and (5)(a) of the Florida Administrative Code. In the event that hazardous material usage on the project site will have a significant impact, prior to issuance of a certificate of occupancy for any such use, the owner(s) and/or developer and, to the extent necessary and appropriate, after consultation with any leaseholders, shall submit a Hazardous Materials Management Plan (HMMP) for review and approval by Miami-Dade County, DERM, the Florida Department of Environmental Protection (FDEP), and the South Florida Regional Planning Council (SFRPC), which conforms with the requirements of Rule 9J-2.044(5)(b)2 of the Florida Administrative Code. The Applicant, its successors and/or assigns shall provide a copy of the approved plan to the Miami-Dade County Fire Department. The HMMP shall be incorporated into

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the development by lease as long as the property is controlled by West Kendall Center, L. P. and shall be incorporated into the project by sale agreement, restrictive covenant or other appropriate legally binding enforcement provision when any of the property is conveyed, as applicable."

TO: "7. The project is not anticipated to include laboratories, storage facilities, warehouse space or other uses which would have a significant hazardous materials generation/usage impact as defined in Rule 9J-2.044(2)(f) and (5)(a) of the Florida Administrative Code except within the proposed hospital facility. Prior to issuance of a certificate of occupancy for any hospital use that will entail any significant hazardous material usage, the owner(s) and/or developer and, to the extent necessity and appropriate, after consultation with any leaseholders, shall submit a Hazardous Materials Management Plan (HMMP) for review and approval by Miami-Dade County, DERM, the Florida Department of Environmental Protection (FDEP), and the South Florida Regional Planning Council (SFRPC), which conforms with the requirements of Rule 9J-2.044(5)(b)2 of the Florida Administrative Code and applicable County regulations. The Applicant, its successors and/or assigns shall provide a copy of the approved plan to the Miami-Dade County Fire Department. The HMMP shall be incorporated into the development by lease as long as the property is controlled by West Kendall Holdings, LLC and shall be incorporated into the project by restrictive covenant or other appropriate legally binding enforcement provision when any of the property is conveyed, as applicable."

FROM: "11. Cooperate with the Miami-Dade County Fire Department and Public Safety Department during the site plan review and permitting processes to ensure the adequate provision of fire and police protection services. Incorporate security and emergency response measures into the project design and operation, which may include such things as parking lot security cameras, security patrols, the installation of a police substation or mini-station, or special fire equipment to service buildings higher than 5 stories, that will assist the Fire Department and Public Safety Department in ensuring efficient response to emergency and public safety concerns. Prior to the issuance of the first building permit for the vertical construction of the proposed senior assisted/congregate living facility, the applicant shall contribute the funds for the purchase of a rescue unit and required rescue equipment for the Fire Department. The applicant covenants that it will not seek impact fee credit for the funds contributed for said rescue unit in an amount greater than fifty percent of the contribution."

TO: "11. Cooperate with the Miami-Dade County Fire Department and Public Safety Department during the site plan review and permitting processes to ensure that appropriate fire and police protection services can be provided. Incorporate security and emergency response measures into the project

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design and operation, which may include such things as parking lot security cameras, security patrols, the installation of a police substation or mini-station, or special fire equipment to service buildings higher than 5 stories, that will assist the Fire Department and Public Safety Department in ensuring efficient response to emergency and public safety concerns. Prior to the issuance of the first building permit for the vertical construction of the proposed senior assisted living facility or senior residential building, the applicant shall contribute the funds for the purchase of a rescue unit and associated required rescue equipment for the Fire Department. The applicant covenants that it will not seek impact fee credit for the funds contributed for said rescue unit and equipment in an amount greater than fifty percent of the contribution."

FROM: "12. Limit occupants of the proposed senior assisted living facility to housing for older/elderly persons as that term may be construed pursuant to §202 of the Housing Act of 1959 (12 USC 1701q) and Chapter 11A of the Miami-Dade County Code."

TO: "12. Limit occupants of the proposed senior assisted living facility or senior residential building to housing for older/elderly persons as that term may be construed pursuant to §202 of the Housing Act of 1959 (12 USC 1701q) and Chapter 11A of the Miami-Dade County Code."

FROM: "13. The development of the property shall be subject to Miami-Dade County site plan review and, to the extent appropriate, the submittal of design guidelines for development of the property in a consistent manner. The site plan and/or design guidelines shall reflect a development pattern in substantial accordance with the Master Development Plan attached as Exhibit 1, shall reflect the establishment of pathways that encourage safe and comfortable pedestrian, bicycle and vehicular movement to, throughout and around the entire property, and shall establish reasonable buffers through the use of landscape features and/or well designed walls throughout the property.

TO: "13. The development of the property shall be subject to Miami-Dade County site plan review and, to the extent appropriate, the submittal of design guidelines for development of the property in a consistent manner. The site plan and/or design guidelines shall reflect a development pattern in substantial accordance with the Master Development Plan attached as Exhibit 1 (revised 4/23/04), shall reflect the establishment of pathways that encourage safe and comfortable pedestrian, bicycle and vehicular movement to, throughout and around the entire property, and shall establish reasonable buffers through

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the use of landscape features and/or well designed walls throughout the property.”

FROM: “14. A portion of the municipal/community use portion of the development program shall be developed with an approximately 50,000 square foot community center.”

TO: “14. A portion of the 50,000 square foot community/youth center/municipal use portion of the development program shall be developed with a minimum 45,000 square foot community/youth center. The remaining portion of the community/youth center/municipal use portion of the development program shall be developed with a police mini or substation and other community/youth center/municipal uses.”

FROM: “15 Limit primary project vehicle access points to the off-site roadway network to the locations shown in Exhibit 2. Locations of project driveways may be adjusted upon approval by appropriate review agencies with jurisdiction over same.”

TO: “15 Limit primary project vehicle access points to the off-site roadway network to the locations shown in Exhibit 2 (revised 4/23/04). Locations of project driveways may be adjusted upon approval by appropriate review agencies with jurisdiction over same.

FROM: “16. Prior to the issuance of the first certificate of occupancy for any portion of the project have, open to traffic or cause to have open to traffic all of the traffic improvements contained within Exhibit 3, provided that any improvement in Exhibit 3 that is not approved by the appropriate agencies may be substituted with improvements from Exhibit 5. Those improvements to be constructed or caused to be constructed will be approved by Miami-Dade County, with review and comment by the Florida Department of Transportation (FDOT) and the SFRPC for those improvements involving state roadways. The cost of the improvements to be constructed or caused will not exceed the project's Proportionate Share of \$2,715,000 (year 2000 dollars). Construction of any improvement is subject to permitting by the appropriate governmental agencies.”

TO: “16. Prior to the issuance of the first certificate of use within the Project, have open to traffic or cause to have open to traffic all of the traffic improvements described in Exhibit 3 (revised 4/23/04) or alternatively Exhibit 5, subject to the following provisions, limitations and requirements.
a. *Proportionate Share spending limit.* The total cost of all traffic improvements to be constructed or caused to be constructed shall not

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exceed the Project's Proportionate Share of \$2,715,000.00, adjusted beginning from the base year 2000 for a percentage increase to account for inflation, utilizing the Consumer Price Index published by the Bureau of Labor Statistics of the U.S. Department of Labor, using the U.S. City Average, All Urban Consumers, Not Seasonally Adjusted, compounded annually ("the Proportionate Share"). For purposes of this Project, "Proportionate Share" shall mean the share of the costs of mitigating the total estimated off-site impacts on the roadways in the region attributable to the Project. The following exceptions and limitations to the Proportionate Share spending limit shall apply:

- (i) All facility improvements relating to the expansion of North Kendall Drive (SW 88 Street) from SW 150 Avenue to Old SW 162 Avenue shall be constructed or caused to be constructed regardless of whether the costs of providing such improvements exceed the Proportionate Share.
 - (ii) The costs to widen from two (2) to three (3) lanes the eastbound portion of North Kendall Drive (SW 88th Street) from SW 158 Avenue to Old SW 162 Avenue shall be deemed to mitigate on-site impacts only and shall not be included in the calculation of the Proportionate Share spending limit. The costs of all other improvements to North Kendall Drive (SW 88 Street) shall be included in the calculation of the Proportionate Share spending limit.
 - (iii) The costs to widen from two (2) to three (3) lanes the eastbound portion of North Kendall Drive (SW 88th Street) from SW 158 Avenue to Old SE 162 Avenue shall be deemed to mitigate on-site impacts only and shall not be the subject of any application for credit as a contribution in lieu of impact fees. The Applicant, or its successors or assigns, may seek credit as a contribution in lieu of impact fees for costs expended to construct or to cause to be constructed all other improvements to North Kendall Drive (SW 88 Street).
- b. *Order of providing improvements.* The roadway improvements described in Exhibit 3 (revised 4/23/04) and Exhibit 5 shall be provided in sequential order as follows:
- (i) Improvements relating to the expansion of North Kendall Drive (SW 88 Street) from SW 150 Avenue to Old SW 162 Avenue as Old SW 162 Avenue is shown on Exhibit 3 (revised 4/23/04) and Exhibit 2 (revised 4/23/04) (the "North Kendall Drive Improvements"), in accordance with the following schedule:
 - (I) Design for the North Kendall Drive Improvements shall be commenced within thirty days after final approval of this Application (including expiration of all appeal periods and resolution of any appeals). Design shall be in accordance with

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applicable Florida Department of Transportation (FDOT) and Miami-Dade County standards.

- (II) Construction of the North Kendall Drive Improvements shall be bonded or secured by an appropriate instrument in a form acceptable to the Director of the Public Works Department within one hundred eighty (180) days after final approval of this Application (including expiration of all appeal periods and resolution of any appeals)
- (III) The North Kendall Drive Improvements shall be the subject of a binding executed contract to construct such improvements within two hundred seventy (270) days after final approval of this Application (including expiration of all appeal periods and resolution of any appeals).
- (IV) The North Kendall Drive Improvements shall be completed and open to traffic, as determined by the Director of the Department of Public Works, upon the earlier of the following: (A) twenty-five (25) months after final approval of this Application (including expiration of all appeal periods and resolution of any appeals), plus any additional period determined by the Director of the Public Works Department to be attributable to construction delays occurring despite the good faith efforts of the Applicant, owner and developer, or (B) application for the first certificate of use within the Property.
- (ii) Those other traffic improvements described in Exhibit 3 (revised 4/23/04) and the improvements described in Exhibit 5 as selected by the Director of the Department of Public Works (with review and comments by the Florida Department of Transportation [FDOT] and the South Florida Regional Planning Council [SFRPC] for those improvements involving state roadways). Construction of any improvement is subject to permitting by the appropriate governmental agencies. Any improvement in Exhibit 3 (revised 4/23/04) that is not approved by the appropriate agencies may be substituted with improvements in Exhibit 5, as selected by the Director of the Public Works Department.

FROM: "17. Prior to the issuance of the first certificate of occupancy for any portion of the project, have open to traffic or cause to have open to traffic all site access-related improvements as described in Exhibit 4. The responsibility for these site access-related improvements, which include traffic signals, if warranted, shall be borne by the Applicant. If the identified traffic signals are not warranted, the Miami-Dade County Department of Public Works may release the applicant from the signal improvement requirement. These site access-related improvement costs shall not be part of the Proportionate Share."

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TO: "17. Site access-related improvements are described in Exhibit 4 (revised 4/23/04). The responsibility for these site access-related improvements, which include traffic signals, if warranted, shall be borne by the Applicant. These site access-related improvement costs shall not be part of the Proportionate Share calculation and shall not be eligible for impact fee credits or contributions in lieu of fee. With the exception of site access related improvement on North Kendall Drive, timing of the construction of these improvements shall be established at the time of platting, as determined by the Director of the Public Works Department in consultation with the Director of the Department of Planning and Zoning, in order to appropriately ensure the provision of service and access to adjacent uses to the Project at the time of the issuance of a certificate of use for said adjacent uses. The improvements shall be secured through a bond or other appropriate instrument acceptable to the Director of the Public Works Department. The timing for the site access related improvements to North Kendall Drive shall be the same as provided in condition 16.

The applicant will be required to install signalized intersections at the following locations:

1. SW 162nd Avenue and SW 96th Street
2. SW 157th Avenue and SW 96th Street
3. SW 88th Street and Old SW 162nd Avenue
4. SW 88th Street and New SW 162nd Avenue

If the signals at the aforementioned locations are warranted at the time of platting, the applicant shall install the traffic signals before the first Certificate of Use (CU) is issued under applicable Plat or within 36 months of the final approval of this resolution, whichever comes first, except that the two signals on SW 88th Street shall be installed as a part of the Kendall Drive roadway improvements referenced in Condition 16. If the signals are not warranted at the time of platting, the applicant shall bond or secure the cost of providing the traffic signals by an appropriate instrument approved by the Public Works Director before the Plat is approved. If the Public Works Department, as a result of increased traffic demand, determines that the installation of any of the aforementioned signals is warranted and proceeds with said installation, the Developer shall reimburse the Public Works Department for such installations before the first Certificate of Use (CU) is issued under applicable Plat or within 36 months of the final approval of this resolution, whichever comes first. Reimbursement shall be equal to the actual installation cost, as adjusted for a percentage increase utilizing the Consumer Price Index published by the Bureau of Labor Statistics of the U. S. Department of Labor, using the U. S.

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City Average, All Urban Consumers, Not Seasonally Adjusted, compounded annually and based on the year of installation dollars.”

FROM: “18 Subject to credit and/or contributions in lieu of impact fees for roadway improvements constructed or caused pursuant to paragraph 16, contribute road impact fees pursuant to County ordinance. Coordinate efforts with Miami-Dade County to ensure maximum utilization of the project’s Road Impact Fees within the traffic impact area for this property by constructing or causing the construction of specific transportation infrastructure improvements in lieu of impact fee payments. Exhibit 5 shall constitute the basis for these efforts. However, other improvements constructed or caused to be constructed within the traffic impact areas by the Applicant may also be considered. Any transportation improvement contained in Exhibits 3 and 5 constructed or caused to be constructed by the Applicant notwithstanding whether it is considered in lieu of impact fee payments, shall be considered an improvement satisfying regional mitigation/Proportionate Share obligations.”

TO “18: Subject to credit and/or contributions in lieu of impact fees for roadway improvements constructed or caused pursuant to paragraph 16, contribute road impact fees pursuant to County ordinance. Coordinate efforts with Miami-Dade County to ensure maximum utilization of the project’s Road Impact Fees within the traffic impact area for this property by constructing or causing the construction of specific transportation infrastructure improvements in lieu of impact fee payments. Exhibit 5 shall constitute the basis for these efforts. However, other improvements constructed or caused to be constructed within the traffic impact areas by the Applicant may also be considered. Any transportation improvement contained in Exhibits 3 (revised 4/23/04) and 5 constructed or caused to be constructed by the Applicant notwithstanding whether it is considered in lieu of impact fee payments, shall be considered an improvement satisfying regional mitigation/Proportionate Share obligations.”

FROM: “29. For the purposes of concurrency review, and based on the analysis contained in the ADA together with review and further study by Miami-Dade County, it is hereby found that throughout the buildout period (December 31, 2008) sufficient infrastructure capacities will be available to service this project. All subsequent development orders or permits pursuant to this development order, are hereby found to meet concurrency requirements set forth in Comprehensive Development Master Plan ordinance No. 89-66 and Chapter 33G of the Miami-Dade County Code and A.O. 4-85 (concurrency regulations) as amended from time to time and to be consistent with local development regulations so long as the Developer is developing in compliance with the terms and conditions of this Development Order. Furthermore, Miami-Dade County shall not issue any subsequent development orders as defined in

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§33G-3(2), Miami-Dade County Code, which would degrade such level of service below minimum acceptable levels as may be applicable in the Comprehensive Development Master Plan and the above ordinance, as may be amended from time to time. In the event that: (a) the actual impacts of this project and other committed development are greater than those projected in the ADA, and (b) the issuance of further local development order (as defined in Chapter 33G, Miami-Dade County Code) authorizing further construction or development pursuant to this DRI Development Order would violate the aforesaid concurrency regulations, the following shall occur: Such further local development order shall not be issued unless and until the Applicant shall make provisions for necessary services and facilities to meet the County's concurrency requirements as determined by the County. The issuance of development orders which have been found to be vested pursuant to Chapter 2-114, 33-315 or 33-316 of the Code of Miami-Dade County, as adopted pursuant to §163.3167(8) Florida Statutes, shall not be considered for purposes of determining concurrency as to this project, nor shall this Development Order be construed or applied to prohibit the issuance of said Development orders under any circumstances. However, modifications or changes to this Development Order regardless of whether such change or modification is found to constitute a substantial deviation, may require this development to comply with those concurrency requirements or local development regulations in effect at the time such modification or change occurs including but not limited to the recognition of trips previously vested which are permitted or complete."

TO: "29. For the purposes of Concurrency Review, and based on the analysis contained in the ADA together with review and further study by Miami-Dade County, it is hereby found that throughout the buildout period (December 31, 2011) sufficient infrastructure capacities will be available to service this project. All subsequent development orders or permits pursuant to this development order, are hereby found to meet concurrency requirements set forth in Comprehensive Development Master Plan ordinance No. 89-66 and Chapter 33G of the Miami-Dade County Code and A.O. 4-85 (concurrency regulations) as amended from time to time and to be consistent with local development regulations so long as the Developer is developing in compliance with the terms and conditions of this Development Order. Furthermore, Miami-Dade County shall not issue any subsequent development orders as defined in §33G-3(2), Miami-Dade County Code, which would degrade such level of service below minimum acceptable levels as may be applicable in the Comprehensive Development Master Plan and the above ordinance, as may be amended from time to time. In the event that: (a) the actual impacts of this project and other committed development are greater than those projected in the ADA, and (b) the issuance of further local development orders (as defined

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in Chapter 33G, Miami-Dade County Code) authorizing further construction or development pursuant to this DRI Development Order would violate the aforesaid concurrency regulations, the following shall occur: Such further local development order shall not be issued unless and until the Applicant shall make provisions for necessary services and facilities to meet the County's concurrency requirements as determined by the County. The issuance of development orders which have been found to be vested pursuant to Chapter 2-114, 33-315 or 33-316 of the Code of Miami-Dade County, as adopted pursuant to §163.3167(8) Florida Statutes, shall not be considered for purposes of determining concurrency as to this project, nor shall this Development Order be construed or applied to prohibit the issuance of said Development orders under any circumstances. However, modifications or changes to this Development Order regardless of whether such change or modification is found to constitute a substantial deviation, may require this development to comply with those concurrency requirements or local development regulations in effect at the time such modification or change occurs including but not limited to the recognition of trips previously vested which are permitted or complete."

FROM: "33. December 31, 2008 is hereby established as the build-out date for this project and is the date until which the local government of jurisdiction agrees that the Kendall Town Center DRI shall not be subject to down-zoning, unit density reduction, or intensity reduction, unless a local government of jurisdiction can demonstrate that substantial changes made by the developer in the facts or circumstances underlying the approval of the DRI development order have occurred, or that the DRI development order was based on substantially inaccurate information provided the Applicant, or that the change is clearly essential to the public health, safety, or welfare."

TO: "33. December 31, 2011 is hereby established as the build-out date for this project and is the date until which the local government or jurisdiction agrees that the Kendall Town Center DRI shall not be subject to down-zoning, unit density reduction, or intensity reduction, unless a local government or jurisdiction can demonstrate that substantial changes made by the developer in the facts or circumstances underlying the approval of the DRI development order have occurred, or that the DRI development order was based on substantially inaccurate information provided the Applicant, or that the change is clearly essential to the public health, safety or welfare."

FROM: "34. The deadline for commencement of physical development shall be two (2) years from the effective date of the development order. For purposes of this paragraph, physical development means development as defined in §380.04, F. S. The termination date for completing physical development shall be

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December 31, 2008. This termination date may only be modified in accordance with §380.06(19)[c], F. S.”

TO: “34. The deadline for commencement of physical development shall be two (2) years from the effective date of the development order. For purposes of this paragraph, physical development means development as defined in §380.04, F. S. The termination date for completing physical development shall be December 31, 2011. This termination date may only be modified in accordance with §380.06(19)[c], F. S.”

(4) MODIFICATION of Paragraphs #1 and #2 of a Declaration of Restrictions recorded in Official Record Book 19778 at Pages 2423 through 2438, and reading as follows:

FROM: “1. Site Plan: That said Property shall be developed substantially in accordance with the plans submitted entitled ‘The Kendall Town Center,’ as prepared by D’Agostino Izzo Quirk, Architects, Inc., dated revised December 13, 2000; ‘Lake Plan The Kendall Town Center,’ dated November 15, 2000; ‘Sketch of Specific Purpose Survey,’ dated November 10, 2000 and ‘Sketch of Boundary Survey,’ dated November 1, 2000. The last three were all prepared by Jack Mueller & Associates, Inc. (The Plans) Said plans being on file with the Miami-Dade County Department of Planning and Zoning and by deference made a part of this agreement. Except as modified to provide the required setbacks along the official right-of-way lines of proposed S.W. 162 Avenue, S.W. 159 Avenue, S.W. 157 Avenue and S.W. 96 Street and to provide the screening by continuous planting and/or 3’ high wall with a 7’ landscape strip of all the parking lots adjacent to a right-of-way or private street. In recognition of the fact that a significant amount of design detail is not reflected on the Plans and in order to ensure quality development and design and construction throughout the Property, the Property shall be developed substantially in accordance with the ‘Kendall Town Center Design Guidelines’. Determinations of substantial compliance shall follow the guidelines contained in the memorandum entitled ‘Revised Substantial Compliance Guidelines’ from Rafael Rodon, P. E., Director of Building and Zoning Department, dated June 15, 1987, consisting of 2 pages (attached as Exhibit C).”

TO: “1. Site Plan: The Property shall be developed substantially in accordance with that plan submitted entitled ‘The Kendall Town Center,’ as prepared by D’Agostino Izzo Quirk, Architects, Inc., dated December 2, 2003 and consisting of seventeen (17) sheets, with Landscape Plans prepared by D’Agostino Izzo Quirk, Architects, Inc., dated November 26, 2003, consisting of five (5) sheets and a Landscape Plan for ‘West Kendall Baptist Hospital,’ as prepared by Rosenberg Gardner Design, dated November 10, 2003, consisting of one (1) sheet. In recognition of the fact that a significant amount of design detail is not reflected on the Plans and in order to ensure quality development and design

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and construction throughout the Property, the Property shall be developed substantially in accordance with the 'Kendall Town Center Design Guidelines.'

FROM: "2. Senior Assisted Living Facility/Hotel: The only residences allowed to be developed and occupied within the Property shall be the hotel and senior assisted living facility (home for the aged). The proposed senior assisted living facility shall be limited to housing for older/elderly persons, as that term may be construed pursuant to Section 202 of the Housing Act of 1959 (12 USC 1701) and Chapter 11A of the Miami-Dade County Code."

TO: "2. Senior Assisted Living Facility or alternatively, a Senior Residential Building/Hotel: The only residences allowed to be developed and occupied within the Property shall be the home for the aged (Senior Assisted Living Facility) or, alternatively, senior residential building, and a hotel. The proposed senior assisted living facility or alternatively the senior residential building shall be limited to housing for older/elderly persons, as that term may be construed pursuant to Section 202 of the Housing Act of 1959 (12 USC 1701) and Chapter 11A of the Miami-Dade County Code."

(5) MODIFICATION of Conditions #2 & #6 of Resolution Z-7-01, and reading as follows:

FROM: "2. That in the approval of the plan, the same be substantially in accordance with that plan submitted entitled 'The Kendall Town Center,' as prepared by D'Agostino Izzo Quirk, Architects, Inc., dated revised December 13, 2000; 'Lake Plan The Kendall Town Center,' dated November 15, 2000; 'Sketch of Specific Purpose Survey,' dated November 10, 2000 and a "Sketch of Boundary Survey,' dated November 1, 2000. The last three were all prepared by Jack Mueller & Associates, Inc. Except as herein modified to provide the required setbacks along the official right-of-way lines of proposed S.W. 162 Avenue, S.W. 159 Avenue, S.W. 157 Avenue and S.W. 96 Street and to provide the screening by continuous planting and/or 3' high wall with a 7' landscape strip of all the parking lots adjacent to a right-of-way or private street. In addition, any future plan modifications must be subject to the criteria set forth in the substantial compliance guidelines utilized by the Department of Planning and Zoning adopted in 1987 and must conform with the conditions of the proffered covenant."

TO: "2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'The Kendall Town Center,' as prepared by D'Agostino Izzo Quirk, Architects, Inc., consisting of twenty-three (23) sheets as follows: Overall Site Plan (A-1) dated 3/17/04; Zone A Plan (A2.0) dated 1/28/04; Zone B1 Plan (A3.0) dated 2/24/04; Zone B2 Plans (A4.0 and 4.1) dated 2/24/04; Zone C Plan (A5.0) dated 1/28/04; Zone D Plans (A6.0, 6.1, 6.2, 6.3) dated 1/28/04; Transit Hub (A7.0) dated 2/24/04; Roadway

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Sections (A8.0) dated 2/24/04; Pedestrian Paths (A9.0), Bicycle Routes (A10.0) Fire Truck Access (A11.0) and Service Areas (A12.0) dated 3/17/04; with Landscape Plans as prepared by D'Agostino Izzo Quirk Architects, Inc., consisting of six (6) sheets including Overall Plan (L1) dated 2/24/04; zone A (L2), Zone B1 (L3), Zone B2 (L4), and Zone C (L5) dated 12/16/03; and Zone D (L6) dated 2/24/04."

FROM: "6. That complete lake excavation plans prepared and sealed by a Florida-licensed surveyor and/or professional engineer be submitted to and meet with the approval of the Department of Planning and Zoning Director upon the submittal of an application for a lake excavation permit; said plans shall be in substantial accordance with that submitted for the hearing entitled 'Lake Plan The Kendall Town Center,' dated November 15, 2000,' prepared by Jack Mueller & Associates, Inc."

TO: "6. That complete lake excavation plans prepared and sealed by a Florida-licensed surveyor and/or professional engineer be submitted to and meet with the approval of the Department of Planning and Zoning Director upon the submittal of an application for a lake excavation permit; said plans shall be in substantial accordance with that submitted for the hearing entitled 'Pond Plan--The Kendall Town Center,' dated March 29, 2004, and prepared by Sain Associates."

The purpose of the above requests is to allow the applicant to simultaneously increase and decrease approved uses, add new uses, and extend the build-out date of a previously approved development of regional impact; submit revised site plans and conceptual plans that show a new hospital, a reconfiguration of the lakes, a reduction of the amount of retail area, an increase in the theatre size, a reduction in the number of hotel rooms, and a senior assisted living facility or, alternatively, a senior residential building; and seek associated approvals for outdoor dining and valet parking operations within a mixed-use development project and to ensure the timely construction of the widening of a portion of North Kendall Drive.

- (6) UNUSUAL USE to permit outdoor dining and table service in connection with restaurants.
- (7) SPECIAL EXCEPTION to permit residential uses in a BU-2 zone, to wit: a 125-unit senior residential building.
- (8) The applicant is requesting to permit commercial (valet) parking in an area designated as a parking area in connection with a designated use (not permitted).

Upon a demonstration that the applicable standards have been satisfied, approval of requests #1 through #5 may be considered under §33-311(A)(7) or §33-311(A)(17) (Modification or Elimination of Conditions or Covenants After Public Hearing) and approval of request #8 may be considered under §33-311(A)(16) (Alternative Site Development Option for the BU Zoning District) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-use Variance).

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HEARING NO. 04-5-CZ11-5 (03-369)

5-55-39
Council Area 11
Comm. Dist. 11

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The aforementioned plans and Exhibits are on file and may be examined in the Zoning Department. Plans may be modified at public hearing.

SUBJECT PROPERTY: Begin at a point on the north line of Section 5, Township 55 South, Range 39 East, and the north-south $\frac{1}{2}$ section line of said Section 5, as determined in Dade County Circuit Court Case No. 86-24085 CA14; thence N87°42'56"E along the north line of said Section 5 for 2,658.21' to a point; thence S0°3'26"W 2,643.03' to the centerline of theoretical S.W. 96th Street; thence S87°46'20"W along said centerline for 2,671.23' to the north-south $\frac{1}{2}$ section line of said Section 5; thence N0°20'32"E along said $\frac{1}{2}$ section line for 2,640.94' to the Point of beginning. LESS: the north 55' thereof for road right-of-way.

LOCATION: The Southwest corner of S.W. 88 Street (N. Kendall Drive) & S.W. 158 Court, Miami-Dade County, Florida.

SIZE OF PROPERTY: 158.12 Acres

PRESENT ZONING: BU-2 (Business – Special)
BU-3 (Business – Liberal)