



5-1-2009 Version # 1



**COMMUNITY ZONING APPEALS BOARD 15**  
**SOUTH DADE GOVERNMENT CENTER-ROOM 203 (OLD BUILDING)**  
**10710 SW 211 Street, Miami**  
**Tuesday, May 26, 2009 at 7:00 p.m.**

**CURRENT**

1. 09-5-CZ15-1 SW 110TH AVENUE, LLC 07-411 07-56-40 N



# Official Zoning Agenda

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## COMMUNITY ZONING APPEALS BOARD

COMMUNITY ZONING APPEALS BOARD - AREA 15

MEETING OF TUESDAY, MAY 26, 2009

SOUTH DADE GOVERNMENT CENTER – ROOM 203 (OLD BUILDING)

10710 SW 211 STREET, MIAMI, FLORIDA

NOTICE: THE FOLLOWING HEARINGS ARE SCHEDULED FOR 6:00 P.M., AND

ALL PARTIES SHOULD BE PRESENT AT THAT TIME

ANY PERSON MAKING IMPERTINENT OR SLANDEROUS REMARKS OR WHO BECOMES BOISTEROUS WHILE ADDRESSING THE COMMUNITY ZONING APPEALS BOARD SHALL BE BARRED FROM FURTHER AUDIENCE BEFORE THE COMMUNITY ZONING APPEALS BOARD BY THE PRESIDING OFFICER, UNLESS PERMISSION TO CONTINUE OR AGAIN ADDRESS THE BOARD BE GRANTED BY THE MAJORITY VOTE OF THE BOARD MEMBERS PRESENT.

NO CLAPPING, APPLAUDING, HECKLING OR VERBAL OUTBURSTS IN SUPPORT OR OPPOSITION TO A SPEAKER OR HIS OR HER REMARKS SHALL BE PERMITTED. NO SIGNS OR PLACARDS SHALL BE ALLOWED IN THE MEETING ROOM. PERSONS EXITING THE MEETING ROOM SHALL DO SO QUIETLY.

THE USE OF CELL PHONES IN THE MEETING ROOM IS NOT PERMITTED. RINGERS MUST BE SET TO SILENT MODE TO AVOID DISRUPTION OF PROCEEDINGS. INDIVIDUALS, INCLUDING THOSE ON THE DAIS, MUST EXIT THE MEETING ROOM TO ANSWER INCOMING CELL PHONE CALLS. COUNTY EMPLOYEES MAY NOT USE CELL PHONE CAMERAS OR TAKE DIGITAL PICTURES FROM THEIR POSITIONS ON THE DAIS.

THE NUMBER OF FILED PROTESTS AND WAIVERS ON EACH APPLICATION WILL BE READ INTO THE RECORD AT THE TIME OF HEARING AS EACH APPLICATION IS READ.

THOSE ITEMS NOT HEARD PRIOR TO THE ENDING TIME FOR THIS MEETING, WILL BE DEFERRED TO THE NEXT AVAILABLE ZONING HEARING MEETING DATE FOR THIS BOARD.

SWEARING IN OF WITNESSES

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Circuit Court, where available, must ordinarily be filed within 30 days of the transmittal of the pertinent CZAB resolution to the Clerk of the BCC. Appeals to the BCC, where available, must be filed with the Zoning Hearing Section of the Department of Planning and Zoning (DPZ) within 14 days after the DPZ has posted a short, concise statement (such as that furnished above for the listed items) that sets forth the action that was taken by the CZAB. (The DPZ's posting will be made on a bulletin board located in the office of the DPZ.) All other applicable requirements imposed by rule, ordinance, or other law must also be observed when filing or otherwise pursuing any challenge to a CZAB decision.

Further information regarding options and methods for challenging a CZAB decision may be obtained from sources that include, but are not limited to, the following: Sections 33-312, 33-313, 33-314, 33-316, and 33-317 of the Code of Metropolitan Dade County, Florida; the Florida Rules of Appellate Procedure; and the Municode website ([www.municode.com](http://www.municode.com)). Miami-Dade County does not provide legal advice regarding potential avenues and methods for appealing or otherwise challenging CZAB decisions; however, a licensed attorney may be able to provide assistance and legal advice regarding any potential challenge or appeal.

**1. SW 110TH AVENUE, LLC**  
**(Applicant)**

**09-5-CZ15-1 (07-411)**  
**Area 15/District 9**  
**Hearing Date: 5/26/09**

Property Owner (if different from applicant) **Same**

Is there an option to purchase  /lease  the property predicated on the approval of the zoning request? Yes  No

Disclosure of interest form attached? Yes  No

**Previous Zoning Hearings on the Property:**

<b><u>Year</u></b>	<b><u>Applicant</u></b>	<b><u>Request</u></b>	<b><u>Board</u></b>	<b><u>Decision</u></b>
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None

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING  
RECOMMENDATION TO COMMUNITY COUNCIL No. 15**

**APPLICANT:** 110<sup>th</sup> Avenue L.L.C.

**PH:** Z07-411 (09-5-CZ15-1)

**SECTION:** 07-56-40

**DATE:** May 26, 2009

**COMMISSION DISTRICT:** 9

**ITEM NO.:** 1

**A. INTRODUCTION:**

o **REQUESTS:**

- (1) RU-2 to RU-4L
- (2) Applicant is requesting to permit multi-family apartment buildings setback a minimum of 8'11" (15' required) from the interior side (north and south) property lines.
- (3) Applicant is requesting to permit a floor area ratio (F.A.R.) of .541 (.50 allowed).
- (4) Applicant is requesting to permit a minimum spacing of 25'10" (30' required) between buildings.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 through #3 may be considered under §33-311(A)(15) (Alternative Site Development Option for Multiple-Family Use) and requests #2 through #4 may be considered 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 Department of Planning and Zoning entitled "16-Unit Residential Development," as prepared by Tony Fernandez, Architect, Sheets "A1" and "L1", dated stamped received 1/22/08 and Sheets "A2" and "A3," dated stamped received 12/18/07 and consisting of a total of 4 sheets. Plans may be modified at public hearing.

o **SUMMARY OF REQUESTS:**

The first request will allow the applicant to change the zoning on the subject property from RU-2, Two Family Residential District, to RU-4L, Limited Apartment House District. Additional requests will permit four apartment buildings with less interior side setbacks than required from the north and south property lines, reduced spacing between the buildings and a higher F.A.R. than that allowed by the Zoning Code.

o **LOCATION:** Lying west of S.W. 110 Avenue, approximately 170' north of S.W. 216 Street, Miami-Dade County, Florida.

o **SIZE:** 160.35' X 208'

**B. ZONING HEARINGS HISTORY:** None.

**C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):**

1. The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Medium Density Residential**. This category allows densities from 13 to 25 dwelling units per gross acre. The type of housing structures typically permitted in this category include townhouses and low-rise and medium-rise apartments.
2. **Policy LU-4A:** When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale or architectural elements, landscaping, hour of operation, buffering, and safety, as applicable.
3. **Uses and Zoning Not Specifically Depicted on the LUP Map.**  
Existing lawful residential and non-residential uses and zoning are not specifically depicted on the LUP map. They are however reflected in the average Plan density depicted. All such lawful uses and zoning are deemed to be consistent with this Plan as provided in the section of this chapter titled "Concepts and Limitations of the Land Use Plan Map." The limitations referenced in this paragraph pertain to existing zoning and uses. All approval of new zoning must be consistent with the provisions of the specific category in which the subject parcel exists, including the provisions for density averaging and definition of gross density.

**D. NEIGHBORHOOD CHARACTERISTICS:**

ZONING

LAND USE PLAN DESIGNATION

**Subject Property:**

RU-2; Vacant

Medium Density Residential, 13 to 25 du

**Surrounding Properties:**

**NORTH:** RU-4L; Vacant

Medium Density Residential, 13 to 25 du

**SOUTH:** RU-2; Vacant

Medium Density Residential, 13 to 25 du

**EAST:** RU-1; Single-family residence,  
Church construction site

Medium Density Residential, 13 to 25 du

**WEST:** BU-1A; Vacant

Business and Office

The subject property is a 160.35' x 208' (0.76-acre) parcel of land situated west of S.W. 110 Avenue, approximately 170' north of S.W. 216 Street. A single-family residence is located across SW 110 Avenue to the east of the subject property along with a church

construction site. To the north, south and west are vacant lots. However, the property to the west abuts a gas station.

**E. SITE AND BUILDINGS:**

<b>Site Plan Review:</b>	(Site plans submitted.)
Scale/Utilization of Site:	<b>Unacceptable*</b>
Location of Buildings:	<b>Unacceptable</b>
Compatibility:	<b>Unacceptable</b>
Landscape Treatment:	<b>Acceptable</b>
Open Space:	<b>Unacceptable</b>
Buffering:	<b>Acceptable</b>
Access:	<b>Acceptable</b>
Parking Layout/Circulation:	<b>Unacceptable</b>
Visibility/Visual Screening:	<b>Acceptable</b>
Energy Considerations:	<b>N/A</b>
Roof Installations:	<b>N/A</b>

\*Subject to the covenant.

**F. PERTINENT REQUIREMENTS/STANDARDS:**

In evaluating an application for a **district boundary change, Section 33-311** provides that the Board take into consideration, among other factors, the extent to which:

1. The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;
2. The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;
4. The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;
5. The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;
6. The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction,

and if the development is or will be accessible by public or private roads, streets or highways.

**Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations.**

Upon appeal or direct application in specific cases, the Board shall hear and grant applications for **non-use variances** from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.

**Section 33-311(A)(4)(c) Alternative Non-Use Variance Standard.**

Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a public hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

**Section 33-311(A)(15) Alternative Site Development Option for Three-unit or Four-unit Apartment House, Multiple-Family Apartment House Use and Multiple-Family Housing Developments.** This subsection provides for the establishment of an alternative site development option, after public hearing, for three-unit or four-unit apartment house, multiple-family apartment house use and **multiple-family housing developments**, when such uses are permitted by the applicable district regulations, in the RU-3, RU-3M, **RU-4L**, RU-4M, RU-4, RU-4A, and RU-5 zoning districts, in accordance with the standards established herein. In considering any application for approval hereunder, the Community Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

**(c) Setbacks** for a three-unit or four-unit apartment house, multiple-family apartment house use or multiple-family housing development shall be approved after public hearing upon demonstration of the following:

1. the character and design of the proposed alternative development will not result in a material diminution of the privacy of adjoining property; and
2. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity, taking into account existing structures and open space; and

3. the proposed alternative development will not reduce the amount of common open space on the parcel proposed for alternative development by less than 20% of the open space percentage required by the applicable district regulations; and
4. any area of shadow cast by the proposed alternative development upon an adjoining parcel of land during daylight hours will be no larger than would be cast by a structure(s) constructed pursuant to the underlying district regulations, or will have no more than a *de minimus* impact on the use and enjoyment of the adjoining parcel of land; and
5. the proposed alternative development will not involve the installation or operation of any mechanical equipment closer to the adjoining parcel of land than any other portion of the proposed alternative development, unless such equipment is located within an enclosed, soundproofing structure and if located on the roof of such an alternative development shall be screened from ground view and from view at the level in which the installations are located, and shall be designed as an integral part of and harmonious with the building design; and
6. the proposed alternative development will not involve any outdoor lighting fixture that casts light on an adjoining parcel of land at an intensity greater than permitted by this code; and
7. the architectural design, scale, mass, and building materials of any proposed structure(s) or addition(s) are aesthetically harmonious with that of other existing or proposed structure(s) or building(s) on the parcel proposed for alternative development; and
8. the wall(s) of any building within a setback area required by the applicable district regulations shall be improved with architectural details and treatments that avoid the appearance of a "blank wall"; and
9. the proposed alternative development will not result in the destruction or removal of mature trees within a setback required by the underlying district regulations, with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the same side of the lot, parcel or tract; and
10. any windows or doors in any building(s) to be located within an interior side setback required by the applicable district regulations shall be designed and located so that they are not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; and
11. total lot coverage shall not be increased by more than twenty percent (20%) of the lot coverage permitted by the applicable district regulations; and
12. the area within an interior side setback required by the applicable district regulations located behind the front building line will not be used for off-street parking except:

- a. in any parking garage where the garage door or entrance(s) or exit(s) is located so that it is not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; or
  - b. if the off-street parking is buffered from property that abuts the setback area by a solid wall at least six (6) feet in height along the area of pavement and parking, with either:
    - i. articulation to avoid the appearance of a "blank wall" when viewed from the adjoining property, or
    - ii. landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement regarding its maintenance in recordable form from the adjoining landowner; and
13. any structure(s) within an interior side setback required by the applicable district regulations:
- a. is screened from adjoining property by landscape material of sufficient size and composition to obscure at least sixty percent (60%) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure(s) at time of planting; or
  - b. is screened from adjoining property by an opaque fence or wall at least six (6) feet in height that meets the standards set forth in paragraph (f) herein; and
14. any proposed alternative development not attached to a principal building(s), except canopy carports, is located behind the front building line; and
15. any structure(s) not attached to a principal building(s) and proposed to be located within a setback required by the applicable district regulations shall be separated from any other structure(s) by at least five (5) feet; and
16. when a principal building(s) is proposed to be located within a setback required by the applicable district regulations, any enclosed portion of the upper floor of such building shall not extend beyond the first floor of such building within the setback; and
17. the eighteen (18) inch distance between any swimming pool and any wall or enclosure required by this code is maintained; and
18. safe sight distance triangles shall be maintained as required by this code; and
19. the parcel proposed for alternative development will continue to provide on-site parking as required by this code; and

20. the parcel proposed for alternative development shall satisfy applicable district regulations or, if applicable, prior zoning actions for similar uses issued prior to the effective date of this ordinance (My 16, 2003), regulating setbacks, lot area and frontage, lot coverage, floor area ratio, common open space, private open space, structure height and densities; and
  21. the proposed development will meet the following:
    - a. interior side setbacks shall not be reduced by more than twenty-five percent (25%) of the setbacks required by the applicable district regulations, except that no such alternative interior side setback shall be permitted from an interior side property line adjoining lands approved or developed for single-family or duplex residential use or designated for Low Density, Agriculture or Open Land on the Land Use Plan map of the Comprehensive Development Master Plan;
    - b. side street setbacks shall not be reduced by more than twenty-five percent (25%) of the setbacks required by the applicable district regulations;
    - c. interior side setbacks for active recreational uses shall not be reduced by more than 25% of the setbacks required by the applicable district regulations, except that no such alternative interior side setback shall be permitted from any interior side property line adjoining lands approved or developed for single-family or duplex residential use or designated for Low Density, Agriculture or Open Land on the Land Use Plan map of the Comprehensive Development Master Plan;
    - d. front setbacks shall not be reduced by more than twenty-five percent (25%) of the setbacks required by the applicable district regulations;
    - e. rear setbacks shall not be reduced by more than twenty-five percent (25%) required by the applicable district regulations, except that no such alternative rear setback shall be permitted from a rear property line adjoining lands developed for single-family or duplex residential use or designated for Low Density, Agriculture or Open Land on the Land Use Plan map of the CDMP.
    - f. setbacks between principal building(s) shall not be reduced by more than twenty-five percent (25%) of the setback required by the applicable district regulations.
- (d) A lot coverage or floor area ratio for a three-unit or four-unit apartment house use, multiple-family apartment house use or multiple-family housing development shall be approved upon demonstration of the following:**
- (1) total lot coverage or floor area ratio shall not be increased by more than twenty percent (20%) of the lot coverage and floor area ratio permitted by the applicable district regulations; and

- (2) the proposed alternative development will not result in the destruction or removal of mature trees on the lot with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the lot; and
- (3) the increase in lot coverage or floor area ratio will not result in principal building(s) with an architectural design, scale, mass or building materials that are not aesthetically harmonious with that of other existing or proposed structures in the immediate vicinity; and
- (4) the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity.

**(g) Notwithstanding the foregoing,** no proposed alternative development shall be approved upon demonstration that the proposed alternative development:

1. will result in a significant diminution of the value of property in the immediate vicinity; or
2. will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or
3. will result in a materially greater adverse impact on public services and facilities than the impact that would result from development of the same parcel pursuant to the underlying district regulations; or
4. will combine severable use rights obtained pursuant to Chapter 33B of this code in conjunction with the approval sought hereunder so as to exceed the limitations imposed by section 33B-45 of this code.

**(h) Proposed alternative development** under this subsection shall provide additional amenities or buffering to mitigate the impacts of the development as approved, where the amenities or buffering expressly required by this subsection are insufficient to mitigate the impacts of the development. The purpose of the amenities or buffering elements shall be to preserve and protect the quality of life of the residents of the approved development and the immediate vicinity in a manner comparable to that ensured by the underlying district regulations. Examples of such amenities include but are not limited to: active or passive recreational facilities, common open space, additional trees or landscaping, convenient covered bus stops or pick-up areas for transportation services, sidewalks (including improvements, linkages, or additional width), bicycle paths, buffer areas or berms, street furniture, undergrounding of utility lines, and decorative street lighting. In determining which amenities or buffering elements are appropriate for a proposed development, the following shall be considered:

- A. the types of needs of the residents of the parcel proposed for development and the immediate vicinity that would likely be occasioned by the development, including

but not limited to recreational, open space, transportation, aesthetic amenities, and buffering from adverse impacts; and

- B. the proportionality between the impacts on residents of the proposed alternative development and the immediate vicinity and the amenities or buffering required. For example, a reduction in lot area for numerous lots may warrant the provision of additional common open space. A reduction in a particular lot's interior side setback may warrant the provision of additional landscaping.

**G. NEIGHBORHOOD SERVICES:**

DERM	<b>No objection*</b>
Public Works	<b>No objection*</b>
Parks	<b>No comment</b>
MDT	<b>No comment</b>
Fire Rescue	<b>No objection</b>
Police	<b>No objection</b>
Schools	<b>Objects/9 students</b>

\* Subject to conditions indicated in their memoranda.

**H. ANALYSIS:**

The subject property is located west of S.W. 110 Avenue, approximately 170' north of S.W. 216 Street. The applicant is requesting a district boundary change from RU-2, Two Family Residential District, to RU-4L, Limited Apartment House District, in order to provide additional housing for the community (request #1). The applicant intends to develop the 0.765 net acre subject property with 16 residential units to be housed in a complex of four (4) two-story buildings as reflected on the plans submitted with this application. In addition, the applicant requests to permit multi-family apartment buildings setback a minimum of 8'11" from the interior side (north and south) property lines (request #2), to permit a floor area ratio (F.A.R.) of .541 (request #3) and to permit a minimum spacing of 25'10" between buildings. The submitted plans depict the aforementioned residential development with the four buildings arranged in pairs and arrayed from the entrance of the proposed development on SW 110 Avenue west. The site features a concrete walkway surrounding the buildings which connects to two small parcels of land sited between both buildings. The applicant has also provided buffering around the site in the form of a mix of Gumbo Limbo and Live Oak trees, which are also interspersed throughout the site along with Alexander Palms alongside the buildings and tot lots. The plans also depict a Ficus hedge along the rear (west) property line. Staff notes that the applicant has voluntarily proffered a covenant restricting the development of the site to the proposed 16-unit residential development and the submitted plans. The site is located approximately two (2) miles east of and within the Urban Development Boundary (UDB). Single-family residences, some commercial activity, and vacant land characterize the surrounding area.

The Department of Environmental Resources Management (**DERM**) has **no objections** to this application and has indicated that this application meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County. Further, the applicant will have to comply with all DERM requirements as set forth in their memorandum pertaining to this application. The **Public Works Department** has **no objections** to this application. This

property requires platting, and road dedications and improvements will be accomplished through the recording of a plat. This application will generate an additional **13 pm** daily peak hour **vehicle trips** on area roadways but will not change the Level of Service (LOS) on said roadways which are currently operating at LOS "B" and "C". Their memorandum further indicates that the application meets the traffic concurrency criteria for an Initial Development Order. The Miami-Dade Fire Rescue Department (**MDFR**) has **no objections** to this application and their memorandum indicates that the estimated average travel response time is **5:22** minutes. Miami-Dade County Public Schools (**MDCPS**) **objects** to this application and has indicated that the proposed zoning will bring an additional **9 students** into the area's public schools. They indicate that Miami Southridge Senior High School is the school that will be impacted by this development, which is currently operating at 121% of FISH (Florida Inventory of School Houses) % utilization. The School District is requesting that the application be **denied or deferred** until such time as the applicant is able to address the impact of the proposed residential development on public schools in the area.

Approval of the application will allow the applicant to provide additional housing for the community. The Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) designates this property for **Medium Density Residential** use which permits a density range of 13 to 25 dwelling units per gross acre, for a minimum of 9 to a maximum of 19 residential units on the subject property. The requested RU-4L zoning would allow the applicant to develop the site with a density of up to 23 dwelling units per acre, yielding a maximum of 19 residential units on this 0.765-acre site. The applicant has proffered a covenant limiting the development of the site to the submitted plans with 16 townhome units. As such, the proposed RU-4L zoning and 16 residential units is **consistent** with the numerical density threshold of LUP map designation of the CDMP.

Although staff is inclined to support the proposed zone change and the development of the site with a multiple family apartment development, **Policy LU-4A** indicates that when evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, **scale or architectural elements**, landscaping, hour of operation, buffering, and safety, as applicable. As such, when considering said factors, staff opines that the applicant is able to redesign the proposed development by eliminating 2 of the proposed 16 units in order to alleviate the setback, floor area ratio (F.A.R.), and spacing variances and comply with the RU-4L development regulations. Staff opines that the approval of the development with reduced setbacks and spacing between the buildings, as well as an increased F.A.R, will have a negative visual impact on the surrounding community. As such, staff opines that the development as proposed in the submitted plans is **incompatible** with the surrounding area and **inconsistent** with Policy LU-4A of the interpretative text of the CDMP.

When considering district boundary changes, the Board shall hear and either grant or deny applications by taking into consideration, among other things, if the proposed development conforms to the CDMP for Miami-Dade County. As previously mentioned, the proposed development, is numerically **consistent** with the density threshold of the LUP Map designation of the CDMP. Further, staff acknowledges that the approval of this application will not have an unfavorable impact on the water, sewer, solid waste disposal, or other public services and will not have an unfavorable impact on the environment as indicated by the memorandum submitted by DERM. Additionally, the proposed development does

not unduly burden or affect public transportation facilities as indicated in the Public Works Department's memorandum submitted for this application. Although this application will generate an additional 13 pm daily peak hour vehicle trips, their memorandum indicates that the existing roadways' LOS will not be exceeded.

Staff acknowledges that the approval of the requested district boundary change from RU-2, Two Family Residential District, to RU-4L, Limited Apartment House District, will address the housing needs in this area of Miami-Dade County. Moreover, staff acknowledges that the property located to the north of the subject site was granted approval of a zone change from RU-2 to RU-4L as well as approval of a request for relief of interior setback requirements for a proposed 51 unit multi-family development, pursuant to Resolution No. CZAB15-6-06. However, staff notes that the property to the north is approximately 1.5 acres larger than the subject site and consists of 2.25 acres. In addition, the layout of the multi-family residential development to the north, approved in 2006, features a staggered building arrangement which allows for additional open space area. It should also be noted that the multi-family development approved to the north of the subject site was void of any building spacing or F.A.R. variance requests. However, notwithstanding the applicant's proffer of a covenant limiting the development of the site to 16 residential units and to the submitted plans, as previously mentioned, staff opines that the development as proposed in the submitted plans is **incompatible** with the surrounding area and **inconsistent** with **Policy LU-4A** of the interpretative text of the CDMP. As such, staff opines that the request to change the zoning to RU-4L as illustrated on the submitted plans with non-conforming setbacks, building spacing and F.A.R. is **incompatible** with the surrounding area and would be detrimental to same. Therefore, staff is of the opinion that request #1 should be denied without prejudice.

The Alternative Site Development Option (ASDO) Standards, Section 33-311(A)(15), provide for the approval of a zoning application which can demonstrate at a public hearing that the development requested is in compliance with the applicable Alternative Site Development Option Standards as established. However, the applicant has not provided staff with the documentation required for analysis requests #2 and #3 under the ASDO Standard. As such, these requests cannot be analyzed under same and should be denied without prejudice under Section 33-311(A)(14) (ASDO).

When requests #2 through #4 are analyzed under Section 33-311(A)(4)(b), Non-Use Variance (NUV) Standards, staff is of the opinion that the approval of the requests would be **incompatible** with the surrounding area. Request #2, to permit multi-family apartment buildings setback a minimum of 8'11" (15' required) from the interior side (north and south) property lines, would result in an encroachment of 6.08' into the interior side (north and south) setback areas. As previously mentioned, staff acknowledges that the property to the north of the subject site was approved in 2006 for a multi-family development and was granted approval of a request to permit the proposed multi-family buildings setback a minimum of 17' (20' required) from the north and south property lines, pursuant to Resolution No. CZAB15-6-06. However, staff notes that said approval resulted in an encroachment of 3' which is less intense than the setback variance sought in this application. Approval of request #3, to permit a F.A.R. of .541 (.50 allowed) and request #4, to permit a minimum spacing of 25'10" (30' required) between buildings would be out of character with the area as no similar approvals have been granted in the area. As previously mentioned, staff opines that the applicant is able to redesign the proposed development by eliminating 2 of the proposed 16 units in order to alleviate the setback,

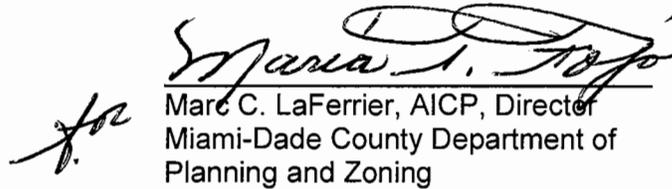
floor area ratio (F.A.R.), and spacing variances and comply with the RU-4L development regulations thereby creating a multi-family development that is more compatible with the surrounding area. As such, staff recommends denial without prejudice of requests #2 through #4 under Section 33-311(A)(4)(b) (NUV).

When requests #2 through #4 are analyzed under the Alternative Non-Use Variance Standard, Section 33-311(A)(4)(c), the applicant would have to prove that the requests are due to an unnecessary hardship and that, should said requests not be granted, such denial would not permit the reasonable use of the premises. However, since this property can be developed under the RU-2 zoning regulations, staff is of the opinion that requests #2 through #4 cannot be approved under the ANUV Standards and recommends denial without prejudice of same under Section 33-311(A)(4)(c) (ANUV).

I. **RECOMMENDATION:** Denial without prejudice.

J. **CONDITIONS:** None.

**DATE INSPECTED:** 11/29/07  
**DATE TYPED:** 04/07/09  
**DATE REVISED:** 05/14/09  
**DATE FINALIZED:** 05/14/09  
MCL:MTF:MW:NC:CXH

  
Marc C. LaFerrier, AICP, Director  
Miami-Dade County Department of  
Planning and Zoning

*for* *NON*

# Memorandum

**Date:** September 4, 2008  
**To:** Marc C. LaFerrier, AICP, Director  
Department of Planning and Zoning

**From:** Jose Gonzalez, P.E., Assistant Director  
Environmental Resources Management



**Subject:** C-15 #Z2007000411-Revised  
S.W. 110<sup>th</sup> Avenue, LLC  
West of S.W. 110<sup>th</sup> Avenue and North of S.W. 216<sup>th</sup> Street  
District Boundary Change from RU-2 to RU-4L and Request to Permit Multi-family Building that would Exceed F.A.R. and Setback Requirements (RU-2) (0.86 Acres)  
07-56-40

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code). Accordingly, DERM may approve the application, and the same may be scheduled for public hearing.

#### Potable Water Service and Wastewater Disposal

Public water and public sanitary sewers can be made available to the subject property. Therefore, connection of the proposed development to the public water supply system and sanitary sewer system shall be required in accordance with Code requirements.

Existing public water and sewer facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Notwithstanding the foregoing, and in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle the additional flows that this project would generate. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available at the point in time when the project will be contributing sewage to the system. Lack of adequate capacity in the system may require the approval of alternate means of sewage disposal. Use of an alternate means of sewage disposal may only be granted in accordance with Code requirements, and shall be an interim measure, with connection to the public sanitary sewer system required upon availability of adequate collection/transmission and treatment capacity.

#### Stormwater Management

All stormwater shall be retained on-site utilizing properly designed seepage or infiltration drainage structures. Drainage plans shall provide for full on-site retention of the stormwater runoff of a 5-year/1-day storm event. Pollution Control devices shall be required at all drainage inlet structures.

Site grading and development shall comply with the requirements of Chapter 11C of the Code.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the LOS standards for flood protection set forth in the CDMP, subject to compliance with the conditions required by DERM for this proposed development order.

#### Pollution Remediation

The subject property is located within a designated brownfield area. The applicant is advised that there are economic incentives available for development within this area. For further information concerning these incentives, contact the Pollution Remediation Section of DERM at 305-372-6700.

#### Wetlands

The subject property does not contain jurisdictional wetlands, as defined by Section 24-5 of the Code; therefore, a Class IV Wetland Permit will not be required.

The applicant is advised that permits from the Army Corps of Engineers (305-526-7181), the Florida Department of Environmental Protection (561-681-6600), and the South Florida Water Management District (1-800-432-2045), may be required for the proposed project. It is the applicant's responsibility to contact these agencies.

#### Natural Forest Communities

Natural Forest Community (NFC) permit no. 2008-035 was issued on September 2, 2008. This permit approved the removal of 0.14 acres of NFC located on folio 30-6007-000-0480. Please be advised that the other folios included in this application no longer contain NFC.

#### Tree Preservation

Tree Removal Permit 2008-TREE-PER-00458 was issued for the properties with folios 30-6007-000-0460 and 0470 to S.W. 110<sup>th</sup> Avenue, LLC, on September 3, 2008 and is scheduled to expire on September 3, 2009. The property with folio 30-6007-000-0480 is a NFC and is included in NFC permit 2008-035, all other folios included in this application do not contain tree resources.

All approved tree removal or relocation, replanting and final inspection (a two weeks notice is required prior to the final inspection) must be completed prior to the scheduled expiration date of this permit to avoid violation of permit conditions. A new Miami-Dade County Tree Removal Permit or an amendment to Tree Removal Permit 2008-TREE-PER-00458 is required prior to the removal or relocation of any other tree on the subject properties. The DERM Tree Program may be contacted at (305) 372-6574 for further information.

#### Enforcement History

DERM has found the following record for the subject properties:

NFC 0283 Pineland (NFC-028301)  
Folios:30-600-7000-0460 and 30-6007-000-0470

On January 16, 2003, DERM issued a Notice of Violation (NOV) for the unauthorized removal of a NFC pineland on the subject folio parcels. A Uniform Civil Violation Notice (UCVN) was subsequently issued on July 31, 2003 for failure to remove remaining debris associated with the NFC violation. On December 4, 2003, an Affidavit of Compliance was filed and the case was closed.

Concurrency Review Summary

DERM has conducted a concurrency review for this application and has determined that the same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal, and flood protection. Therefore, the application has been approved for concurrency subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement and is valid only for this initial development order, as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

This memorandum shall constitute DERM's written approval, as required by the Code.

If you have any questions concerning the comments, or wish to discuss this matter further, please contact Enrique A. Cuellar at (305) 372-6764.

**PUBLIC WORKS DEPARTMENT COMMENTS**

Applicant's Names: 110TH AVENUE, LLC

This Department has no objections to this application.

This land requires platting in accordance with Chapter 28 of the Miami-Dade County Code. The road dedications and improvements will be accomplished thru the recording of a plat.

Additional improvements may be required at time of platting.

This application does meet the traffic concurrency criteria for an Initial Development Order. It will generate 13 PM daily peak hour vehicle trips. The traffic distribution of these trips to the adjacent roadways reveal that the addition of these new trips does not exceed the acceptable level of service of the following roadways:

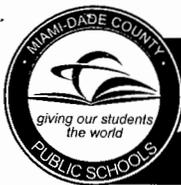
Sta.#		LOS present	LOS w/project
F-1095	SW 112 Ave. n/o SW 216 St.	B	B
F-2254	Fla. Turnpike n/o SW 168 St.	B	B
9896	SW 216 St. e/o HEFT	C	C
F-50	SW 112 Ave. n/o HEFT	B	B
9898	SW 216 St. w/o US-1	B	B

The request herein, constitutes an Initial Development Order only, and one or more traffic concurrency determinations will subsequently be required before development will be permitted.



Raul A Pino, P.L.S.

25-MAR-08



# Miami-Dade County Public Schools

*giving our students the world*

**Superintendent of Schools**  
Rudolph F. Crew, Ed.D.

**Miami-Dade County School Board**

Agustin J. Barrera, Chair  
Perla Tabares Hantman, Vice Chair  
Renier Diaz de la Portilla  
Evelyn Langlieb Greer  
Dr. Wilbert "Tee" Holloway  
Dr. Martin Karp  
Ana Rivas Logan  
Dr. Marta Pérez  
Dr. Solomon C. Stinson

March 25, 2008

Ms. Maria Teresa Fojo  
Acting Assistant Zoning Director  
Miami-Dade County  
Department of Planning and Zoning  
Zoning Evaluation Section  
111 NW 1 Street, Suite 1110  
Miami, Florida 33128

**RECEIVED**  
APR 01 2008

ZONING SERVICES DIVISION  
DEPT. OF PLANNING & ZONING  
BY

*c-15*

**Re: SW 110 Avenue LLC – No. 07-411  
West of SW 110 Avenue and North of SW 216 Street**

Dear Ms. Fojo:

Pursuant to the state-mandated and School Board approved Interlocal Agreement, local government, the development community and the School Board are to collaborate on the options to address the impact of proposed residential development on public schools where the proposed development would result in an increase in the schools' FISH % utilization (permanent and relocatable), in excess of 115%. This figure is to be considered only as a review threshold and shall not be construed to obligate the governing agency to deny a development.

Attached please find the School District's (District) review analysis of potential impact generated by the above referenced application. Please note that one of the impacted school facilities, Miami Southridge Senior High School, meets the referenced review threshold (please see attached analysis).

Additionally, at its April 13, 2005 meeting, the Board approved School District criteria that would allow District staff to make recommendations on residential zoning applications that impact public schools beyond the 115% of FISH capacity threshold (Review Criteria). Pursuant to the Interlocal, and the recently approved Review Criteria the District met with the applicant on February 27, 2008, to discuss the impact of the proposed development on public schools. **The District is grateful that the applicant took the time to meet with the School District to discuss mitigation options outlined in the Review Criteria that may accommodate new students generated by the proposed application. The applicant advised that he is unable to proffer additional mitigation other than the applicable impact fees as required by the Educational Facilities Impact Fee Ordinance.**

In accordance with the Review Criteria established by the Board, the School District is requesting that the application be denied, or that it be deferred until such time as the applicant is able to address the impact of the proposed residential development on public schools in the area.

Facilities Planning

Ana Rijo-Conde, AICP, Planning Officer • 1450 N.E. 2nd Avenue, Suite 525 • Miami, Florida 33132  
305-995-7285 • FAX 305-995-4760 • [arijo@dadeschools.net](mailto:arijo@dadeschools.net)

18

Ms. Maria Teresa Fojo  
March 25, 2008  
Page Two

This application may be subject to school concurrency requirements, as mandated by 2005 Growth Management Legislation. Pursuant to Sections 163.3177 and 1013.33 of the Florida Statutes, all new residential applications will be tested for school concurrency at Final Subdivision or Site Plan (or functional equivalent), effective at the time school concurrency is fully implemented.

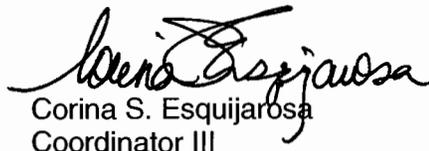
Additionally, pursuant to Miami-Dade County's Educational Facilities Impact Fee Ordinance the proposed development, if approved, will be required to pay educational facilities impact fees (impact fees) based on the following formula:

New residential unit square footage X .90 (Square Footage Fee) + \$600.00 (Base Fee) + 2% administrative fee = Educational Facilities Impact fee

As an example, assuming the proposed units are 1,000 square-foot (multi-family) and 1,500 square feet (single-family attached), the 511-unit development is estimated to generate approximately \$812,850 (\$1,500 per multifamily unit and \$1,950 per single-family attached, excluding the 2% administration fee) in impact fees. This figure may vary since the impact fees assessed are based on the actual square footage of each dwelling unit.

As always, thank you for your consideration and continued partnership in our mutual goal to enhance the quality of life for the residents of our community.

Sincerely,



Corina S. Esquijarosa  
Coordinator III

CSE:rr  
L-466  
Attachment

cc: Ms. Ana Rijo-Conde  
Mr. Fernando Albuerne  
Mr. Michael A. Levine

Mr. Ivan M. Rodriguez  
Ms. Vivian Villaamil

## SCHOOL IMPACT REVIEW ANALYSIS

<b>APPLICATION:</b>	110 <sup>th</sup> Avenue, LLC – No. 07-411
<b>REQUEST:</b>	Zoning change from RU-2 to RU-4L
<b>ACRES:</b>	0.765 acre
<b>LOCATION:</b>	Lying west of SW 110 Avenue and north of SW 216 Street
<b>MSA/ MULTIPLIER:</b>	7.1 / .72 Single-Family Attached
<b>NUMBER OF UNITS:</b>	12 additional units (current zoning allows 4 units for a total of 16 units)
<b>ESTIMATED STUDENT POPULATION:</b>	9 additional students*
<b>ELEMENTARY:</b>	4
<b>MIDDLE:</b>	2
<b>SENIOR HIGH:</b>	3

### SCHOOLS SERVING AREA OF APPLICATION

<b>ELEMENTARY:</b>	Goulds Elementary – 23555 SW 112 Avenue
<b>MIDDLE:</b>	Centennial Middle – 8601 SW 212 Street
<b>SENIOR:</b>	Miami Southridge Senior High – 19355 SW 114 Avenue

All schools are located in Regional Center VI.

\*Based on Census 2000 information provided by Miami-Dade County Department of Planning and Zoning.

The following population and facility capacity data are as reported by the Office of Information Technology Services, as of October 2007:

	STUDENT POPULATION	FISH DESIGN CAPACITY PERMANENT	% UTILIZATION FISH DESIGN CAPACITY PERMANENT	NUMBER OF PORTABLE STUDENT STATIONS	% UTILIZATION FISH DESIGN CAPACITY PERMANENT AND RELCOATABLE
Goulds Elementary	538	802	67%	0	67%
	542 *		68%		68%
Centennial Middle	965	1,498	64%	0	64%
	967 *		65%		65%
Miami Southridge Senior	3,453	2,662	130%	190	121%
	3,456 *		130%		121%

\*Student population increase as a result of the proposed development

Notes:

- 1) Figures above reflect the impact of the class size amendment.
- 2) Pursuant to the Interlocal Agreement, Miami Southridge Senior High school meets the review threshold.

### PLANNED RELIEF SCHOOLS

<u>School</u>	<u>Status</u>	<u>Projected Occupancy Date</u>
State School "HHH-1" New High School (Varela / Sunset / Southridge Senior High Schools Relief) (2,858 students)	Site Acquisition	2010

**OPERATING COSTS:** According to Financial Affairs, the average cost for K-12 grade students amounts to \$6,549 per student. The total annual operating cost for additional students residing in this development, if approved, would total \$58,941.

**CAPITAL COSTS:** Based on the State's January 2008 student station cost factors\*, capital costs for the estimated additional students to be generated by the proposed development are:

ELEMENTARY	Does not meet review threshold
MIDDLE	Does not meet review threshold
SENIOR HIGH	3 x \$26,484 = \$79,452
<b>Total Potential Capital Cost</b>	<b>\$79,452</b>

\*Based on Information provided by the Florida Department of Education, Office of Educational Facilities Budgeting. Cost per student station does not include land cost.

# Memorandum



**Date:** 15-JAN-08  
**To:** Subrata Basu, Interim Director  
Department of Planning and Zoning  
**From:** Herminio Lorenzo, Fire Chief  
Miami-Dade Fire Rescue Department  
**Subject:** Z2007000411

## Fire Prevention Unit:

### APPROVAL

Fire Engineering and Water Supply Bureau has no objection to Site plans date stamped January 11, 2008. Any changes to the vehicular circulation must be resubmitted for review and approval.

This plan has been reviewed only to assure compliance with the MDRF Access Road Requirements for zoning hearing applications. Please be advised that during the platting and permitting stages of this project, the proffered site plan must adhere to corresponding MDRF requirements.

## Service Impact/Demand:

Development for the above Z2007000411

located at LYING WEST OF S.W. 110 AVENUE APPROXIMATELY 170' NORTH OF S.W. 216 STREET, MIAMI-DADE COUNTY, FLORIDA.

in Police Grid 5294 is proposed as the following:

16 residential	dwelling units	N/A industrial	square feet
N/A Office	square feet	N/A institutional	square feet
N/A Retail	square feet	N/A nursing home/hospitals	square feet

Based on this development information, estimated service impact is: 4.50 alarms-annually.  
The estimated average travel time is: 5:22 minutes

## Existing services:

The Fire station responding to an alarm in the proposed development will be:

Station 34 - Cutler Ridge - 10850 SW 211 Street  
Rescue, BLS 50' Sqr, 100' Tended Platform

## Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:

None.

## Fire Planning Additional Comments:

Current service impact calculated based on plans date stamped January 11, 2008. Substantial changes to the plans will require additional service impact analysis.

# TEAM METRO

## ENFORCEMENT HISTORY

SW 110TH AVENUE, LLC

LYING WEST OF SW 110 AVENUE,  
APPROXIMATELY 170' NORTH OF  
SW 216 STREET, MIAMI-DADE  
COUNTY, FLORIDA.

---

**APPLICANT**

---

**ADDRESS**

---

Z2007000411

---

**HEARING NUMBER**

### CURRENT ENFORCEMENT HISTORY:

Current case history;

Case 200901003404 was opened based on enforcement history request and inspected on 05-05-09. This is a natural forest community land protected by DERM. No violations were observed and case was closed.

Previous case history;

Case 200901000449 was opened based on enforcement history request and inspected on 02-04-09. This is a natural forest community land protected by DERM. No violations were observed and case was closed.

Case 200701007074 was opened based on enforcement history request and inspected on 11-16-07. This is a natural forest community land protected by DERM. No violations were observed and case was closed.

**DISCLOSURE OF INTEREST\***

If a CORPORATION owns or leases the subject property, list principal stockholders and percent of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or other similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

CORPORATION NAME: SW110 AVENUE, LLC

NAME AND ADDRESS	Percentage of Stock
Norman Hiermer 1200 SW 8th Ave Miami, FL 33126	10%
TDS Investments 13282 SW 114 Terrace Miami 33186	10%
Harold J. Turk 3121 Kirk Street Miami 33133	10%
Edna R. Marco 6100 Paradise Pt Miami 33157	10%
Scott Turk 781 NW 73 St Miami 33136	10%
JAMES Turk 50 SW 31 Road Miami 33129	10%

If a TRUST or ESTATE owns or leases the subject property, list the trust beneficiaries and the percent of interest held by each. [Note: Where beneficiaries are other than natural persons, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

TRUST/ESTATE NAME \_\_\_\_\_

NAME AND ADDRESS

Percentage of Interest

TSD Investments ERROL EISINGER	100%

If a PARTNERSHIP owns or leases the subject property, list the principals including general and limited partners. [Note: Where the partner(s) consist of another partnership(s), corporation(s), trust(s) or other similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

PARTNERSHIP OR LIMITED PARTNERSHIP NAME \_\_\_\_\_

NAME AND ADDRESS

Percentage of Ownership


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12/18/2007

If there is a CONTRACT FOR PURCHASE, by a Corporation, Trust or Partnership list purchasers below, including principal officers, stockholders, beneficiaries or partners. [Note: Where principal officers, stockholders, beneficiaries or partners consist of other corporations, trusts, partnerships or other similar entities, further disclosure shall be made to identify natural persons having the ultimate ownership interests].

NAME OF PURCHASER: N/A

NAME, ADDRESS AND OFFICE (if applicable)	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____

Date of contract: \_\_\_\_\_

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

_____	_____
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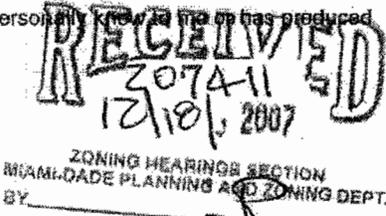
**NOTICE:** For any changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required.

The above is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Signature: [Signature]  
(Applicant)

Sworn to and subscribed before me this 21 day of NOVEMBER 2007 Affiant is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
(Notary Public)  
My commission expires: \_\_\_\_\_



\*Disclosure shall not be required of: 1) any entity whose ownership interests in which are regularly traded on an established securities market in the United States or any other country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) 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 every level of ownership and where no one (1) person or entity holds more than a total of five per cent (5%) of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.

**DISCLOSURE OF INTEREST**

If a CORPORATION owns or leases the subject property, list principal stockholders and percent of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

CORPORATION NAME: TDS Investments, Inc

NAME AND ADDRESS	Percentage of Stock
<u>Eric Bisinger</u>	<u>100%</u>
<u>13282 SW 114th Ter</u>	
<u>Miami, FL 33186</u>	

If a TRUST or ESTATE owns or leases the subject property, list the trust beneficiaries and percent of interest held by each. [Note: Where beneficiaries are other than natural persons, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

TRUST/ESTATE NAME: \_\_\_\_\_

NAME AND ADDRESS	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If a PARTNERSHIP owns or leases the subject property, list the principals including general and limited partners. [Note: Where partner(s) consist of other partnership(s), corporation(s), trust(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interests].

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: \_\_\_\_\_

NAME AND ADDRESS	Percent of Ownership
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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ZONING HEARINGS SECTION  
MIAMI-DADE PLANNING AND ZONING DEPT.

If there is a **CONTRACT FOR PURCHASE** by a Corporation, Trust or Partnership, list purchasers below, including principal officers, stockholders, beneficiaries or partners. [Note: Where principal officers, stockholders, beneficiaries or partners consist of other corporations, trusts, partnerships or similar entities, further disclosure shall be made to identify natural persons having ultimate ownership interests].

NAME OF PURCHASER: \_\_\_\_\_

NAME, ADDRESS AND OFFICE (if applicable)	Percentage of Interest
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of contract: \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

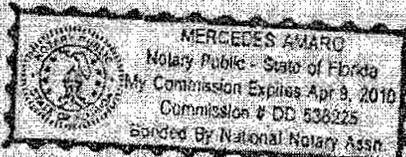
**NOTICE:** For changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required.

The above is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Signature: [Handwritten Signature] (Applicant)

Sworn to and subscribed before me this 1st day of May, 2008. Affiant is personally known to me or has produced DL 6-252-201-45-918-0 as identification.

[Handwritten Signature]  
(Notary Public)



My commission expires \_\_\_\_\_

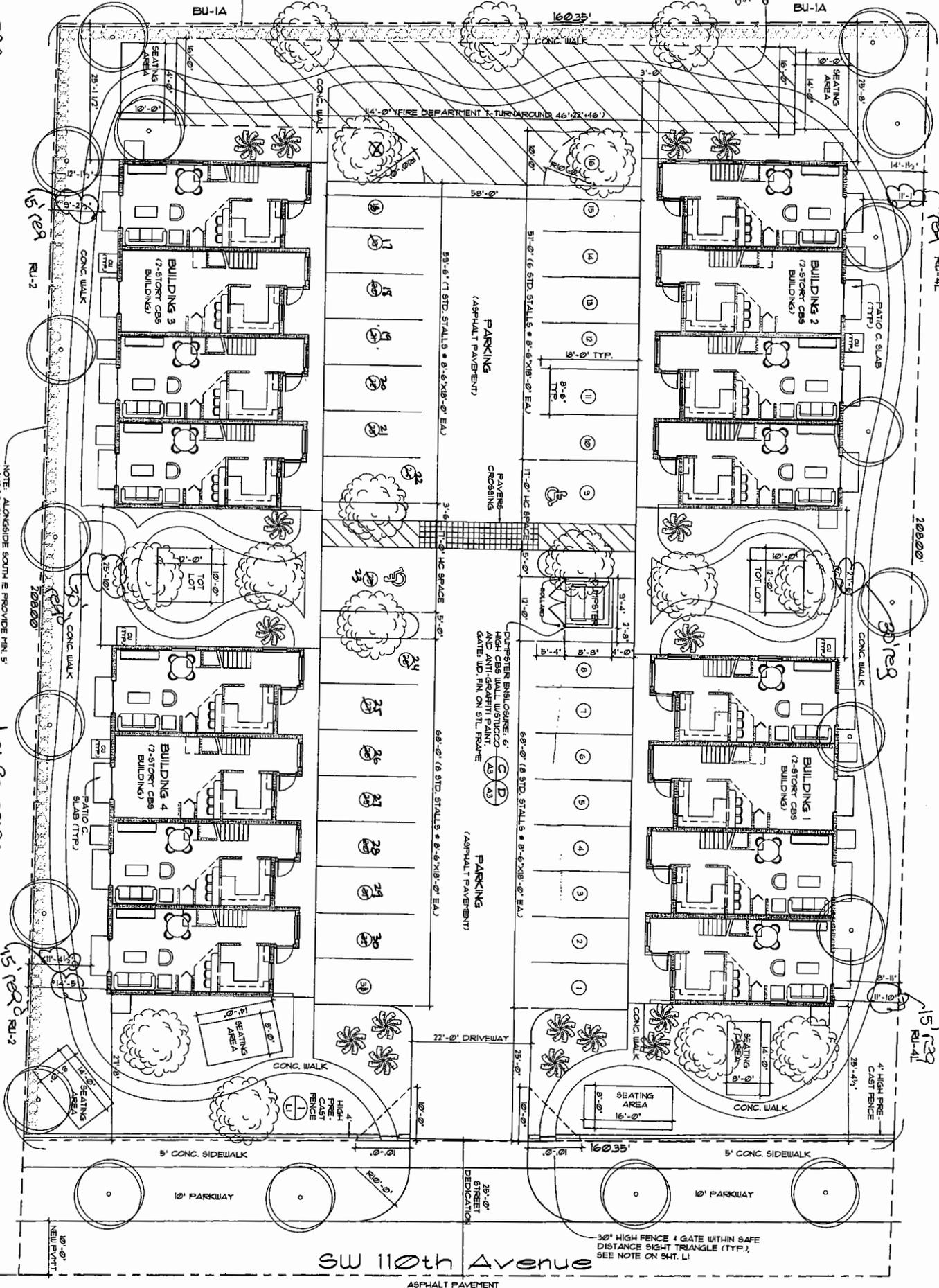
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ZONING HEARING SECTION  
MIAMI-DADE PLANNING AND ZONING DEPT.  
BY [Signature]

\*Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) 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 every level of ownership and where no one (1) person or entity holds more than a total of five per cent (5%) of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a 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.

FENCE AND FLOOD RELEASE (MIN. 2' HIGH AT TIME OF PLANTING AND TO BE KEPT AT MIN. 6' HIGH WHEN MATURE. TREES IN BUFFER ZONE SHALL BE SPACED MAX. 35' O/C

BE YIELD TO TRAFFIC AROUND BLOCK ATTACHED TO THE SIDE OF THE LOT



FAR  
 2263.45 + 2564.8 = 4828.25  
 4828.25 x .4 = 1940.1  
 3335.2 = \* VARIANCE  
 158

SITE PLAN  
 NOTE: ALONGSIDE SOUTH & PROVIDE MIN. 5' HIGH CAST FENCE WITH 6' HIGH CHAIN LINK FENCE AND FLOOD RELEASE (MIN. 2' HIGH AT TIME OF PLANTING AND TO BE KEPT AT MIN. 6' HIGH WHEN MATURE. TREES IN BUFFER ZONE SHALL BE SPACED MAX. 35' O/C

Lot Coverage  
 14814.35 = 2263.45  
 2263.45 x .4 = 9053.8  
 9053.8 / 3335.2 = 2710  
 3075' x 10'

NOTE: AREA DESIGNATED SEATING FINI SHALL BE CAST FAYER PROVIDED WITH UTILITY AND WOOD BENCH SECURED TO THE FLOOR (TYP.)

SEC 33.207.2  
 12A



SW 110th Avenue

ASPHALT PAVEMENT

30' HIGH FENCE & GATE WITHIN SAFE DISTANCE SIGHT TRIANGLE (TYP.) SEE NOTE ON SHIT. LI



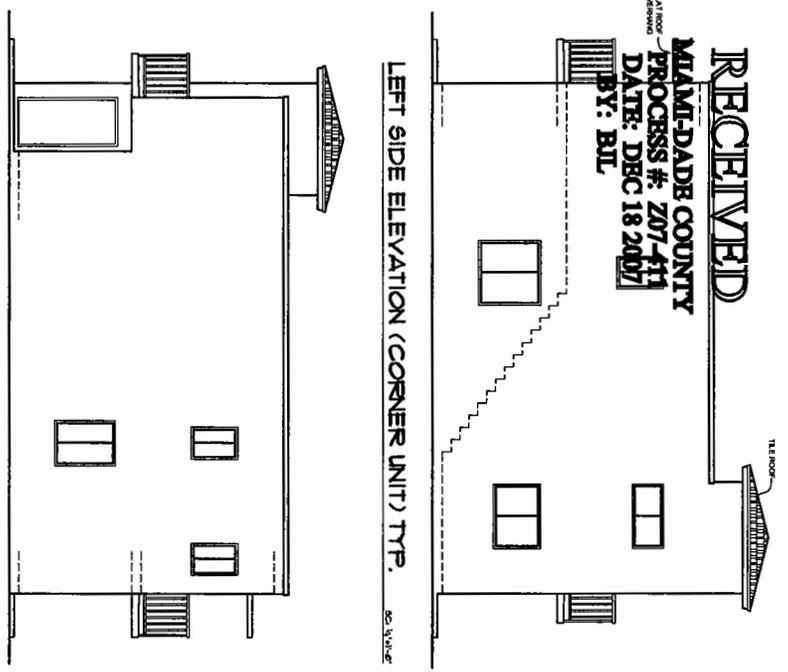


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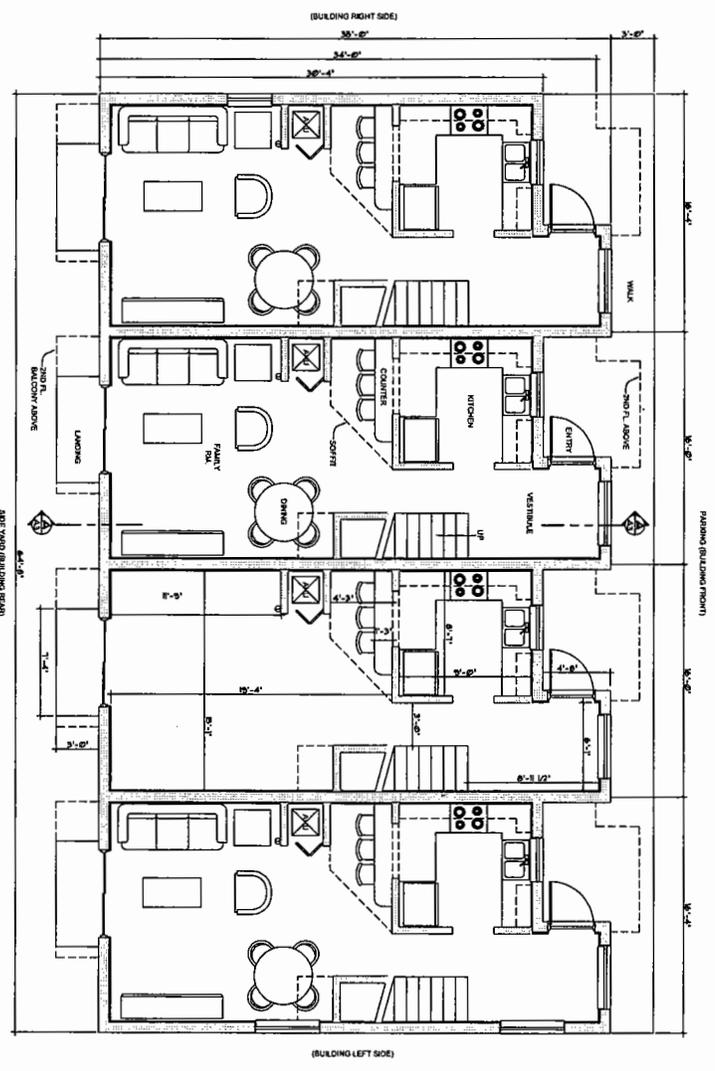
MIAMI-DADSB COUNTY

PROCESS # 207-411  
DATE: DEC 18 2007

BY: BIL

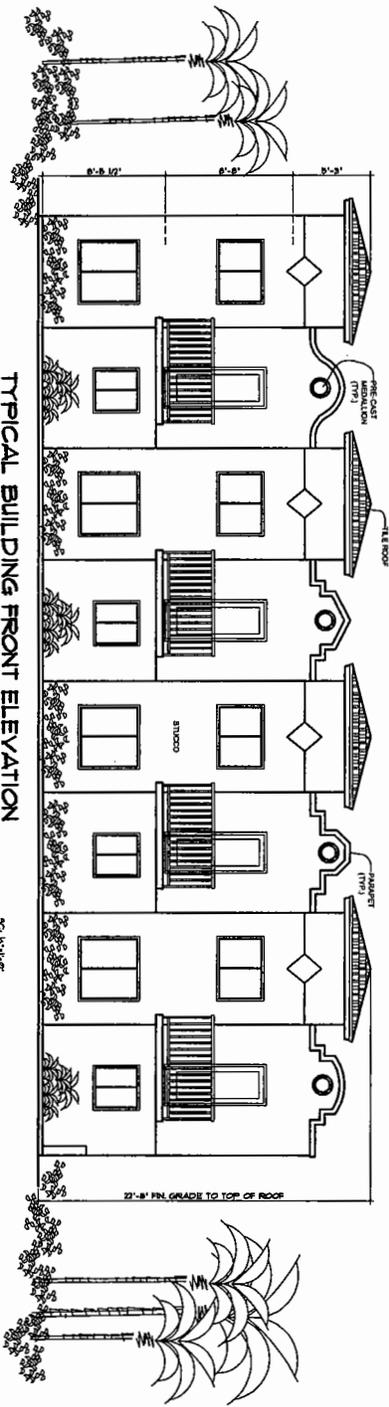


RIGHT SIDE ELEVATION (CORNER UNIT) TYP.



TYP. UNIT AREA (GROSS) (SQ)

FIRST FLOOR	1054 SQ
SECOND FLOOR	1054 SQ
COMMON AREAS	1054 SQ
TOTAL	3162 SQ



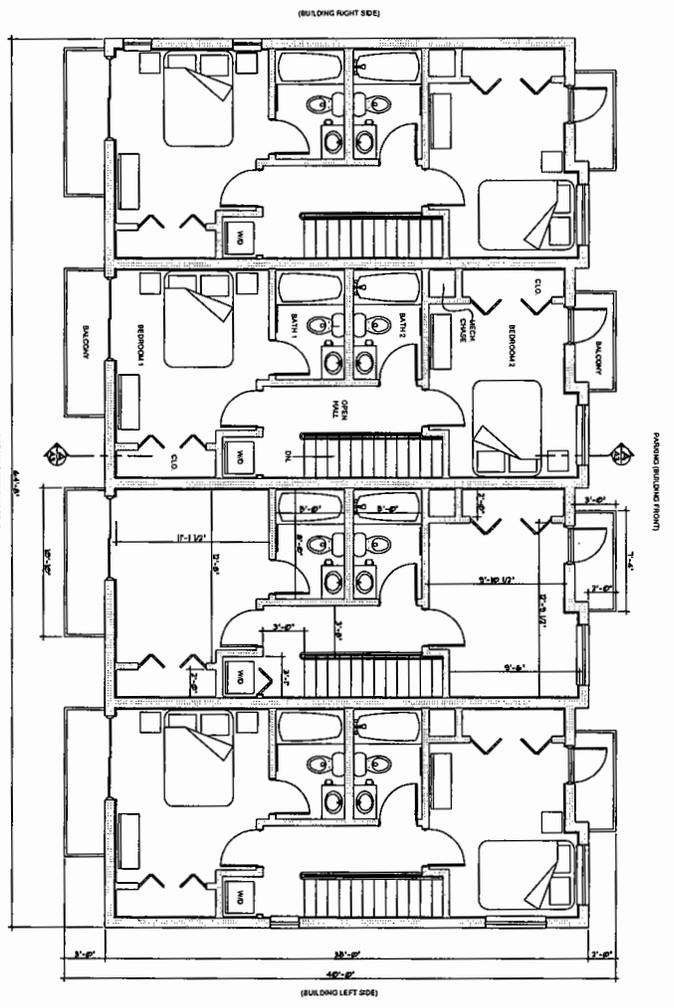
REVISIONS	MARK	DATE	DESCRIPTION	BY

**16-UNIT RESIDENTIAL DEVELOPMENT**  
 Project Address: SW 110th Ave SW 216th Street, Goulds, FL  
 Project Owner: SW 110th Avenue LLC  
 Mailing Address: 12000 SW 88th Avenue, Miami, FL 33176  
 Tel (305) 251-6224 Fax (305) 293-7178

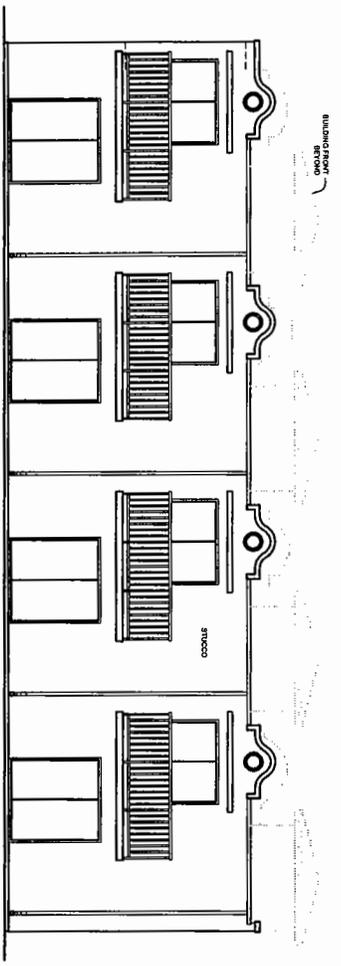
**TONY FERNANDEZ**  
 ARCHITECT  
 P.L.L.C. #48004542  
 3250 MARY STREET  
 Suite No. 406  
 Coconut Grove  
 Florida 33133  
 Tel (305) 861-1886  
 Fax (305) 861-3888  
 tfern@tdlcsystems.net

31

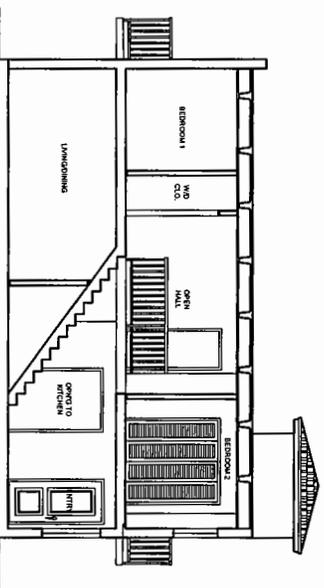
**RECEIVED**  
**MIAMI-DADE COUNTY**  
**PROCESS #: Z07-411**  
**DATE: DEC 18 2007**  
**BY: BIL**



TYPICAL BUILDING SECOND FLOOR PLAN



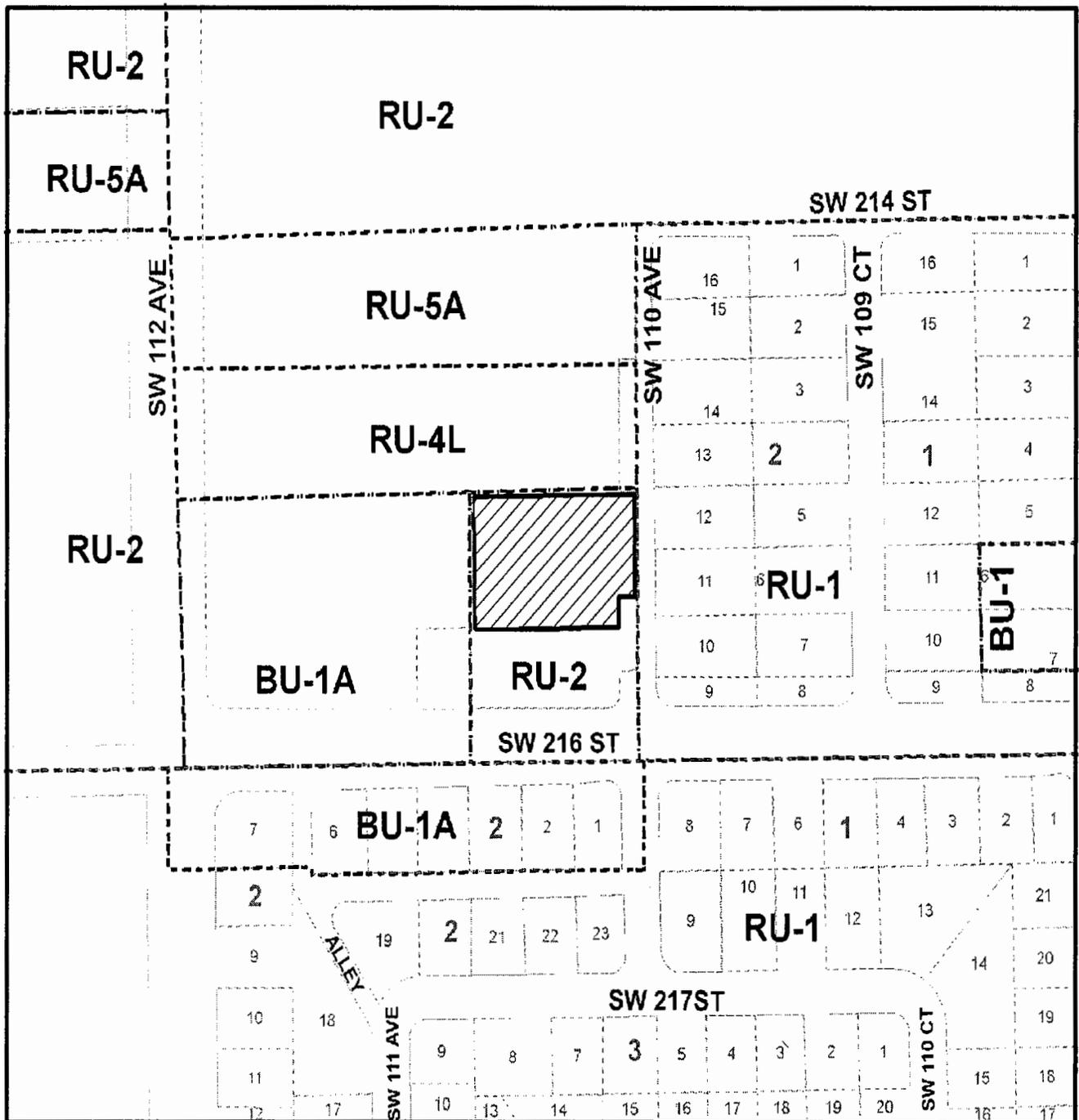
TYPICAL BUILDING REAR ELEVATION



TYPICAL BUILDING CROSS SECTION A-A

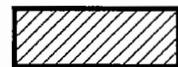
32

<p>16-UNIT RESIDENTIAL DEVELOPMENT          Project Address: SW 110th Ave SW 218th Street, Goulds, FL</p> <p>Project Owner: SW 110th Avenue LLC          Mailing Address: 13000 SW 58th Avenue, Miami, FL 33176          Tel (305) 251-8224 Fax (305) 233-7176</p>				<table border="1"> <thead> <tr> <th>MARK</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>				MARK	DATE	DESCRIPTION	BY																	<table border="1"> <thead> <tr> <th>MARK</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>				MARK	DATE	DESCRIPTION	BY																					<p>TONY PEREZ          ARCHITECT          3250 MAY STREET          STATE NO. 408          GOODWAT GORVE          MIAMI BEACH, FL 33139          TEL (305) 431-3000          FAX (305) 431-3000</p> <p>APPROVED BY: _____          DATE: _____</p>			
MARK	DATE	DESCRIPTION	BY																																																								
MARK	DATE	DESCRIPTION	BY																																																								
<p>SECOND FLOOR PLAN          DATE: 08/23/2007          DRAWN: CAD          SCALE: NOTED          APPROVED: BIL</p>				<p>SCALE: AS SHOWN          SHEET A3          OF 3 SHEETS</p>																																																							



MIAMI-DADE COUNTY  
HEARING MAP

Process Number  
**07-411**



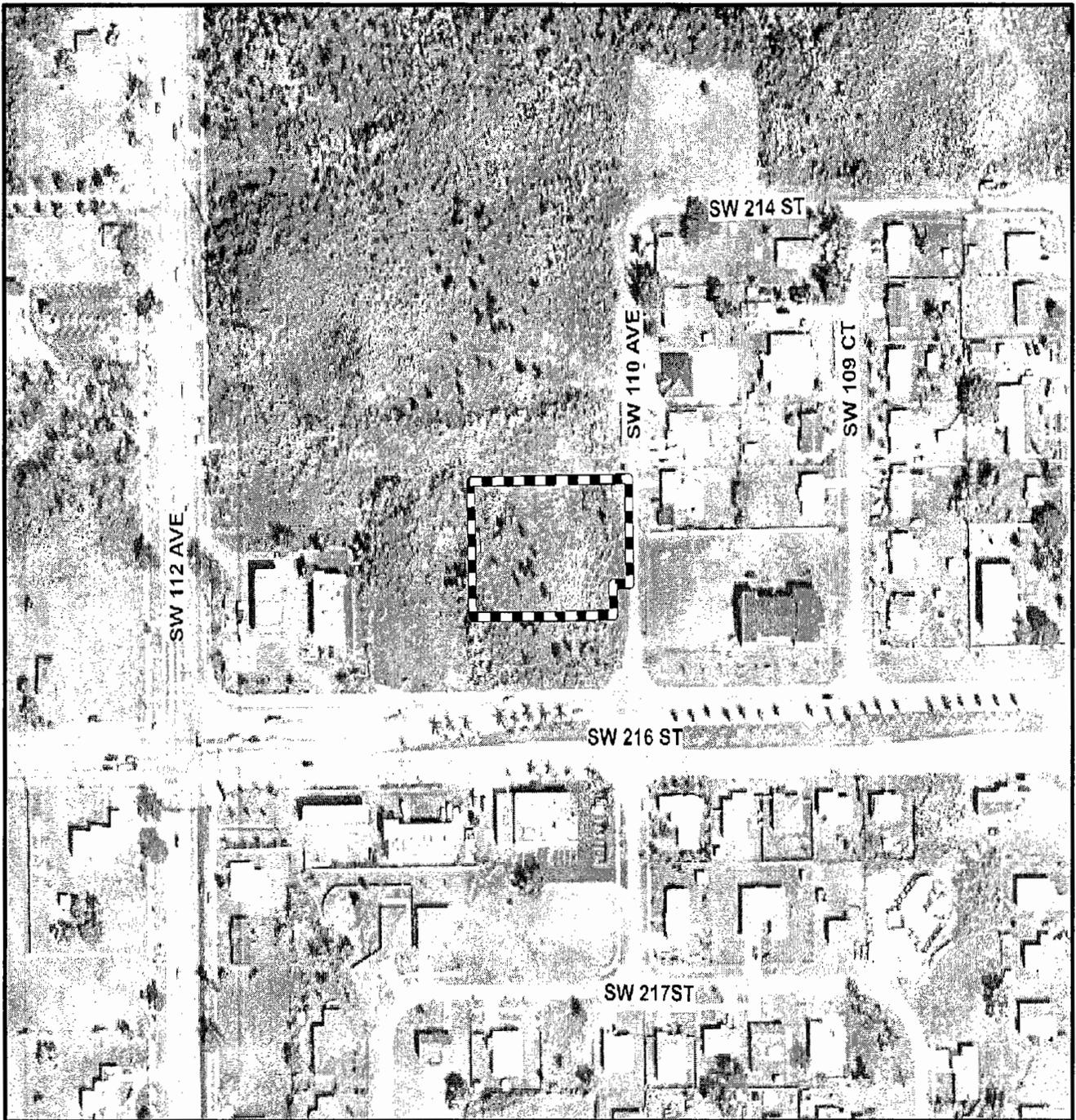
SUBJECT PROPERTY

Section:07 Township: 56 Range: 40  
Applicant: SW 110TH AVENUE, LLC  
Zoning Board: C15  
District Number: 09  
Drafter ID: KEELING  
Scale: NTS



REVISION	DATE	BY
Match zone line to prop. line	03/18/08	KS

33



MIAMI-DADE COUNTY  
**AERIAL**

Process Number  
**07-411**



**SUBJECT PROPERTY**

Section:07 Township: 56 Range: 40  
 Applicant: SW 110TH AVENUE, LLC  
 Zoning Board: C15  
 District Number: 09  
 Drafter ID: KEELING  
 Scale: NTS



CREATED ON: 01/09/08

REVISION	DATE	BY
Match from info to prop. line	03/14/08	48

This instrument was prepared by:  
Brian S. Adler, Esq.  
Bilzin Sumberg Baena Price & Axelrod LLP  
200 South Biscayne Boulevard, Suite 2500  
Miami, Florida 33131-5340

**Received by  
Zoning Agenda Coordinator  
MAY 18 2009**

**Received by  
Zoning Agenda Coordinator**

**MAY 18 2009**

(Space reserved for Clerk)

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**DECLARATION OF RESTRICTIONS**

*WHEREAS*, the undersigned owner ("Owner") holds the fee simple title to the land in Miami-Dade County, Florida, ("County") described in Exhibit "A" attached hereto, and hereinafter referred to as the "Property."

*IN ORDER TO ASSURE* the County that the representations made by the Owner during consideration of Public Hearing No. 07-411 ("Application") will be abided by the Owner freely, voluntarily and without duress, Owner makes the following declaration of restrictions ("Declaration") covering and running with the Property:

- (1) **Development Plan.** The Property shall be developed substantially in accordance with the plans previously submitted to the Miami-Dade County Department of Planning and Zoning entitled "16-Unit Residential Development," as prepared by Tony Fernandez, Architect, Sheets "A1" and "L1", dated stamped received 1/22/08 and Sheets "A2" and "A3", dated stamped received 12/18/07 and consisting of a total of 4 sheets (the "Plans"), said Plans being on file with the Department of Planning and Zoning, and by reference made a part of this Declaration.
- (2) **Development Restrictions.** Notwithstanding the RU-4L zoning designation on the Property, the maximum number of residential dwelling units to be constructed on the Property shall be 16 units.
- (3) **County Inspection.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of the 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 Owner is complying with the requirements of the zoning regulations and the conditions in this Declaration.

- (4) **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 Owner's expense, in the public records of the County and shall remain in full force and effect and be binding upon the Owner, until such time as the same is modified or released. These restrictions during its lifetime shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the benefit of the County and the public welfare. Owner acknowledges that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.
- (5) **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 the County.
- (6) **Modification, Amendment, Release.** This Declaration 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 all of the Property, including jointers of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, or successor board or jurisdiction which by law has jurisdiction over such matters, after public hearing.

Should this Declaration be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive officer of the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

- (7) **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.
- (8) **Authorization for the County to Withhold Permits and Inspections.** In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to

make any inspections or grant any approvals, until such time as Owner complies with this Declaration.

- (9) **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.
- (10) **Presumption of Compliance.** Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.
- (11) **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
- (12) **Recording.** This Declaration shall be filed of record in the public records of the County, at Owner's expense following the final approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the Application, 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, and upon written request, the Director of the Department of Planning and Zoning 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.
- (13) **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.
- (14) **Owner.** The term Owner shall include the Owner, and its heirs, successors and assigns.

EXECUTION PAGES TO FOLLOW

**Declaration of Restrictions**

**Page 4**

Signed, witnessed, executed and acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**WITNESSES:**

SW 110<sup>TH</sup> AVENUE, LLC

\_\_\_\_\_

\_\_\_\_\_

Print Name

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

Norman Nierenberg  
Manager

\_\_\_\_\_

\_\_\_\_\_

Print Name

STATE OF FLORIDA            }

ss:

COUNTY OF MIAMI-DADE    }

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by Norman Nierenberg, Manager of SW 110<sup>th</sup> Avenue, LLC, who is personally known to me or produced a valid driver's license as identification

Notary Public

Sign Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

COMMENCE AT THE SOUTHEAST CORNER OF THE S 1/2 OF THE SW 1/4 OF THE SW 1/4 OF THE SE 1/4 OF SECTION 7 TOWNSHIP 56 S, RANGE 40 EAST; THENCE CONTINUE N 00D 58' 16" W ALONG THE EAST LINE OF SAID S 1/2 FOR A DISTANCE OF 170 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID EAST LINE A DISTANCE OF 160.35 FEET (DEED); THEN S 89D 09' 30" W ALONG THE NORTH LINE OF THE S 1/2 OF THE SW 1/4 OF THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 7, FOR A DISTANCE OF 233.70 FEET (DEED); THENCE S 00D 58' 16" E FOR A DISTANCE OF 160.35 FEET; THENCE N 89D 09' 30" E FOR A DISTANCE OF 233.0 FEET (DEED) TO THE POINT OF BEGINNING.