MIAMI-DADE COUNTY

BOARD OF COUNTY COMMISSIONERS

ZONING HEARINGS

COUNTY COMMISSIONERS CHAMBERS OF THE STEPHEN P. CLARK CENTER - 2ND FLOOR

111 NW 1 Street, Miami

Thursday, March 20, 2008 at 9:30 a.m.

APPEALS

						DISTRICT
1.	07-12-CZ12-2	ROGER & DOROTHY WOLIN	07-172	31-54-41	N	7

CURRENT

						DISTRICT
2.	08-3-CC-1	R & E AT PALM VISTA II, INC.	07-263	23-56-39	N	8

Official Zoning Agenda

BOARD OF COUNTY COMMISSIONERS

COUNTY COMMISSION MEETING OF THURSDAY, MARCH 20, 2008

NOTICE: THE FOLLOWING HEARING IS SCHEDULED FOR 9:30 A.M., AND

ALL PARTIES SHOULD BE PRESENT AT THAT TIME

ANY PERSON MAKING IMPERTINENT OR SLANDEROUS REMARKS OR WHO BECOMES BOISTEROUS WHILE ADDRESSING THE COMMISSION SHALL BE BARRED FROM FURTHER AUDIENCE BEFORE THE COMMISSION BY THE PRESIDING OFFICER, UNLESS PERMISSION TO CONTINUE OR AGAIN ADDRESS THE COMMISSION BE GRANTED BY THE MAJORITY VOTE OF THE COMMISSION 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 COMMISSION CHAMBER. PERSONS EXITING THE COMMISSION CHAMBER SHALL DO SO QUIETLY.

THE USE OF CELL PHONES IN THE COMMISSION CHAMBERS IS NOT PERMITTED. RINGERS MUST BE SET TO SILENT MODE TO AVOID DISRUPTION OF PROCEEDINGS. INDIVIDUALS, INCLUDING THOSE ON THE DAIS, MUST EXIT THE CHAMBERS 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

1. **ROGER AND DOROTHY WOLIN (07-12-CZ12-2/07-172)** **31-54-41**
BCC/District 7

ROGER AND DOROTHY WOLIN are appealing the decision of Community Zoning Appeals Board #12, which denied without prejudice the following:

(1) EU-1 to EU-S

OR IN THE ALTERNATIVE:

(2) Applicants are requesting to permit two lots with lot areas of 0.617 gross acre each (1 gross acre required).

AND WITH EITHER REQUEST #1 OR #2, THE FOLLOWING:

(3) Applicants are requesting to permit two lots with a frontage of 100' each (125' required).

(4) Applicants are requesting to permit on Parcel 1 a utility shed accessory building setback 7.72' (20' required) from the interior side (south) property line.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 - #4 may be considered under §33-311(A)(14) (Alternative Site Development Option for Single-Family and Duplex Dwelling Units) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

A boundary survey is on file and may be examined in the Zoning Department, as prepared by Schwebke, Shiskin & Associates, Inc. and dated stamped received 8/31/07.

LOCATION: 7677 Ponce de Leon Road, Miami-Dade County, Florida.

SIZE OF PROPERTY: 1.24 Gross Acres

Department of Planning and Zoning Recommendation: Denial without prejudice of the appeal and the application.

Protests: 10 Waivers: 9

DENIAL OF APPEAL (SUSTAIN C.Z.A.B.): _____

APPROVAL OF APPEAL (OVERRULE C.Z.A.B.): _____

DEFERRED: _____

2. **R & E AT PALM VISTA II, INC. (08-1-3-CC-1/07-263)** **23-56-39**
BCC/District 8

DELETION of a Declaration of Restrictions recorded in Official Record Book 21680, Pages 2736-2740.

The purpose of the request is to allow the applicant to delete a Declaration of Restrictions tying the development of the property to a site plan and a specific number of dwelling units in order to allow the applicant to build in accordance with Princeton Community Urban Center (PCUC) District zoning regulations.

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

LOCATION: The northeast corner of S.W. 129 Avenue and S.W. 248 Street, and lying east of S.W. 129 Avenue, on both sides of S.W. 246 Terrace, Miami-Dade County, Florida.

SIZE OF PROPERTY: 4.7 Acres

Department of Planning and Zoning Recommendation: Approval under Section 33-311(A)(7) (generalized modification standards), and denial without prejudice under Section 33-311(A)(17) (ASDO for modification or elimination of conditions and covenants after public hearing).

Protests: 283 Waivers: 0

APPROVED: _____ DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____ DEFERRED: _____

THE END

NOTICE OF APPEAL RIGHTS

Decisions of the Community Zoning Appeals Board (CZAB) are appealed either to Circuit Court or to the Board of County Commissioners (BCC) depending upon the items requested in the Zoning Application. Appeals to Circuit Court must be filed within 30 days of the transmittal of the CZAB resolution. Appeals to BCC must be filed with the Zoning Hearings Section of the Department of Planning and Zoning within 14 days of the posting of the results in the department.

Further information and assistance may be obtained by contacting the Legal Counsel's office for the Department of Planning and Zoning at (305) 375-3075, or the Zoning Hearings Section at (305) 375-2640. For filing or status of Appeals to Circuit Court, you may call the Clerk of the Circuit Court at (305) 349-7409.

1. ROGER & DOROTHY WOLIN
(Applicant)

07-12-CZ12-2 (07-172)
BCC/District 7
Hearing Date: 3/20/08

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:

Year	Applicant	Request	Board	Decision
				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 THE BOARD OF COUNTY COMMISSIONERS

APPLICANTS: Roger and Dorothy Wolin **PH:** Z07-172 (07-12-CZ12-2)

SECTION: 31-54-41 **DATE:** March 20, 2008

COMMISSION DISTRICT: 7 **ITEM NO.:** 1

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A. INTRODUCTION

o REQUESTS:

ROGER AND DOROTHY WOLIN are appealing the decision of Community Zoning Appeals Board #12, which denied without prejudice the following:

(1) EU-1 to EU-S

OR IN THE ALTERNATIVE:

(2) Applicants are requesting to permit two lots with lot areas of 0.617 gross acre each (1 gross acre required).

AND WITH EITHER REQUEST #1 OR #2, THE FOLLOWING:

(3) Applicants are requesting to permit two lots with frontages of 100' each (125' required).

(4) Applicants are requesting to permit on Parcel 1 a utility shed accessory building setback 7.72' (20' required) from the interior side (south) property line.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 - #4 may be considered under §33-311(A)(14) (Alternative Site Development Option for Single-Family and Duplex Dwelling Units) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

A boundary survey is on file and may be examined in the Department of Planning and Zoning, as prepared by Schwebke, Shiskin & Associates, Inc. and dated stamped received 8/31/07. Plans may be modified at public hearing.

o SUMMARY OF REQUESTS:

The applicants are appealing the decision of Community Zoning Appeals Board #12 (CZAB-12) which denied without prejudice a request to change the zoning on the property from EU-1, Single-Family One Acre Estate Residential District, to EU-S, Estate Use Suburban Residential District, or in the alternative, to permit lots with areas of 0.617 gross acre each to allow the resubdivision of the subject EU-1 zoned parcel into two lots with less lot area than required by the zoning regulations. Additionally, with either of the aforementioned requests, the applicants

seek to permit said two lots with reduced lot frontages with either alternative (the zone change or the reduced lot areas) and to permit a utility shed accessory building on Parcel 1 to setback less than required from the interior side (south) property line.

- **LOCATION:**

  7677 Ponce de Leon Road, Miami-Dade County, Florida.

- **SIZE:** 1.24 gross acres

- **IMPACT:**

  The approval of the requested district boundary change or the alternative request for lots with less lot area and the request for less lot frontage than required by the zoning district regulations will provide 1 additional housing unit for the community that will have a minimal impact on public services. The reduced utility shed setback could have a negative visual impact on the area.

B. ZONING HEARINGS HISTORY: None

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Estate Density Residential** use. This density range is typically characterized by detached estates which utilize only a small portion of the total parcel. Clustering, and a variety of housing types may, however, be authorized. The residential densities allowed in this category shall range from a minimum of 1.0 to a maximum of 2.5 dwelling units per gross acre.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING	LAND USE PLAN DESIGNATION
Subject Property:	
EU-1; single-family residence	Estate Density Residential, 1 to 2.5 dua
Surrounding Properties:	
NORTH: EU-1; single-family residences	Estate Density Residential, 1 to 2.5 dua
SOUTH: EU-1; single-family residences	Estate Density Residential, 1 to 2.5 dua

EAST:	EU-1; single-family residence	Estate Density Residential, 1 to 2.5 dua
WEST:	EU-M; single-family residences	Estate Density Residential, 1 to 2.5 dua

The subject property is located at 7677 Ponce de Leon Road. The area surrounding the subject property is predominately developed with single-family homes.

E. SITE AND BUILDINGS:

Site Plan Review:	(site plan submitted)
Scale/Utilization of Site:	**Unacceptable**
Location of Buildings:	**Unacceptable**
Compatibility:	**Unacceptable**
Landscape Treatment:	**N/A**
Open Space:	**N/A**
Buffering:	**Unacceptable**
Access:	**Acceptable**
Parking Layout/Circulation:	**N/A**
Visibility/Visual Screening:	**N/A**
Energy Considerations:	**N/A**
Roof Installations:	**N/A**
Service Areas:	**N/A**
Signage:	**N/A**
Urban Design:	**N/A**

F. PERTINENT REQUIREMENTS/STANDARDS:

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

(1) Conform 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) 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;

(3) Will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;

(4) 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;

(5) 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)(14) Alternative Site Development Option for Single Family and Duplex Dwellings

The following standards are alternatives to the generalized standards contained in zoning regulations governing specified zoning districts:

(c) Setbacks for a single family or duplex dwelling 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 residential 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 open space on the parcel proposed for alternative development to less than 40% of the total net lot area; 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 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

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 or addition are aesthetically harmonious with that of other existing or

proposed structures or buildings on the parcel proposed for alternative development; and

8. the wall of any building within a setback area required by the underlying district regulations shall be improved with architectural details and treatments that avoid the appearance of a "blank wall"; and

9. the proposed 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; and

10. any windows or doors in any building to be located within an interior setback required by the underlying 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 underlying regulations; and

12. the area within an interior side setback required by the underlying district regulations located behind the front building line will not be used for off-street parking except:

    a. in an enclosed garage where the garage door 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 within an interior side setback required by the underlying 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 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, except canopy carports, is located behind the front building line; and

15. any structure not attached to a principal building and proposed to be located within a setback required by the underlying district regulations shall be separated from any other structure by at least three (3) feet; and

16. when a principal building is proposed to be located within a setback required by the underlying 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 underlying district regulations or, if applicable, prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002), regulating lot area, frontage and depth.

21. the proposed development will meet the following:

A. interior side setbacks will be at least three (3) feet or fifty percent (50%) of the side setbacks required by the underlying district regulations, whichever is greater.

B. Side street setbacks shall not be reduced by more than fifty percent (50%) of the underlying zoning district regulations;

C. Interior side setbacks for active recreational uses shall be no less than seven (7) feet in EU, AU, or GU zoning district or three (3) feet in all other zoning districts to which this subsection applies;

D. Front setbacks will be at least twelve and one-half (12 ½) feet or fifty percent (50%) of the front setbacks required by the underlying district regulations, whichever is greater;

E. Rear setbacks will be at least three (3) feet for detached accessory structures and ten (10) feet for principal structures.

(d) The **lot area, frontage, or depth** for a single family or duplex dwelling shall be approved upon demonstration of at least one of the following:

1. the proposed lot area, frontage or depth will permit the development or redevelopment of a single family or duplex dwelling on a parcel of land where such dwelling would not otherwise be permitted by the underlying district regulations due to the size or configuration of the parcel proposed for alternative development, provided that:

   A. the parcel is under lawful separate ownership from any contiguous property and is not otherwise grandfathered for single family or duplex use; and

   B. the proposed alternative development will not result in the further subdivision of land; and

   C. the size and dimensions of the lot are sufficient to provide all setbacks required by the underlying district regulations; and

   D. the lot area is not less than ninety percent (90%) of the minimum lot area required by the underlying district regulations; and

   E. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and

   F. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and

   G. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

2. the proposed alternative development will result in open space, community design, amenities or preservation of natural resources that enhances the function or aesthetic character of the immediate vicinity in a manner not otherwise achievable through application of the underlying district regulations, provided that:

   A. the density of the proposed alternative development does not exceed that permitted by the underlying district regulations; and

B. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002); and

C. each lot's area is not less than eighty percent (80%) of the lot area required by the underlying district regulations; and

D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and

E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and

F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

3. the proposed lot area, frontage or depth is such that:

A. the proposed alternative development will not result in the creation of more than three (3) lots; and

B. the size and dimensions of each lot are sufficient to provide all setbacks required by the underlying district regulations; and

C. no lot area shall be less than the smaller of:

i. ninety percent (90%) of the lot area required by the underlying district regulations; or

ii. the average area of the developed lots in the immediate vicinity within the same zoning district; and

D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and

E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and

F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

4. If the proposed alternative development involves the creation of new parcels of smaller than five (5) gross acres in an area designated agricultural in the Comprehensive Development Master Plan:

A. the abutting parcels are predominately parcelized in a manner similar to the proposed alternative development on three (3) or more sides of the parcel proposed for alternative development; and

B. the division of the parcel proposed for alternative development will not precipitate additional land division in the area; [and]

C. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations; and

D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the surrounding area defined by the closest natural and man-made boundaries lying with [in] the agricultural designation; and

E. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

(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.

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.

G. NEIGHBORHOOD SERVICES:

DERM	**No objection***
Public Works	**No objection***
Parks	**No objection**
MDT	**No objection**

Fire Rescue	**No objection**
Police	**No objection**
Schools	**No objection**

*Subject to the conditions as indicated in their memoranda.

H. ANALYSIS:

On December 3, 2007, the Community Zoning Appeals Board – 12 (CZAB-12) denied the zone change (request #1) and companion requests #2, #3 and #4 without prejudice, by a vote of 7 to 0, pursuant to Resolution #CZAB12-31-07. On December 24, 2007, the applicants appealed the CZAB-12's decision to the Board of County Commissioners (BCC) citing that the Board's decision to deny the application is inconsistent with the CDMP and that the applicants met the standard of review in Chapter 33 of the Zoning Code of Miami-Dade County. Staff notes that all existing uses and zoning are consistent with the CDMP. As such, the CZAB-12's decision to deny the zone change and retain the existing EU-1 zoning on the subject property is consistent with the CDMP. The subject property is located at 7677 Ponce de Leon Road and is developed with a single-family residence on the west portion of the site (proposed parcel 2). Said residence has a screen patio addition and a pool that will be removed. Additionally, a guesthouse currently exists on the east portion of the site (proposed parcel 1). The applicants are seeking to rezone the property from EU-1, Single-Family One Acre Estate District, to EU-S, Estate Use Suburban Residential District (request #1). In the alternative to request #1, the applicants are requesting to retain the EU-1 zoning and permit two lots with lot areas of 0.617 gross acre each (1 gross acre required) in order to develop two single-family home sites (request #2). With either request, the applicants are requesting to permit two lots with a frontage of 100' each (125' required) (request #3) and to permit the continued use of an existing utility shed accessory building on Parcel 1 setback 7.72' (20' required) from the interior side (south) property line (request #4). The site plan submitted indicates the development of two lots (Parcel 1 and Parcel 2), each with 26,902 sq. ft. of gross lot area, which complies with the EU-S zoning lot area requirement of 25,000 sq. ft. (0.57 gross acre). However, the existing EU-1 zoning regulations require a minimum lot area of 1 acre gross (43,560 sq. ft.). Most of the parcels immediately surrounding the subject property are zoned EU-1 and are developed with single-family homes.

The Department of Environmental Resources Management (**DERM**) **does not object** to this application and states that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County. However, the applicants will have to comply with all DERM conditions as set forth in their memorandum pertaining to this application. Additionally, the **Public Works Department does not object** to this application. The land will require platting in accordance with Chapter 28 of the Miami-Dade County Code and road dedications and improvements will be accomplished through the recording of a plat. According to their memorandum, this application meets traffic concurrency since it lies within the urban infill area where traffic concurrency does not apply. The Miami-Dade Fire Rescue Department **(MDFR)** has **no objections** to this application and their memorandum indicates that the estimated average **travel time** to the subject site is **6:30 minutes**. Miami-Dade County Public Schools **(MDCPS) does not object** to this application and

indicates that the proposed zoning will not generate any additional students for the schools in the area.

This application would permit the applicants to provide additional housing for the community. The Land Use Plan (LUP) map of the CDMP designates this site for **Estate Density Residential** use that permits a minimum of 1 to a maximum of 2.5 units per gross acre, and would allow the applicants to develop the site with a minimum of 1 to a maximum of 3 residential units. As such, the development of the subject property with 2 residential lots as proposed by the applicants is **consistent** with the density threshold of the Land Use Plan map of the CDMP. Staff notes that EU-1 zoning mostly surrounds the subject property and opines that introducing an EU-S district amidst the EU-1 zoning primarily surrounding the subject property would be **incompatible** with the established development trend in this area. Further, approving the EU-S zone change would set a precedent in the area for similar zoning and could potentially foster the introduction of more intensive residential zoning districts. Staff acknowledges that to the west of the subject property is a pocket of EU-M, Estate Modified Residential District, and that approximately 318' to the east is a pocket of land zoned RU-1, Single Family Residential District. However, staff notes that the block where the subject site lies as well as the blocks to the north and east are zoned EU-1. Further, staff's review of the quarter section mile where the subject property lies reveals that with the exception of small pockets of EU-M and RU-1 zoned lands, the overall area is predominately zoned EU-1. Therefore, staff opines that the approval of the requested EU-S zone change would be **incompatible** and out of character with the established zoning pattern in the area. Staff acknowledges that a number of the EU-1 parcels surrounding the subject property have less than the 1-acre gross area required by the zoning regulations. Specifically, staff notes that EU-1 zoned lots that abut the subject site to the north consist of a lot areas of 58,571 sq. ft (1.34 gross acre) and 64,513 sq. ft. (1.48 gross acre), that EU-1 zoned lots that abut the subject site to the south consist of lot areas of 53,774 sq. ft. (1.23 gross acre) and 25,600 sq. ft. (0.58 gross acre), and that the EU-1 zoned lot that abuts the subject site to the east consists of a lot area of 45,631 sq. ft. (1.04 gross acre). Taking into consideration that EU-1 lots are given credit to the centerline of the abutting rights-of-way for their lot areas, most of these lots contain the required full one (1) gross acre of lot area. Staff notes that the proposed 0.62 gross acre lot areas, as illustrated in the submitted plan and in conjunction with the requested reduced lot frontages, are significantly smaller and would be out of character with the surrounding area. It should be noted that in 2005, Community Zoning Appeals Board #12 (CZAB-12) denied without prejudice a similar application for a zone change from EU-1 to EU-S or in the alterative, a request to permit 2 lots each with reduced lot areas and frontages on a 1.438 gross acre parcel of land located immediately to the north of the subject site, pursuant to Resolution #CZAB12-31-05. However, CZAB-12's decision was overturned by the Board of County Commissioners (BCC), which denied the requested zone change from EU-1 to EU-S but approved an alternative request to permit a lot with an area of 0.645 gross acre and a lot with an area of 0.793 gross acre, pursuant to Resolution #Z-22-05. Nevertheless, staff notes that the current requested lot sizes are smaller than those in this prior approval and is of the opinion that the approval of request #2 could initiate a proliferation of similar requests that would result in smaller lots in this area that would change the EU-1 estate density residential character of this community. Accordingly, staff opines that, although the proposed development density is **consistent** with the numerical threshold of the LUP map's Estate Density Residential designation, the

proposed division of the subject property into two lots is **incompatible** with the surrounding area.

When considering district boundary changes, the Board shall hear and grant or deny applications by taking into consideration whether the proposed development 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. The Board shall also consider whether the development will have a favorable or unfavorable impact on the economy of Miami-Dade County, if it will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education, public transportation facilities 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. Staff notes that the proposal will not burden water, sewer, solid waste disposal, recreation, education or public transportation facilities in the area, and will be accessible by an interior road. Further, the rezoning, if granted, conforms to the LUP Map density of the Comprehensive Development Master Plan for Miami-Dade County. Staff further notes that the Public Works Department does not object to this application and the Department of Environmental Resources Management's memorandum indicates that public water can be made available to the property, which will not reduce the Levels of Service (LOS) standards as set forth in the CDMP. As previously mentioned, the applicants' proposal of 2 lots is **consistent** with the numerical threshold of the LUP map's Estate Density Residential designation; however, staff opines that the approval of the proposal would be out of character with the development pattern in the area, could set a precedent in the area for similar zoning and could potentially foster the introduction of more intensive residential zoning districts. As such, staff opines that the request to rezone the subject property to EU-S is **incompatible** with the surrounding area. Therefore, staff recommends denial without prejudice of the requested zone change to EU-S (request #1).

The Alternative Site Development Option (ASDO) standards under Section 33-311(A)(14) 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 applicants have not provided staff with the documentation necessary to analyze requests #2 through #4 under the ASDO Standards. As such, these requests cannot be approved 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), the Non-Use Variance (NUV) Standards, staff is of the opinion that said requests do not maintain the basic intent and purpose of the zoning, subdivision and other land use regulations, would be **incompatible** with the surrounding area and would be detrimental to same. The alternative request #2, which seeks to re-subdivide the property into two EU-1 zoned lots with less lot area than required by the zoning regulations and request #3, to permit two lots with frontages of 100' each (125' required), would be incompatible with the area because approval of these requests could initiate a proliferation of similar requests for smaller lots and reduced frontages in this area. Staff further notes that the request for reduced lot

frontage applies to either the zone change to EU-S or the alternative request for reduced lot areas in the current EU-1 zone. As previously mentioned, the BCC denied a request for a zone change from EU-1 to EU-S but approved an alternative request to retain the existing zoning and permit a lot with an area of 0.645 gross acre and a lot with an area of 0.793 gross acre, pursuant to Resolution #Z-22-05 on a 1.438 gross acre parcel of land to the north of the subject site. Staff notes that the property that is the subject of this application consists of 1.24 gross acres and that the submitted plan depicts 2 parcels that consist of 0.62 gross acres each which, as previously mentioned, is smaller in terms of lot area than those previously approved by this Board on the property to the north. Request #4, to permit a utility shed accessory building on Parcel 1 setback 7.72' (20' required) from the interior side (south) property line, in staff's opinion, is excessive and intrusive. Specifically, this setback request is too close to the neighbor's property to the south and would detrimentally impact said property. Staff opines that the approval of these requests could disrupt the overall welfare of the neighborhood, and could generate similar requests that would further affect the integrity of this residential neighborhood. Accordingly, staff recommends denial without prejudice of requests #2 through #4 of this application under Section 33-311(A)(4)(b) (Non-Use Variance).

When requests #2 through #4 are analyzed under Section 33-311(A)(4)(c), the Alternative Non-Use Variance (ANUV) Standards, the applicants have not proven that a literal enforcement of the provisions thereof will result in unnecessary hardship and that the property cannot be utilized in accordance with the zoning regulations unless the requests are approved. Said requests cannot be approved under said standard since the property can be utilized in accordance with zoning regulations. As such, staff recommends denial without prejudice of these requests under Section 33-311(A)(4)(c) (ANUV).

Based on all of the aforementioned, staff opines that, although the density proposed by this application is **consistent** with the interpretative text of the CDMP, approval of same would be **incompatible** with the area and could generate similar requests that would further affect the integrity of this residential neighborhood. Noting all the above and the fact that the CDMP indicates that all existing zoning is consistent with the CDMP, staff recommends denial without prejudice of the appeal and of this application.

I. RECOMMENDATION:

Denial without prejudice of the appeal and the application.

J. CONDITIONS: None

DATE INSPECTED: 09/24/07
DATE TYPED: 10/02/07
DATE REVISED: 10/19/07; 10/24/07; 10/31/07; 01/29/08; 01/31/08; 02/11/08

DATE FINALIZED: 02/20/08
SB:MTF:LVT:JV:NC

Subrata Basu, Interim Director
Miami-Dade County Department of
Planning and Zoning

Memorandum

MIAMI-DADE COUNTY

Date: July 2, 2007

To: Subrata Basu, AIA, AICP, Interim Director
Department of Planning and Zoning

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

Subject: C-12 #Z2007000172
Roger Wolin and Dorothy G. Wolin
7677 Ponce de Leon Road
District Boundary Change from EU-1 to EU-S
(EU-1) (1 Acres)
31-54-41

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

Existing public water 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.

Wastewater Disposal
Public sanitary sewers are not located within feasible distance for connection to the subject property; consequently, any proposed development would have to be served by a septic tank and drainfield, as a means for the disposal of domestic liquid waste. DERM has no objection to the interim use of a septic tank and drainfield, provided that the maximum sewage loading allowed by Section 24-43.1(3) of the Code is not exceeded. Based on available information, the proposed single-family residence or duplex served by a septic tank would not exceed the maximum allowable sewage loading for the subject property.

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.

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.

Wetlands
The subject property does not contain jurisdictional wetlands, as defined in 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.

Tree Preservation
The subject property may contain specimen-sized (trunk diameter 18 inches or greater) trees. Section 24-49.2(II) of the Code requires that specimen trees be preserved whenever reasonably possible. A Miami-Dade County Tree Removal Permit is required prior to the removal or relocation of any tree that is subject to the Tree Preservation and Protection provisions of the Code. Said Tree Removal Permit shall meet the requirements of Sections 24-49.2 and 24-49.4 of the Code.

The applicant is required to comply with the above tree permitting requirements. DERM's approval of the subject application is contingent upon inclusion of said tree permitting requirements in the resolution approving this application. The applicant is advised to contact DERM staff for additional information regarding tree permitting procedures and requirements prior to site development.

Enforcement History
DERM has found no open or closed enforcement record for the subject property.

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.

cc: Lynne Talleda, Zoning Evaluation - P&Z
Ron Connally, Zoning Hearings - P&Z
Franklin Gutierrez, Zoning Agenda Coordinator - P&Z

PH# Z2007000172
CZAB - C12

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: ROGER & DOROTHY WOLIN

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.

This project meets traffic concurrency because it lies within the urban infill area where traffic concurrency does not apply.

Raul A Pino, P.L.S.
12-JUN-07

PETITION OF APPEAL FROM DECISION OF
MIAMI-DADE COUNTY COMMUNITY ZONING APPEALS BOARD
TO THE BOARD OF COUNTY COMMISSIONERS

CHECKED BY GH. AMOUNT OF FEE 1582.09 07-172

RECEIPT # I20072448 3

DATE HEARD: 12/03/07

BY CZAB # 123/07

RECEIVED
DEC 24 2007
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY
DATE RECEIVED STAMP

****

This Appeal Form must be completed in accordance with the "Instruction for Filing an Appeal" and in accordance with Chapter 33 of the Code of Miami-Dade County, Florida, and return must be made to the Department on or before the Deadline Date prescribed for the Appeal.

RE: Hearing No. 07-12-CZ12-2 (07-172)

Filed in the name of (Applicant) Roger & Dorothy Wolin

Name of Appellant, if other than applicant

Address/Location of APPELLANT'S property:

7677 Ponce de Leon Road, Miami-Dade County, Florida

Application, or part of Application being Appealed (Explanation): Entire application

Appellant (name): Roger and Dorothy Wolin
hereby appeals the decision of the Miami-Dade County Community Zoning Appeals Board with reference to the above subject matter, and in accordance with the provisions contained in Chapter 33 of the Code of Miami-Dade County, Florida, hereby makes application to the Board of County Commissioners for review of said decision. The grounds and reasons supporting the reversal of the ruling of the Community Zoning Appeals Board are as follows: (State in brief and concise language)

1. The CZAB12 decision is inconsistent with the Comprehensive Development Master Plan (CDMP).

2. The Applicant met the standard of review in Chapter 33 (Zoning) of the Code of Miami-Dade County.

APPELLANT MUST SIGN THIS PAGE

Date: 17th day of December, year: 2007

Signed Dorothy Wolin

DOROTHY WOLIN
Print Name

7677 PONCE DE LEON ROAD
Mailing Address

305-665-7677 _____
Phone Fax

REPRESENTATIVE'S AFFIDAVIT
If you are filing as representative of an association or other entity, so indicate:

_____
Representing

_____
Signature

_____
Print Name

_____
Address

_____
City State Zip

_____
Telephone Number

Subscribed and Sworn to before me on the 17th day of December, year 2007

_____
Notary Public

(stamp/seal)

Commission expires: Feb 11, 2011

RECEIVED
2007-172
DEC 24 2007
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY _____

NOTARY PUBLIC - STATE OF FLORIDA
Michael Pelaez
Commission # DD630542
Expires: FEB. 11, 2011
BONDED THRU ATLANTIC BONDING CO., INC.

APPELLANT MUST SIGN THIS PAGE

Date: 17th day of December, year: 2007

Signed _____

S. ROGER WOLIN
Print Name

7677 PONCE DE LEON ROAD
Mailing Address

305-665-7677 _____
Phone Fax

REPRESENTATIVE'S AFFIDAVIT
If you are filing as representative of an association or other entity, so indicate:

_____
Representing

_____
Signature

_____
Print Name

_____
Address

_____
City State Zip

_____
Telephone Number

Subscribed and Sworn to before me on the 17th day of December, year 2007

_____
Notary Public

(stamp/seal)

Commission expires: Feb 11, 2011

RECEIVED
207-172
DEC 24 2007
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY _____

NOTARY PUBLIC - STATE OF FLORIDA
Michael Pelaez
Commission # DD630542
Expires: FEB. 11, 2011
BONDED THRU ATLANTIC BONDING CO., INC.

APPELLANT'S AFFIDAVIT OF STANDING
(must be signed by each Appellant)

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

Before me the undersigned authority, personally appeared S. Roger Wolin (Appellant) who was sworn and says that the Appellant has standing to file the attached appeal of a Community Zoning Appeals Board decision.

The Appellant further states that they have standing by virtue of being of record in Community Zoning Appeals Board matter because of the following:

(Check all that apply)

___1. Participation at the hearing
_✓_2. Original Applicant
___3. Written objections, waivers or consent

Appellant further states they understand the meaning of an oath and the penalties for perjury, and that under penalties of perjury, Affiant declares that the facts stated herein are true.

Further Appellant says not.

Witnesses:

Billy Ferrer
Signature

BEILYS FERRER
Print Name

Mario Wones
Signature

MARIO WONES
Print Name

S. Roger Wolin
Appellant's signature

S. ROGER WOLIN
Print Name

Sworn to and subscribed before me on the 17th day of December, year 2007.
Appellant is personally known to me or has produced _____ as identification.

Michael Pelaez
Notary
(Stamp/Seal)
Commission Expires: Feb 11, 2011

NOTARY PUBLIC - STATE OF FLORIDA
Michael Pelaez
Commission # DD630542
Expires: FEB. 11, 2011
BONDED THRU ATLANTIC BONDING CO., INC.

RECEIVED
207-172
DEC 24 2007
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY

APPELLANT'S AFFIDAVIT OF STANDING
(must be signed by each Appellant)

STATE OF Florida

COUNTY OF Miami-Dade

Before me the undersigned authority, personally appeared Dorothy Wolin (Appellant) who was sworn and says that the Appellant has standing to file the attached appeal of a Community Zoning Appeals Board decision.

The Appellant further states that they have standing by virtue of being of record in Community Zoning Appeals Board matter because of the following:

(Check all that apply)

___1. Participation at the hearing
_✓_2. Original Applicant
___3. Written objections, waivers or consent

Appellant further states they understand the meaning of an oath and the penalties for perjury, and that under penalties of perjury, Affiant declares that the facts stated herein are true.

Further Appellant says not.

Witnesses:

Bellys Ferrer
Signature

BELLYS FERRER
Print Name

Mario Wons
Signature

MARIO WONS
Print Name

Dorothy Wolin
Appellant's signature

DOROTHY WOLIN
Print Name

Sworn to and subscribed before me on the 17th day of December, year 2007.
Appellant is personally known to me or has produced _____ as identification.

Michael Pelaez
Notary
(Stamp/Seal)
Commission Expires: ~~12/11/07~~ Feb 11, 2011

RECEIVED
2007-172
DEC 24 2007
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY _____

NOTARY PUBLIC - STATE OF FLORIDA
Michael Pelaez
Commission # DD630542
Expires: FEB. 11, 2011
BONDED THRU ATLANTIC BONDING CO., INC.

APPELLANT MUST SIGN THIS PAGE

Date: 20 day of December, year: 2007

Signed _____

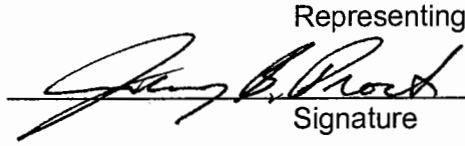
_____
Print Name

_____
Mailing Address

_____ _____
Phone Fax

REPRESENTATIVE'S AFFIDAVIT
If you are filing as representative of an association or other entity, so indicate:

Roger Wolin and Dorothy Wolin
Representing


Signature

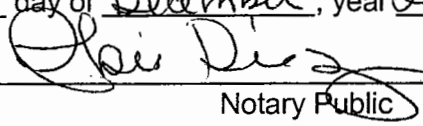
Jerry B. Proctor
Print Name

7677 Ponce de Leon Road
Address

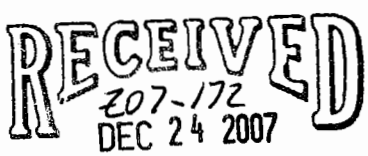
Miami Florida 33143
City State Zip

305-667-7738
Telephone Number

Subscribed and Sworn to before me on the 20 day of December, year 2007.


Notary Public

(stamp/seal)



RESOLUTION NO. CZAB12-31-07

WHEREAS, **ROGER AND DOROTHY WOLIN** applied for the following:

(1) EU-1 to EU-S

OR IN THE ALTERNATIVE:

(2) To permit two lots with lot areas of 0.617 gross acre each (1 gross acre required).

AND WITH EITHER REQUEST #1 OR #2, THE FOLLOWING:

(3) To permit two lots with a frontage of 100' each (125' required).

(4) To permit a utility shed accessory building on Parcel 1 setback 7.72' (20' required) from the interior side (south) property line.

Upon demonstration that the applicable standards have been satisfied, approval of requests #2 - #4 may be considered under §33-311(A)(14) (Alternative Site Development Option for Single-Family and Duplex Dwelling Units) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

A boundary survey is on file and may be examined in the Zoning Department, as prepared by Schwebke, Shiskin & Associates, Inc. and dated stamped received 8/31/07.

SUBJECT PROPERTY: Lot 3, Block 3, AMENDED PLAT OF GRANADA PARK, Plat book 40, Page 21.

LOCATION: 7677 Ponce de Leon Road, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 12 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested district boundary change to EU-S (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the requests to permit two lots with lot areas of 0.617 gross acre each (Item #2), to permit two lots with a frontage of 100' each (Item #3), and to permit a utility shed accessory building on Parcel 1 setback 7.72' from the

interior side (south) property line (Item #4) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and

WHEREAS, a motion to deny the entire application without prejudice was offered by Peggy Brodeur, seconded by Edward D. Levinson, and upon a poll of the members present the vote was as follows:

Peggy Brodeur	aye	Jose I. Valdes	aye
Edward D. Levinson	aye	Robert W. Wilcosky	aye
Alberto Santana	aye	Elliot N. Zack	aye

Carla Ascencio-Savola aye

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 12, that the requested district boundary change to EU-S (Item #1), be and the same is hereby denied without prejudice.

BE IT FURTHER RESOLVED that the requests to permit two lots with lot areas of 0.617 gross acre each (Item #2), to permit two lots with a frontage of 100' each (Item #3), and to permit a utility shed accessory building on Parcel 1 setback 7.72' from the interior side (south) property line (Item #4) be and the same are hereby denied without prejudice.

The Director is hereby authorized to make the necessary notations upon the records of the Miami-Dade County Department of Planning and Zoning.

PASSED AND ADOPTED this 3rd day of December, 2007.

Hearing No. 07-12-CZ12-2
ls

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Luis Salvat, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Miami-Dade County Community Zoning Appeals Board 12, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB12-31-07 adopted by said Community Zoning Appeals Board at its meeting held on the 3rd day of December 2007.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 11th day of December 2007.

Luis Salvat, Deputy Clerk (2678)
Miami-Dade County Department of Planning and Zoning

SEAL

REVISION 1

Memorandum

Date: 12-SEP-07

To: Subrata Basu, Interim Director
Department of Planning and Zoning

From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department

Subject: Z2007000172

Fire Prevention Unit:

This Memo supersedes MDFR Memorandum dated May 23, 2007.
APPROVAL
Fire Engineering and Water Supply Bureau has no objection to Survey date stamped August 31, 2007. Any changes to the vehicular circulation must be resubmitted for review and approval.
This plan has been reviewed to assure compliance with the MDFR 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 MDFR requirements.

Service Impact/Demand:

Development for the above Z2007000172
located at 7677 PONCE DE LEON RD, MIAMI-DADE COUNTY, FLORIDA.
in Police Grid 1762 is proposed as the following:

2 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: 0.56 alarms-annually.
The estimated average travel time is: 6:30 minutes

Existing services:

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

Station 14 - South Miami - 5860 SW 70 Street.
Rescue, BLS Engine, Battalion.

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 letter of intent date stamped August 31, 2007. Substantial changes to the letter of intent will require additional service impact analysis.

DATE: 02/12/08
REVISION 1

TEAM METRO

ENFORCEMENT HISTORY

ROGER & DOROTHY WOLIN	7677 PONCE DE LEON RD, MIAMI-DADE COUNTY, FLORIDA.
APPLICANT	**ADDRESS**

Z2007000172

HEARING NUMBER

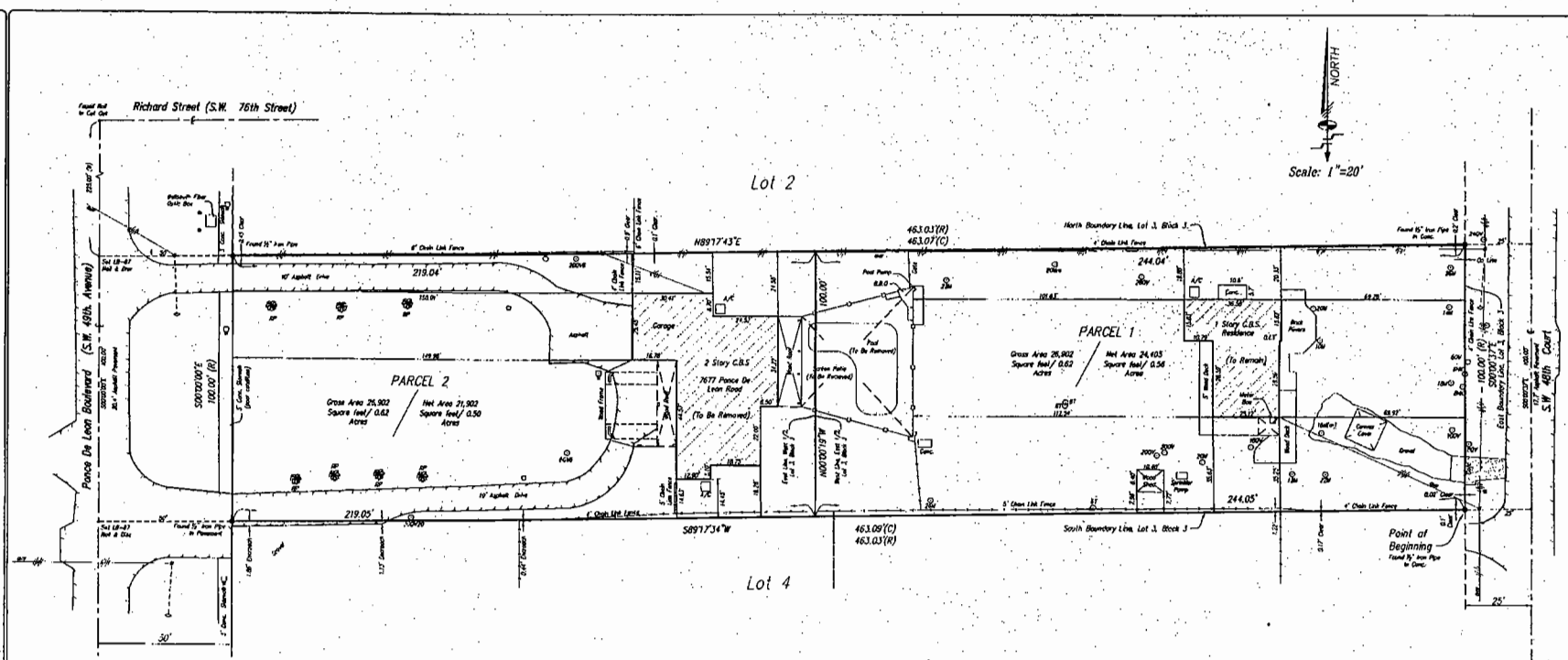
CURRENT ENFORCEMENT HISTORY:

There is no current or previous enforcement history on 7677 Ponce de Leon Blvd.

Roger & Dorothy Wolin

Roger & Dorothy Wolin

No ennfocement recorded


Richard Street (S.W. 76th Street)
Ponce De Leon Boulevard (S.W. 49th Avenue)
S.W. 48th Court
Lot 2
Lot 4
PARCEL 1
Gross Area 26,902 Square feet/ 0.62 Acres
Net Area 24,103 Square feet/ 0.58 Acres
PARCEL 2
Gross Area 26,902 Square feet/ 0.62 Acres
Net Area 21,903 Square feet/ 0.50 Acres
2 Story C.B.S. Residence
7677 Ponce De Leon Road
(To Be Removed)
(To Remain)
Garage
Pool
Pool Pump
Water Box
Gazebo
Point of Beginning
Found 5/8" Iron Pipe in Concrete
Found Rail in Cut Out
Found 1/2" Iron Pipe
Found 5/8" Iron Pipe in Pavement
Bellsouth Fiber Optic Box
Set 1/2" Rebar & Disc
North Boundary Line, Lot 3, Block 3
South Boundary Line, Lot 3, Block 3
East Boundary Line, Lot 3, Block 3
N89°17'43"E
S89°17'34"W
S00°00'00"E 100.00' (R)
S00°00'37"E 100.00' (R)
463.03'(R) 463.07'(C)
463.09'(C) 463.03'(R)
219.04'
219.05'
244.04'
244.05'
100.00'
155.0'
149.98'
101.63'
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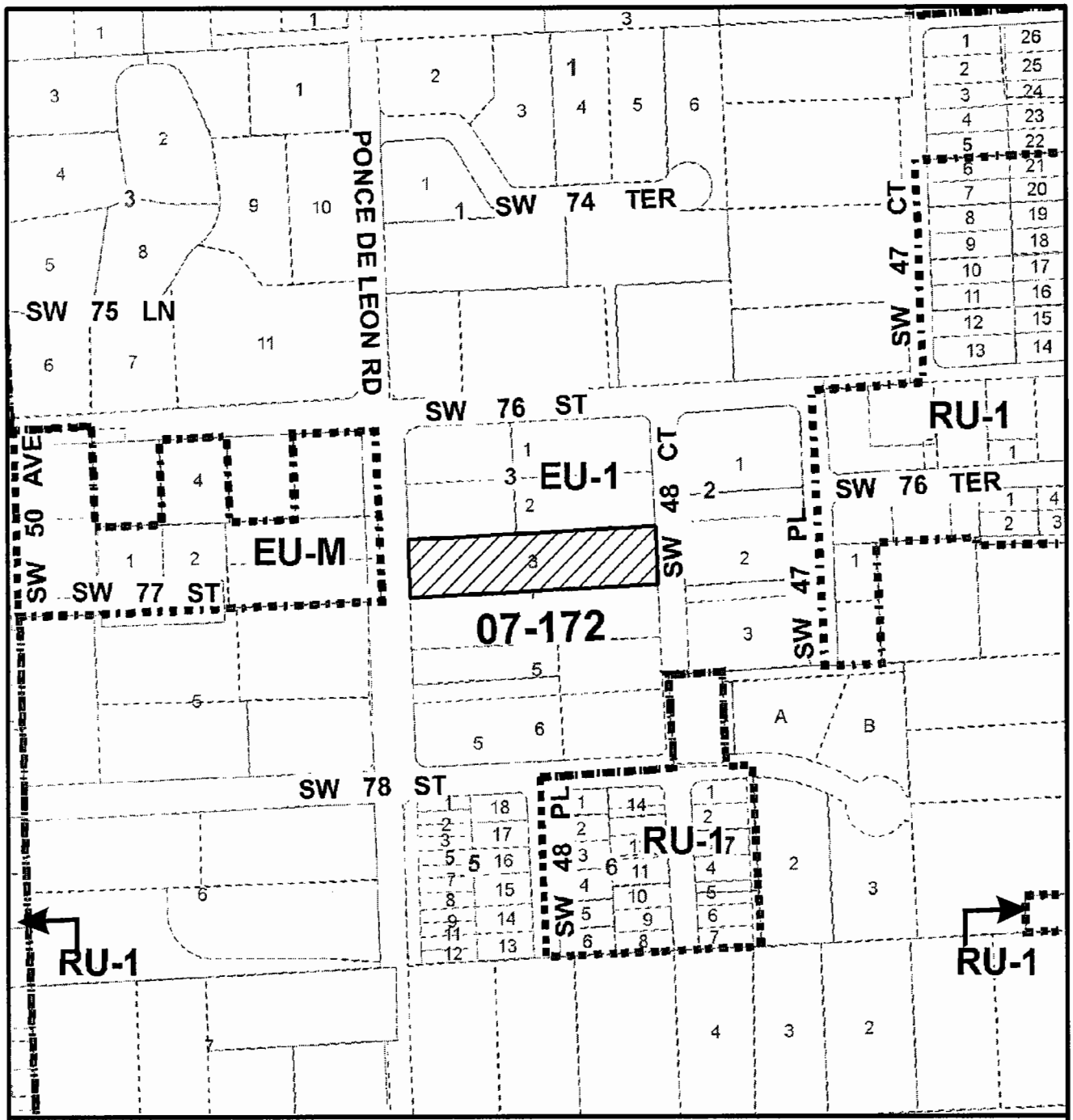

MIAMI-DADE COUNTY

HEARING MAP

S C A L E
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N

SUBJECT PROPERTY

Section: 31 Township: 54 Range: 41
Process Number: 07-172
Applicant: ROGER & DOROTHY WOLIN
Zoning Board: C12
District Number: 7
Cadastral: JEFFER
Scale: NTS

MIAMI-DADE COUNTY

GEOMATICS 07-172 05/25/07

MIAMI-DADE COUNTY

AERIAL

S C A L E
0 NTS
N

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MIAMI-DADE COUNTY

GEOMATICS 07-172 05/25/07

COMMUNITY ZONING APPEALS BOARD - AREA 12

MEETING OF MONDAY, DECEMBER 3, 2007

KENDALL VILLAGE CENTER - CIVIC PAVILION

8625 SW 124 Avenue, Miami, Florida

ROGER & DOROTHY WOLIN

(07-172)

Members of the Board

Present

Carla Ascencio-Savola, Chair
Jose I. Valdes, Vice-Chair
Robert W. Wilcosky
Elliott N. Zack
Alberto Santana
Edward D. Levinson

STAFF

Jay Williams, Assistant County Attorney
Ed Sanchez, Assistant County Attorney
Lou Salvat, Clerk
Jorge Vital, P&Z Hearing Specialist
Victoria Valdez, P&Z Evaluator

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SPEAKERS & PAGE NUMBERS

CHAIRPERSON ASCENCIO-SAVOLA: 3-5, 7-8, 17, 20-22, 30-32, 34-40, 52-55, 60, 62, 66-68, 70-71, 73-75, 77-78.

VICE-CHAIR VALDES: 8, 27-28, 30-32, 34, 36-38, 50, 52-53, 55, 57-60, 62-63, 69-71, 73-74, 77.

BOARD MEMBER WILCOSKY: 4, 78.

BOARD MEMBER ZACK: 4, 77.

BOARD MEMBER SANTANA: 4, 77.

BOARD MEMBER LEVINSON: 4, 37, 60, 70, 74, 77.

BOARD MEMBER BRODEUR: 3, 30, 32, 34, 63-65, 67-75, 77.

STAFF

Ms. Valdez: 5, 8, 37.
Mr. Salvat: 3-4, 74, 77-78.
Mr. Vital: 30-31, 36-37, 62-63.
Mr. Williams: 74.
Mr. Sanchez: 75.

ON BEHALF OF THE APPLICANT

Jerry B. Proctor, Esq: 8, 21, 23, 27-28, 30, 34-35, 40, 48, 50-53, 55, 59-60, 62-65, 70-71, 75, 78.

Ms. Wolin: 17, 71-73.

SUPPORTERS

Mr. Bonnema, 21.

OBJECTORS

Mr. Gibbs: 38-40, 53-55, 58-59, 77.

(Thereupon, the following proceedings were had:)

CHAIRPERSON ASCENCIO-SAVOLA: Good evening. Welcome to the zoning meeting of Kendall Community Council for December 3rd. This is the last meeting of 2007 for our Board. I want to thank you for being here tonight.

We're going to start the meeting with pledging allegiance to our flag, and I would like to take a moment of silence in memory of the men and women who has lost their lives recently in the war. I think we should always remember that it's because of them that we're here gathering peacefully tonight.

BOARD MEMBER BRODEUR: And the football players.

CHAIRPERSON ASCENCIO-SAVOLA: Them, too.

(Pledge of Allegiance.)

CHAIRPERSON ASCENCIO-SAVOLA: Thank you. You may be seated.

Please read through our roll call.

MR. SALVAT: Ms. Brodeur?

BOARD MEMBER BRODEUR: Here.
MR. SALVAT: Mr. Levinson?
BOARD MEMBER LEVINSON: Here.
MR. SALVAT: Mr. Santana?
BOARD MEMBER SANTANA: Here.
MR. SALVAT: Vice-Chairman Valdes?
No response.
CHAIRPERSON ASCENCIO-SAVOLA: He is absent. He was in a deposition, and might join us later on. So it's an excused absence.
MR. SALVAT: Mr. Wilcosky?
BOARD MEMBER WILCOSKY: Here.
MR. SALVAT: Mr. Zack?
BOARD MEMBER ZACK: Present.
MR. SALVAT: Madam Chair Savola?
CHAIRPERSON ASCENCIO-SAVOLA: Present.
MR. SALVAT: You have a quorum.
CHAIRPERSON ASCENCIO-SAVOLA: Thank you.
This is the way we're going to conduct the meeting. We're going to have the court reporter, first of all, swear in the people that are going to speak in

front of us tonight. So if you can please stand up, and be sworn by the court reporter.

(Thereupon, all interested individuals seeking to present testimony in these proceedings were duly sworn to tell the truth, the whole truth, and nothing but the truth, after which the following transpired:)

CHAIRPERSON ASCENCIO-SAVOLA: At this moment, I will entertain any deferrals on any items that are on our agenda tonight. Seeing none, please read the --

MS. VALDEZ: In accordance with the Code of Miami-Dade County, all items to be heard tonight have been legally advertised in the newspaper, notices have been mailed, and the properties have been posted.

Additional copies of the agenda are available here at the meeting.

Items will be called up to be heard by agenda number and name of applicant.

The record of hearing on each application will include the records of

the Department of Planning and Zoning. All these items are physically present tonight, available to all interested parties, and available to the members of the Board, who may examine items from the record during the hearing.

Parties have a right of cross-examination.

This statement, along with the fact that all witnesses have been sworn, should be included in any transcript of all or any part of these proceedings.

In addition, the following departments have representatives present here at the meeting to address any questions: The Department of Public Works, the Department of Planning and Zoning and the County Attorney's Office.

All exhibits used in presentation before the Board will become a part of the public record and will not be returned unless an identical letter-sized copy is submitted for the file.

Any persons making impertinent or slanderous remarks, or who becomes

boisterous while addressing the Community Zoning Appeals Board, shall be barred from further audience before the 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.

The number of filed protests and waivers on each application will be read into the record at the time of each hearing as each application is called.

Those items not heard prior to the ending time of this meeting will be deferred to the next available zoning hearing meeting date with this Board.

CHAIRPERSON ASCENCIO-SAVOLA: Thank you.

When your item gets called, please come forward, state your name and address for the record, and we're going to call the people that are in favor of the application first, and the people who are against the application later.

(Thereupon, other matters not related to this case were heard, after which the

following transpired:)

****

CHAIRPERSON ASCENCIO-SAVOLA: Last item.

MS. VALDEZ: Item Number 2. 07-12-CZ12-2, Roger and Dorothy Wolin, 07-172, six protests, zero waivers.

VICE-CHAIR VALDES: Staff, do we need to make a motion to extend the meeting past nine?

MS. VALDEZ: We're okay.

CHAIRPERSON ASCENCIO-SAVOLA: Hi, good evening.

MR. PROCTOR: This is what happens when you hand up things. Everybody starts reading. I don't know if it's a good thing or not.

Good evening, Madam Chair, members of the council. Jerry Proctor, Attorney, 200 South Biscayne Boulevard, representing the applicants, Roger and Dorothy Wolin. I'm joined by the Wolins's daughter, Melissa, who is right behind me; by my colleague, Alexandra Deas, and by Mr. Bonnema, one of the neighbors to speak in favor at the

appropriate time. Ms. Wolin, the applicant's daughter is here tonight.

The applicants, Roger and Dorothy Wolin, live in the home that's on this property that we'll be talking about. Roger Wolin is 99 years and two months old, and Dorothy Wolin, Melissa's mother, is a young 90 years old. So Melissa is here representing their interest. And you're going to hear a little bit later why they're doing this at this time. The Wolins have owned this property since 1954, and you're going to hear from Ms. Wolin a little later why they're doing this at this time, and what they're trying to do for the future, not only of the property, but for their family.

The property is located in the eastern -- very eastern part of your district. I have the section map up here at the top. I would normally try to color in the property up at the top, but there are so many trees that I don't know that you would see anything. It's a beautiful area east of Red Road. Old Cutler comes

in down here at the bottom on the right-hand side. The City of Coral Gables is on the eastern fringe. Most of this area, though, is in unincorporated Dade County. This, of course, this northwest quadrant is the area commonly known as High Pines. Most of the lots in this area, and you've had one on your agenda tonight, are 75-foot wide lots, usually 125 feet deep. And most of this area is zoned RU-1.

I have included at least a portion of this area in a zoning map, which is Tab 1 in the material, just to illustrate to some extent, not for the whole section, the zoning in the area. There's a variety of different zonings, a variety of lot sizes. It's pretty much exclusively residential until you hit maybe out here to Red Road. But the area functions beautifully despite the fact that you have a variety of lot sizes and a variety of zonings. I would say that the predominant zoning in the area is RU-1. The zoning on our property right now is EU-1, one-acre

estate.

Our property -- actually, let me go to this larger map just for one more second -- is in this northeast quadrant of the section. Sunset Drive, 80th Street runs through the middle, and you have Kendall down here to the south. Our property is in this northeast quadrant where you're coming up just a couple of blocks from Coral Gables, where you have a lot of cut-through traffic, people going eventually to US-1 in the University of Miami area, either on 52nd Avenue or on 49th Avenue, which is really the avenue where our property is located. If you're coming along 72nd or 80th Street, and you don't go north or south in those areas, you're going to eventually approach and hit Old Cutler over here to your east, which, of course, is in Coral Gables.

Our property is located on 49th Avenue, which is one of those feeder avenues, if you will, running north and south through the area. This is a little closer look, and I hope it's a little more

meaningful, a little more visible.

The property is in red in this location right here. It's 100 feet wide, and about 460 feet deep. It's about a football field and a half deep. It's about 1.2 acres. And as such, it's one of the largest properties left in this area in terms of size for one home. You do have some acre lots and lots approximating an acre up along Sunset Drive, which is up here at the northern edge of this map. Down along 80th Street, you have some larger lots. But you have in this immediate area, which I'll talk a little more about, lots that are predominantly less than an acre.

And I want to make that point clear, because the zoning for a lot of this area -- not all of it certainly -- is still EU-1. But what has happened, both through the original development of this area in the late 40's and early 50's and the time since then, is we've had a number of people come in for relief from the code for lot splits or to create smaller lots.

And you've had, as my records would indicate, at least about 17 of those occasions just in this immediate area. I'm not talking about High Pines, which has small lots down on Kendall. I'm just talking about this immediate five or six-block area east and west, and the area from Sunset down to 80th Street. I have put in the packages, I think it's in Tab 3, a number of those relief efforts that have passed. I couple of them have been rezonings, but the vast majority have been variances of lot area or special exceptions to subdivide to reface.

And I know you had a dilemma here earlier where you were trying to decide whether to rezone something or grant variances.

What's happened in this area over time is that there have been a number of approvals granted by way of variance. I'll give you one example. This is the development known as Stone Gate. It has an old historic coral rock home. It was developed in kind of a cluster arrangement

here. The lots -- and I believe it still has EU-1 zoning, but it was approved as a cluster development, I believe, by the zoning appeals board. It's one of the approvals in your package. All of the lots in this area are less than one acre, even though the zoning is one acre, EU-1.

We are asking -- and going back to our property, we have a home that the Wolins have lived in since 1954 in the center of the property. There is a guest home or cottage in the rear of the property. So there are two separate residential structures already on the property. We are asking for a rezoning or a variance of lot area to eventually, and we'll talk about the eventually part in a minute, split this lot and create two home sites. When that happens, this home that's located in the approximate center will have to come down, and there will be a new home or probably two new homes placed on the property, one facing 49th avenue, the main thoroughfare in this area, and one facing 48th Place.

48th Place is a wonderful little dead-end street here. I had the pleasure of going down it the other day. There's just three or four houses here. There's one house to the south of the Wolin property, tree-lined like much of the area, absolutely beautiful trees in the swale on both sides of the street, beautiful, older homes in the area.

And what we are essentially asking for is to have one home eventually, one separate home site face 48th place to the east, and the second principal residence, if you will, or at least the current principal residence, face 49th Avenue. Each one of these two lots would be about 26,900 square feet in area. They would be served by public water and septic tank. There is no sewer in this immediate area, but the rules allow septic tank for that size of lot.

What are all these dots? Every one of these dots represents lots that are today, because of the zoning or because of other relief granted, smaller than either

of the lots that we're requesting in this application. You have an RU-1 zoning over here. This Board approved a rezoning and a lot split on 76th Street and 47th Avenue about a year ago. I think that's the last time you had an application in this area. It was in this area right here (indicating), and it was approved unanimously by this Board.

We are asking for two lots of an approximately six tenths of an acre each. And again, we have right now one of the very largest lots, especially in this immediate area. There are a couple of lots in the area that are an acre in size, but they are the exception, not the rule. And we have a situation here where we would be facing one lot on this public street, 49th Avenue, and the second home on this wonderful dead-end public street, 48th place.

As an ancillary request, we have a utility shed on this eastern lot now that is 7.7 feet from the property line. We're asking that it remain. It's obviously not

the major part of what we're asking for, but that's I think the last request.

Let me -- I have a couple more remarks, but if I can break up our presentation, I'd like to ask Ms. Wolin to come forward and Mr. Bonnema. They have not been sworn. They came in a little bit late, and then I will wrap up, if that's acceptable to the Board.

CHAIRPERSON ASCENCIO-SAVOLA: All right, you can swear them in.

(Individuals sworn in by the court reporter).

CHAIRPERSON ASCENCIO-SAVOLA: Please state your name and address for the record.

MS. WOLIN: Thank you. My name is Melissa Wolin. I live at 7677 Ponce De Leon Road or Southwest 49th Avenue. And the reason I'm here is just to try and tell my story. As you know, I'm a born and raised Miamian. I'm a native. I care about this property. And every time I lose a tree in a hurricane, I cry. It breaks my heart. So, basically, the

reason for this whole request is for family planning purposes. My parents, as you hear, are very, very along in age, and my father would like to leave me a piece of the property so that I have a place to live instead of the big house, because of taxes. I have been employed by the Miami-Dade County school system for 33 years in teaching, and then have -- now as principal of the school. So I am a community, a valid community -- a member of the community, and have worked very hard. The whole thing is that my dad would like to leave me some small piece. There was the property -- the cottage that is there now was a stable when Steve Hessen (phonetic) built the property in 1952. So it was a concrete building when it was there, and we just created, you know, a small cottage out of it so that I would have, you know, a little space when taking care of them. For the exception of 10 years of renting, I have lived with my parents -- you know, left when I got married and then came back to take care of

them, because of health issues. They are both extremely handicapped at this point, both -- well, not both blind and deaf. Dad is blind and deaf, mom has COPD, and is blind as well. So I am there on the property to help take care of them, and that is the whole reasoning for this. There is nothing that will be changed on this property until it has to be sold.

My idea is that after my parents pass, God forgive me, if I live through it, that perhaps, because of the taxes -- the taxes at this point are, I don't know if you're interested, $24,000. It's more than a quarter of my salary, and so the whole idea is so that I can afford to continue to live in what we call our little piece of paradise in Miami. And I do call it my little piece of paradise, because I work in Hialeah. So driving from that area everyday, and just seeing what we have and have had for 50 some odd years, almost 60 years, is just, you know -- this is what I call coming home to paradise. And so that's basically the end

of the tale.

I have known the neighborhood and all of my neighbors for many, many years. The approvals that you have are the people that have signed the little petition that I did, were just who I could get yesterday who were home and I could knock on their doors. I should have probably started working on this a long time ago, but as you know, principals are very busy people. At any rate, that's basically the end of my tale.

If you have any questions -- I do not plan on doing anything with this property. In fact, Charlotte Leatherman that lives just to the south of us said, "You know, I would prefer that you divide this property and hold on to it, because then once it is sold, somebody would be able to come in and build some huge McMansion on it," which many of the area around there they have built very, very large homes. In fact, I look at them and I go, "Who wants to vacuum all these rooms?"

At any rate, not to take up anymore

of your time, I know that everybody is tired, but that's my story.

Thank you.

CHAIRPERSON ASCENCIO-SAVOLA: Thank you. Appreciate it.

MR. BONNEMA: John Bonnema, 5035 Southwest 76 Street, just around the block. I have no objections. I've lived in the area since '65, so I have no objections for this. I was really surprised that the lot wasn't two lots, you know, split in half already, which the other properties are. That's my two cents.

CHAIRPERSON ASCENCIO-SAVOLA: Thank you.

MR. BONNEMA: Thank you.

MR. PROCTOR: Madam Chair, I'd like to pass forward the waivers of objection that Ms. Wolin spoke of.

CHAIRPERSON ASCENCIO-SAVOLA: Thank you.

MR. PROCTOR: There are nine waivers of objection all from the immediate area, one block or west. Mr. Bonnema and

another one of the neighbors are over here on 76th Street.

The Bird Family, which owns several of these properties along 48th Court, and would be affected eventually by the redevelopment of this property, have all waived any objection.

The Kirtland Family, which is abutting here to the south, their lot is actually 23,000 square feet in size. It's one of the many that I talked about earlier that has already been subdivided. Their home is located very close to the property line here. It looks like about 10 feet, and they would be affected eventually by redevelopment even if it stays in the Wolin Family, and they have waived objection as well.

I want to go focus in on this area, because I know that you would want to focus in on it as well.

There are three lots approved directly to our north. There are actually two homes now. There's a home here that was subdivided by action of the County

Commission, I think in 2005. It's one of the items in your package. I saw you looking at it earlier.

CHAIRPERSON ASCENCIO-SAVOLA: I was shocked. I didn't know they had approved it.

MR. PROCTOR: So we have three home sites to our north. Having said that, I think that -- I can't speak for these owners. I don't think they have legally subdivided. They're moving slowly for whatever reason, just like we would probably move slowly if we're to get this approved for the reasons that you've heard. But the point being, you have three home sites to out north. You have two home sites to our south. The smaller residence here, and a large piece of property directly to our south. The beauty of this proposal, in our opinion, is that what you're going to have here short term is what you have now. What you're going to have long term is going to match wonderfully with what's around it: Two residential sites, one on this street,

one on this 48th place; two against three home sites to our north; two home sites to our south, one home site to our east, and actually two home sites already to our west. These are 75-foot home sites.

And, again, it goes to the kind of variability and uniqueness of this area. You have one-acre homes in part of this area. We have a 1.2-acre home. You have 75-foot lots with very nice houses. I'm not denigrating what's there, but you have a situation where these folks already have in terms of impact on 49th Avenue more than we're ever going to have.

So I think if we really focus in on this area, it wouldn't be appropriate for us to ask for three houses or a flag lot or anything of that sort, because we're not on a corner, but we do have two streets. We would have one house on one street, and one house on the other. And we think it fits perfectly. In fact, what we have right now really doesn't fit. We're the anomaly in the immediate area.

I want to point out just one more

thing, and I think this is important, and I know that you weigh these lot splits very carefully. Some of them get approved, and some of them don't, and they're all -- the ones that get approved are all hard earned, and probably for good reason.

The Master Plan.

We have 1.2 acres with one home on it at the moment. If the Board were to deny this application, I believe that it would be in violation of the master plan. Why do I say that? Let me read from the master plan. "In order to efficiently use, and not prematurely deplete the finite development capacity that exists inside the planned urban development boundary, land should not be developed at densities lower than the minimum established for each category." The minimum density in this master plan category and zoning category is one unit per acre. Right now we have less than one unit per acre. We have one home on one and a quarter acres.

If this application is denied, then you have a couple of options to approve it, the rezoning or the lot area, either of which we would accept. If this application is denied, we believe that you're in violation of your master plan.

Now, let me not tell an incomplete story. The language in the code does go on and say the following: "Exceptions to the minimums may exist outside transportation or transit corridors where such an exception would serve the interest of compatibility or protect the public, health or safety or protect important resources." You have an out, a compatibility out. We believe this is compatible. We believe that you have essentially two residences on the property, two residential dwellings on property now. We don't believe we're going to be taxing public resources, or endangering public health in any way by this application. And, most importantly, we think we're compatible. We think we're absolutely compatible with the immediate

area, and very compatible with what has already happened in the surrounding area.

And I think that's why -- and I know each application stands on its own. I think that's why over the 30 or 40 years you've had 17 or so exceptions in this area that have been granted by either the County Commission, the Zoning Appeals Board or this Board. I think there have been six granted by this Board in the time that you've been in existence.

So we believe we're compatible. I'll reserve some time for rebuttal, and be happy to answer any questions.

VICE-CHAIR VALDES: Madam Chair?

Mr. Proctor, on the site plan that we have, when it gets reduced, you can barely read the numbers. The lot size -- what are the dimensions of the lot right now? It's roughly 100 by 500 or something like that?

MR. PROCTOR: A hundred by 460.

VICE-CHAIR VALDES: Okay.

MR. PROCTOR: The lots that we create would be 100 by 230. We've split it

equally.

VICE-CHAIR VALDES: Right now is there any comparable lot that has that configuration? In other words, that you have a lot that's roughly 100 by 500 that has access to two roads? Is this a unique property in that sense?

MR. PROCTOR: We think it's unique in this immediate area. There are some one-acre lots down here along 80th Street up in the Sunset area. These lots here have dual street frontage, but they're much smaller than our lot. And we think if they came in and asked for relief, that their numbers, their lot sizes would be substantially smaller than ours. We think -- we know this is one of the largest properties in the area, and we think it's -- we can't find another one certainly in this immediate area here that has this characteristic and dual streets.

VICE-CHAIR VALDES: That was my point. I mean, when I drove around, I couldn't find anything comparable. We were dealing with a property that roughly

has dimensions of one by five, and that fronts two streets.

MR. PROCTOR: Right.

And I would say one other quick thing. Obviously if this application is approved, there will be change at some point. It may or may not change ownership, but this is setting the way for change, even if it's 10 or more years from now.

But I would say one other thing. If and when we have new homes on this property, or a new home, you're going to have the side yards abutting our neighbors. Side yards typically have the least impact on a neighbor. It's not typically where you have your tennis court -- you don't have room to put a tennis court here. It's not where you have your pool. It's not typically where you have your driveway. You may have your bedrooms, and you may have bedroom windows, but we have folks with rear yards here and 25-foot setbacks, especially these new lots, and we're going to have

our side yard, which typically, just in a general sense, have a lesser impact. So we're going to have -- typically, the largest impact on a home in terms of noise and visibility and such is the front and the rear. So we're going to have our greatest impact where we have it now, 49th Avenue and 48th Place.

MR. VITAL: If I may through the Chair?

CHAIRPERSON ASCENCIO-SAVOLA: Sure.

MR. VITAL: Just to add to what Mr. Valdes said, one of the main concerns that staff has is that there are no similar approvals in the immediate vicinity for EU-S with 100 feet of frontage. Once again, the main thing here is the 100 feet of frontage. If you approve this, this is going to set a precedence for other properties to come in asking for 100 feet.

VICE-CHAIR VALDES: I have a question of staff. Right now, as an EU-1, it's nonconforming because of the configuration, right? It's a

nonconforming EU-1 lot?

BOARD MEMBER BRODEUR: What do you mean by nonconforming?

VICE-CHAIR VALDES: It doesn't have the frontage. It got grandfathered in because of -- when it was platted --

MR. PROCTOR: Not correct.

VICE-CHAIR VALDES: But as it stands right now, if they wanted to build under the current zoning designation, they couldn't without coming in to get variances, because it's a nonconforming lot. Am I correct?

CHAIRPERSON ASCENCIO-SAVOLA: He's correct.

VICE-CHAIR VALDES: I mean, is it an anomaly in that sense?

MR. VITAL: They could rebuild exactly what they have on the property, but they cannot modify what they have. If they modify whatever structure they have, or if they want to build a new structure, they need to conform with today's code. And if you were to conform to the EU-1 requirements, specifically the side

setbacks and the front setbacks, they couldn't build anything without variances, right?

MR. VITAL: Correct.

VICE-CHAIR VALDES: And rather significant variances, right?

MR. VITAL: Correct.

VICE-CHAIR VALDES: Does it make it unique in that sense? I mean, is there any other property within that area? I know you all did a great job on the research, but is there any other property that you could take a look at that has this problem that it's nonconforming? I mean, if they were to -- I mean, you're getting to a point where whatever is on the property becomes functionally obsolete, so you've got to rebuild, knock down and rebuild. And they can't comply with the existing zoning, because they got grandfathered in.

BOARD MEMBER BRODEUR: Excuse me, Mr. -- since it's my district, Dean Housler's house is like that from --

CHAIRPERSON ASCENCIO-SAVOLA: Ms.

Brodeur, please speak on the mike.

BOARD MEMBER BRODEUR: Dean Housler's house is like that from the University of Miami, and our next-door neighbor, and there are several houses like that, that were older built houses that have this type of long length and short width. This is not -- this furthermore has a unique address. Your address is a very prominent address. So it has to be handled very carefully. And you're not the only one who has tax problems in the area. Mrs. Housler had tax problems. Dr. Housler died from the University of Miami. And this is many of the problems that people have with big properties. But we have to consider the land. Everyone has, today, a tax problem. I have a tax problem, and I live on Red Road. I have a tax problem, and I would like to leave something to my kids. So this is not a unique situation that people have in today's world on those types of pieces of property, but this is a unique piece of property, and it's not the only one in the area.

And I think the County has very well put together their idea about how any changes would affect that whole area. That area may have had some changes, but the changes did not come from community council, as learned counsellor knows that we are very tough in that neighborhood. And since we have a long time relationship with your learned counsel, we know each other well, and I've got a lot of respect for Jerry.

MR. PROCTOR: Thank you.

BOARD MEMBER BRODEUR: Mr. Proctor. But this is a very prominent street, and you know it, and I know it, and we have to handle this property very carefully, because of the nature of the location.

MR. PROCTOR: Madam Chair, I know you want to hear from others.

CHAIRPERSON ASCENCIO-SAVOLA: Yes.

MR. PROCTOR: I want to make sure the record is clear. The lot that we have right now is legal. It's a platted lot. We or someone else could come in and build or re-build one home. We can't built two

unless we get your approval. And as long as we meet the setbacks and the lot coverage, that can be done.

VICE-CHAIR VALDES: But my point was you'd have to build an extremely narrow and long home to meet with the setback requirements of EU-1. I mean, am I correct in that regard?

MR. PROCTOR: You're correct, but a home, an attractive home could be built under EU-1. We are simply asking for the relief so that two attractive homes could be built with the EU-1. You don't have to, although we would welcome a rezone of the property to EU-S. Under either scenario, one or two attractive homes could be built. They're going to be constrained by setbacks. They're probably not going to be called McMansions. I don't know what a McMansion is exactly, so I tread on that kind of lightly.

But, you know, the property is not an acre property -- would not be an acre property when it's over with, if this is approved. There are going to be some

constraints, but we're aware of those, and we think those constraints actually help make it compatible.

CHAIRPERSON ASCENCIO-SAVOLA: Thank you.

MR. PROCTOR: Thank you.

CHAIRPERSON ASCENCIO-SAVOLA: I would like to hear from --

MR. VITAL: If I may?

CHAIRPERSON ASCENCIO-SAVOLA: I'm sorry?

MR. VITAL: If I may through the Chair?

CHAIRPERSON ASCENCIO-SAVOLA: Yes.

MR. VITAL: To clarify a point in regards to the frontage of the lot, this is a platted lot for 100 feet. So in case they demolish the house or they want to modify the house, the frontage is grandfathered in. However, the structure has to comply with today's code. What they're requesting is to subdivide the lot. That's not grandfathered in. The frontage would not be grandfathered in when they're subdividing the lot.

VICE-CHAIR VALDES: Okay. But if they're going to tear down and build -- I'm sorry, through the Chair?

CHAIRPERSON ASCENCIO-SAVOLA: Go ahead.

VICE-CHAIR VALDES: For argument's sake, if they tear down the structure that's now there because it's functionally obsolete, and they build another house, they have to comply with the setback requirements of EU-1. What are the setback requirements?

MS. VALDEZ: The setbacks are 50 from the front, 25 from the rear, 15 from the anterior side.

VICE-CHAIR VALDES: Fifteen on EU-1?

CHAIRPERSON ASCENCIO-SAVOLA: Fifteen from the side?

VICE-CHAIR VALDES: Fifteen on the --

MR. VITAL: Fifteen.

CHAIRPERSON ASCENCIO-SAVOLA: Oh, 15?

MS. VALDEZ: Yes, from the anterior side.

VICE-CHAIR VALDES: Wasn't 15 on EU-M?

MS. VALDEZ: Fifty for the front.

VICE-CHAIR VALDES: Okay.

MS. VALDEZ: And 15 for the anterior side.

BOARD MEMBER LEVINSON: So that leaves the capability of a 70-foot wide house, which is more than substantial.

CHAIRPERSON ASCENCIO-SAVOLA: Please. You would be opposing this application, correct?

MR. GIBBS: Good evening. My name is Tucker Gibbs with law offices at 2980 McFarland Road in Coconut Grove, and I'm here representing Mr. Russ Oasis who lives at 4840 Southwest 80th Street and received notice of this application. He also is part owner of 4850 Davis Road, and is objecting to this application.

CHAIRPERSON ASCENCIO-SAVOLA: Mr. Gibbs?

MR. GIBBS: Yes.

CHAIRPERSON ASCENCIO-SAVOLA: Can you tell me on the map where those properties are, so that way I understand.

MR. GIBBS: For this particular

application, I was just --

VICE-CHAIR VALDES: Tucker, take your mike.

MR. GIBBS: Okay, thank you. I was just retained this afternoon, so I have to be very careful.

CHAIRPERSON ASCENCIO-SAVOLA: Okay.

MR. GIBBS: I think he is right down here on Davis Road. I think this is Davis Road, right here, and he's right down here.

CHAIRPERSON ASCENCIO-SAVOLA: Okay. And the second property is?

MR. GIBBS: Right next door to it. He has the two pieces.

CHAIRPERSON ASCENCIO-SAVOLA: Oh, okay, perfect. Thank you.

MR. GIBBS: He also was here in 2005 objecting to that lot split. And his position is, and he has a strong position as a long-time neighbor of over 30 years in the neighborhood, that he objects to lot splits as a matter of form, and has done so.

Let's look at the application. It's

nothing more -- what it is, it doubles the density of this particular piece of property. It goes from one to two.

The Community Council has rejected this in the past, and for good reason. The zoning code has established the character of this neighborhood. If you look at your backup, I know this map has a lot of these dots showing these, for lack of a better word, smaller lots. And notice where they are. They're all out here. They're on the periphery. They're not --

CHAIRPERSON ASCENCIO-SAVOLA: In the middle.

MR. GIBBS: -- predominantly around this project. And that's very important. This is the map I'm referring to, is the map in your package. And you see there are three areas that have been actually re-zoned to RU-1 and to EU-M.

I have a lot of respect for Mr. Proctor. He's an excellent attorney, and an excellent advocate for his client, but I have a problem with coming into a

neighborhood bit by bit and saying, we're going to do a lot split here. There are 17 lot splits since whenever it was, 1990, and therefore this neighborhood is dynamic, because it has all these different things. I see it a little differently, and so does my client.

This is about a neighborhood that has been nibbled away at little by little, lot by lot. That's what you see here, and that's the problem. The answer I have to that is, if you all want to look for unique situations for each of these lots, and then give them these variances because of that, that's not good planning. Your planning department has said that to you: This is not good planning. If you all think this neighborhood needs to be changed, step up to the plate, get a charrette together, you all have done it before, and you get this neighborhood around a table and you find out really what this neighborhood wants. Because I don't think this neighborhood wants to take every single lot and make it 26,000

square feet despite what community councils or the County Commission has done, despite what you all have recommended.

So, I mean, the map is really pretty, the small lots are really interesting, but at the end of the day, this is about a neighborhood, and this is about a neighborhood's integrity, and that's what we're talking about.

Let's look to your staff's recommendation, because at the end of the day also you base your decision on competent and substantial evidence, and that's your staff. And your staff has been very, very strong in saying that this application should be denied.

Let's look at the rezoning first. The rezoning, according to your staff, is incompatible with the surrounding EU-1 zoning in the area. Quite frankly, it's spot zoning, and I'll get to that in a second. It can foster the introduction of more intense residential zoning districts.

If you want RU-1, if you want EU-M,

if you want EU-S, then do it for the whole neighborhood. Don't just do it bit by bit. And please, for heaven's sake, don't do it lot by lot. That kind of rezoning is ridiculous.

Let's look to the alternative site development plan, which is an application that they're trying -- that's an alternative. It's an alternative site development plan. There is no site development plan that's been presented to you. There's nothing here that shows what they're going to build. You talk about setbacks. You don't know what's going to be built. You're being asked to give these people something that they can do anything with. So that alternative site plan doesn't apply.

Let's say it even applied. If you look at your staff recommendation, and they also do a good job just talking about what the requirements are in the code. In the section in the alternative site plan -- site development option, part of it talks about lot area frontage or depth.

Even that part of this application doesn't apply. The lot area is not less than 90 percent of the minimum lot area required. The proposed alternative development will not result in an obvious -- will result in an obvious departure from the aesthetic character of the immediate area. The immediate area is one-acre development. The immediate area surrounding it. It doesn't even meet those lot area issues in the alternative development option. The fact is that no site plan, no alternative site development option. That can't even apply.

And finally, the non-use variance. Your staff, again, goes through the standards. It doesn't maintain the basic intent of the purpose of the zoning subdivision or other land use regulations. What are those regulations? It's EU-1. Tell me how this lot split maintains what EU-1 is all about. EU-1 is about acre lots. That's what it's about, not half-acre lots, not quarter-acre lots. So it does not meet the standard in your

code, as your staff has told you. Your staff has told you it's incompatible with the surrounding area, and it would be detrimental. Why? It permits lots with less area than required. Your EU-1 doesn't allow that. It permits lots with less frontage, i.e., I understand that it's grandfathered in -- that lot frontage is grandfathered in, but the reality is that by doing this you're now saying that people can now bring their lot frontages down to 100 from 125.

On the utility shed and the setback, staff is right on. It is excessive, possibly intrusive. It's too close to the neighbor's property when you go forward. In the alternative non-use variance, it doesn't meet the hardship standard, so that doesn't even apply.

I want to talk to you a second about spot zoning. He's asked for a rezoning. The rezoning is spot zoning, and I want to talk to you about it, because spot zoning is not just about changing the zoning, it's about changing the character.

The Third District Court of Appeal has talked about what spot zoning is. Spot zoning. They define it as the piecemeal rezoning of small parcels of land to greater density leading to disharmony with the surrounding area. That's what this is. It's a small piece of property they want to rezone, and there's not a single bit of EU-S anywhere around this. That's spot zoning. The court in other cases has also said spot zoning gives preferential treatment to one parcel at the expense of the zoning scheme as a whole. That's textbook. You're rezoning a piece of property just to give it special preference to allow them to do something that nobody else in an EU-1 is allowed to do.

Finally, spot zoning creates a small island of property with restrictions on its use different than that of surrounding properties solely for the benefit of the property owner. That's what this is about.

I appreciate this property owner's

problems. I really do. My heart goes out to them. I mean, I was a member of a big family. My father owned property. We had to sell the property. We couldn't live there. And believe me, I wanted to live in that house. I couldn't afford it. I had to move somewhere else. It's a terrible thing. It's what happens. I want them to try to find a way to resolve that, but this isn't the way to do it.

There's an old saying, if it quacks like a duck, and if it looks like a duck, it's probably a duck. And here, no matter how you consider this application -- you want to consider it a rezoning, you want to consider it an alternative site plan, you want to consider it a non-use variance, it is spot zoning. It takes a parcel that now meets the zoning code, it does. It meets the zoning code, and divides it into two where such division is not permitted under the existing zoning district. It benefits no one else but the property owner. It is detrimental to the neighborhood, because it will change the

character of the neighborhood.

Don't kid yourselves. Every time you do a lot split, you are changing the character of the neighborhood. People should step up to the plate and say, you know what, this neighborhood is changing, let's rezone the whole neighborhood. Have the guts to do that. If the Planning Department tells you that's what's needed, if you have a charrette where the community comes to you and says it, then dog gone it, you should do it, but don't do it this way. This is the wrong way to do it.

So I leave you with this request. Please look at this neighborhood, listen to your professional staff, look at what this application really is and reject this attempt to change the character of this neighborhood.

Thank you.

MR. PROCTOR: Just a few words in rebuttal. I always enjoy going up against Mr. Gibbs. I'm serious about that.

First of all, his client has property

down on 80th Street where the predominant use and the predominant zoning is one-acre zoning. We are four blocks north of that area. We're almost a quarter mile from that area, and we're in an area that has a different pattern. And I will grant you that the pattern has been established over time. It wasn't done with some kind of master rezoning in the 40's, although that was part of what created it. It was done at that time. And as people have come in, as circumstances like this have arisen, people have attempted to make changes to their property.

Mr. Machoso (phonetic), who was your last applicant in that area, attempted to do so here on 76th Street. I think this should have three dots on it now, because he subdivided one dot into two essentially, and he got your support, because you thought that it was compatible with the zoning in the area, with the lot sizes, with the light and air of the residences, and with how the residences would align with their neighbors. We will

have at the end of the day, many days from now, residences that align with our neighbors. They do not have greater density. They do not block light and air -- in fact, they block light and air to a lesser extent over on our east side, because of what's happened here to the north.

Let me talk about frontage.

We have 100 feet of the frontage on both streets. These lots have 125 feet of frontage on 76th Street. The lots on 48th Court have 100 feet of frontage. They're platted legal lots. The lots across 49th Avenue have 75 feet of frontage. They're platted legal lots. A 100-foot lot or two 100-foot lots in this area is completely compactible with what we have.

And, again, I understand that what we have around us was created over many years. It wasn't done in a master planned kind of way, but it is an absolutely beautiful area. And the action that this Board took for Mr. Machoso here, and that it's taken on other applications has not

resulted in incompatibility at all. It hasn't resulted in lower property values at all. This is a beautiful area, and it's going to remain as such.

VICE-CHAIR VALDES: Madam Chair, I'm sorry, if Mr. Proctor is finished, I have a question.

I understand that a lot of this development is lots that were platted in the 40's and 50's that have been grandfathered in. It is zoned -- the immediate area, with the exception of the properties to your west, are zoned EU-M. When I drove it the other day -- my question to you, although on paper, a lot of the surrounding properties are EU-M -- EU-1, excuse me, how many of them are actually conforming EU-M? And the reason I ask this, a lot of the stuff, from what I appeared -- and correct me if I'm wrong, a lot of that stuff, although on paper, they're EU-1, but they're non-conforming EU-1's because they were grandfathered in. So, yeah, on paper, quote, unquote, they're EU-1, but in reality, they're

non-conforming EU-1's.

MR. PROCTOR: These two lots to our north and south that would be our -- that are northern and southern neighbors are one acre in size. These properties are much smaller than what we're asking for. These two properties are essentially the same size overall that we're asking for here. They're in the 26 to 28,000 square foot, much less than an acre. This property here is 23,000 square feet.

One of the resolutions at the back of, I think it's Tab 2, is when this actually got subdivided, which was 40 or so years ago. It's on the long paper. That's how long ago it was. So these two properties here, in the immediate area, are the only one-acre properties.

CHAIRPERSON ASCENCIO-SAVOLA: I have a question.

MR. PROCTOR: Yes.

CHAIRPERSON ASCENCIO-SAVOLA: When they split the lot on the corner that you have in blue, it did not change their EU-1, correct?

MR. PROCTOR: That's correct, they got a variance.

VICE-CHAIR VALDES: They all appear -- I shouldn't say all. That's not fair. A lot of them appear to be, when I drove it the other day, as non-conforming EU-1 lots. Yes, on paper they're EU-1 lots, but the reality is, they're not, because either they were grandfathered in, or they had gotten variances.

MR. PROCTOR: I'm sorry?

VICE-CHAIR VALDES: I'm sorry, when I was driving it the other day, it goes back -- I mean, yes, on paper they're EU-1 lots, but in reality, they're non-conforming EU-1 lots, because either they got grandfathered in or had been granted a variance. I mean, is that a fair assessment?

MR. PROCTOR: Yes. In that immediate area, that's correct.

CHAIRPERSON ASCENCIO-SAVOLA: And to answer your question, Mr. Gibbs, what this neighborhood wants, they want to be part of Coral Gables. So I guess they want to

be looking like those dots that you see on one side, and South Miami like the ones you see on the other side. So --

MR. GIBBS: May I respond to that?

CHAIRPERSON ASCENCIO-SAVOLA: Yes.

MR. GIBBS: I represent Little Gables, so I'm very familiar with the effort to annex into Coral Gales for Ponce Davis, and High Pines. And I will tell you, one of the issues -- one of the big issues is lot splitting, because Coral Gables has a real problem with lot splitting and that's one of the reasons why these people want to go in.

CHAIRPERSON ASCENCIO-SAVOLA: Well, but they don't have -- if they become Coral Gables, this is what's coming to them.

MR. GIBBS: Not necessarily.

CHAIRPERSON ASCENCIO-SAVOLA: Why?

MR. GIBBS: Let me tell you something. Believe me, it's one of the things that I've been told by the people who were trying to do this. That's what they want, Consistency in zoning. That's

what they want, and they feel they're not getting it at the county.

CHAIRPERSON ASCENCIO-SAVOLA: And Cutler Ridge said we're going to incorporate so we don't have humongous buildings in our area, and this is exactly what they're doing.

MR. GIBBS: No, no, we're talking about annexation into a community that the hallmark is limits in zoning. Not a new community.

CHAIRPERSON ASCENCIO-SAVOLA: We'll talk once they go to plat this.

VICE-CHAIR VALDES: Madam Chair, may I ask a question of Mr. Gibbs?

CHAIRPERSON ASCENCIO-SAVOLA: Sure.

VICE-CHAIR VALDES: My same question I asked Mr. Proctor. On paper they are EU-1, but aren't a fair number of those surrounding properties nonconforming EU-1's, because either they were grandfathered because of when they were platted, or because they've been given variances over the years?

MR. GIBBS: Oh, absolutely, but the

point still is that you have EU-1 zoning on it. There are requirements for EU-1 zoning. And one of the things in the EU-1 zoning is not just about -- it's about the lot size, maybe being an acre, but it's the idea of this is what we have. It's legally nonconforming, don't split it even more. You're not going to make it worse -- what you are going to do by doing this is make it worse. You are changing the character.

If the character of the neighborhood right now is EU-1, even grandfathered in, by allowing these nonconforming lots or these lots that are a little bit bigger to be split up, you are still doubling what is there now. And that's the problem that people are having. People are concerned about that. Again, you want to change the character, you want to change this to what you think it should be, then make it all EU-S, make it all EU-M, make it all RU-1, but don't sit there and pretend that, okay, you know what, this is all right, what we're doing is all right. Because

it's not good planning.

If you want to do it right, you change the zoning. You don't sit there and you don't make excuses, and you don't -- excuse me, not excuses, you don't make changes to each separate piece of property, because somebody comes to you and tells you, you know, I want to do it this way. And then someone next week comes and tells you, I want to do it another way. And when you say yes to every single other person that way, what you get is piecemeal planning. It's not good planning. It's not good zoning.

So what I'm saying is, you've got a professional staff. These are the people who are paid to make professional recommendations. Their recommendation to you is for denial for those reasons. And so what I'm saying to you is, listen to your professional staff, because even though there are many of those lots, as you've said out there, your staff is saying -- what you're doing is you're legitimizing, making it even worse, making

even more non-conformities out there. And I don't know if that's good planning. I don't think it's good planning. Your Planning Department certainly hasn't recommended it. They don't think it is.

VICE-CHAIR VALDES: But my point is, where the nonconforming -- where the exception swallows up the rule, because you have more nonconforming EU-1 lots than you have conforming EU-1 lots, whether it's right or wrong, it's reality. I can't change it.

MR. GIBBS: Then rezone the property then. Then step up to the plate, talk to the people who live there, and say, is this what you want?

VICE-CHAIR VALDES: I understand that, but with the exception of your client, I don't see anybody else here complaining.

MR. GIBBS: Well, and you know what, given the time of year --

VICE-CHAIR VALDES: In all fairness, in all fairness, you're right.

MR. GIBBS: That's right. But if you

make decisions based on that, and the courts have said you can't make decisions based on that. The courts say --

VICE-CHAIR VALDES: We don't.

MR. GIBBS: -- your decisions cannot be based on the number of people in the audience at 10 o'clock in the evening at the last item on the agenda. The courts say you don't make decisions based on that. You make it based on competent and substantial evidence. Your professional planner's recommendation. That's what the courts say you make your decisions on. So the fact that my client lives on 80th Street is immaterial. My client got notice. The fact that these are all a lot of nonconforming, it's not the issue. The issue is, does it meet the requirements in your code.

And Mr. Proctor --

VICE-CHAIR VALDES: I'm not saying it is the issue. You're the one who said the neighborhood doesn't want it.

MR. GIBBS: No, no, no, I didn't say that. What I said was, I said, if you

want to really deal with this the correct way, you go back and you go to the neighborhood. You have a neighborhood charrette, and you find out where the neighborhood stands before you do this. But what you're doing now is bit by bit, you are changing the character of this neighborhood.

And Mr. Proctor is absolutely right, this isn't the beginning of it, but somewhere someone has got to say stop. This has got to end, because you all know -- you see this in every neighborhood you all deal with. This happens all the time. Bit by bit, neighborhoods get nibbled away at, and this neighborhood is a great example.

So what you're saying is, it's been nibbled away so much, throw up our hands, give him his variance, and we all go home. It's not good planning. Your professional planners have told you that. I'm just asking you to take their recommendation to heart, and take their recommendation and deny it. That's our point.

BOARD MEMBER LEVINSON: Madam Chair, can we call the question?

CHAIRPERSON ASCENCIO-SAVOLA: Call the question.

VICE-CHAIR VALDES: I don't think Mr. Proctor was finished. I interrupted him.

MR. PROCTOR: I'll try to wrap it up quickly, if I can. I'll try.

Rezoning the whole area. Let's get real here. If the County or if this Community Zoning Board wants to propose a charrette just like the charrette you just had, and if you want to rezone this whole area, you'll have to have your public hearing at the American Airlines Arena. Why? Because in many cases, that would not be compatible with the area.

Rezoning to half acre or less in the area of Mr. Gibbs' client might not be compatible. There's a poor fellow here. It looks like he has a big compound with a tennis court. He's got three houses next to him. If you had an application tomorrow to create those three houses, you

would turn it down, and you should turn it down. We don't have that situation here.

And, you know, what Mr. Gibbs, who was very eloquent, leaves out of the equation is the master plan. You have to comply with the master plan. We have some very real issues here in the community in terms of where we're going to have growth. I've had the good or bad fortune in appearing in places like Palmetto Bay and Pinecrest, and my attitude about that is you do it one lot at a time, or where it's compatible, you do it two or three lots at a time. This is your opportunity to do it one lot at a time. And if you don't do it, you're not in compliance with your master plan. You're not recognizing the finite amount of land that we have as a community, and you're not recognizing the compatibility of this application.

VICE-CHAIR VALDES: Madam Chair, I have one question of Mr. Proctor.

MR. PROCTOR: Yes, sir.

VICE-CHAIR VALDES: When the property to the north came in front of us, I think,

in 2004 or 2005, what was staff's recommendation?

CHAIRPERSON ASCENCIO-SAVOLA: In the back, right?

VICE-CHAIR VALDES: Yes, the property to the north.

MR. PROCTOR: I don't know.

CHAIRPERSON ASCENCIO-SAVOLA: The one in blue.

MR. VITAL: It was denial of the zoning change, and approval of the subdivision.

VICE-CHAIR VALDES: In other words -- that's why I was asking. My recollection is it was denial of the zoning change, but approval of the variances to permit the subdivision. That was my recollection when I did the research this afternoon. Am I correct?

MR. VITAL: That is correct.

VICE-CHAIR VALDES: So why is this application different if you all were in favor of it back in 2005, the variances?

MR. VITAL: Like I said before, the 100 feet of frontage.

VICE-CHAIR VALDES: Is that the only basis?

MR. VITAL: There is no similar approvals in the whole immediate area.

BOARD MEMBER BRODEUR: This is a prime piece of property that people take pride in. This is my district. This is a disgrace. I mean -- Jerry?

MR. PROCTOR: Yes, ma'am.

BOARD MEMBER BRODEUR: Is this not one of our prime pieces of property, yes or no, that street, Ponce De Leon Road?

MR. PROCTOR: It's one of your -- I didn't hear you.

BOARD MEMBER BRODEUR: Isn't that one of our most prime pieces of land?

MR. PROCTOR: Absolutely.

BOARD MEMBER BRODEUR: That whole street?

MR. PROCTOR: That's a beautiful street.

BOARD MEMBER BRODEUR: That's a beautiful street, Number 1.

Number 2, isn't that the pride in that area having some of the finest

families living on it and in it? You don't know them.

MR. PROCTOR: I don't know a lot of the families.

BOARD MEMBER BRODEUR: I do.

MR. PROCTOR: I'm sure they're fine families, though.

BOARD MEMBER BRODEUR: I do. I do.

MR. PROCTOR: I know one family that's very fine.

BOARD MEMBER BRODEUR: Let me just say this.

MR. PROCTOR: Okay.

BOARD MEMBER BRODEUR: Having been to a lot of meetings of this area of the Ponce -- this is part of the Ponce Davis Association that wants to be annexed. These people are horrified by the Dade County Master Plan of wanting to make spot zoning. These people want to go into Coral Gables, lock, stock and barrel. They do not want -- you don't need a charrette.

I'll tell you what they want, because I've heard it from so many of them. They

are horrified by spot zoning in this area, which has been done by certain variances going through. But I think this time they've got it right. And I support the County on looking the way they've looked at it this way. I think they've got it right this time.

MR. PROCTOR: Ms. Brodeur, just a couple points. For whatever it's worth, this immediate area is not at the moment in any annexation area. The High Pines area certainly is, and the area that they call Ponce Davis, which is further to the south is. And I've checked on this. My clients actually asked me. They're not active in any of the annexation. They said, "Is this area going to be annexed?" This area right now, who knows, 15 years from now. It's not part of the annexation area.

My last point, respectfully to you, at the end of the day when we talk about Ponce De Leon Road, you're going to have one home that either has to comply with the setbacks or appear in front of this

Board again on Ponce. That's exactly what you have today. This home that's there now is two stories. It's been there since 1953. It's a two-story home. And what you're going to have here along Ponce with this application is one residence going forward.

CHAIRPERSON ASCENCIO-SAVOLA: And not only that. You know, to me, when I drive, I drive -- I looked at the address. I didn't read the application. I just wanted -- because I was in the area, I said let me just run there and make sure that I look at the lot before I read my application. And I'm looking and I'm going, wait a minute, these people already have two homes in here. What's the difference with what we're going to do, you know, with what they're asking? After I read it, I couldn't understand. When I went and drove around, what is it -- I thought that they were only asking for the change of the zoning, because they already had the houses in the back. So I --

BOARD MEMBER BRODEUR: This is giving

them a blank check, Madam Chair. We have no way of knowing what could -- as Mr. Gibbs said --

CHAIRPERSON ASCENCIO-SAVOLA: I just don't see any difference with what they have now.

BOARD MEMBER BRODEUR: It's lot splitting. We didn't allow Mr. Bacardi to lot split. Remember Mr. Bacardi?

CHAIRPERSON ASCENCIO-SAVOLA: It was totally different.

BOARD MEMBER BRODEUR: I don't think it --

CHAIRPERSON ASCENCIO-SAVOLA: It was a lot that he wanted three homes in it, not two.

BOARD MEMBER BRODEUR: Whether it was three or two, we didn't allow Mr. Bacardi to lot split, and we've been very consistent in this area about lot splitting. And I don't think that it's a good idea to lot split on a prominent street. This is one of the prime streets, and the people care a great deal.

I know the lady has a problem, and I

sympathize with her tremendously with her problem, but you have to look at this -- if you look at all the letters, they all say the same thing, the letters that they have prepared for you.

CHAIRPERSON ASCENCIO-SAVOLA: And that doesn't matter at the end of the day.

BOARD MEMBER BRODEUR: They all say the same thing.

CHAIRPERSON ASCENCIO-SAVOLA: And even her problems did not matter. To me it makes no difference what her problems are. I'm just looking at the application for what it's worth, which is, it already has two homes in it. And everything around it, if you look at it -- because when you drive, the houses in the front next-door to them, they already have homes in the back. So, I don't know, if this is not compatible, I don't know what is.

VICE-CHAIR VALDES: Madam Chair, I have a question for Ms. Brodeur. Would you feel more comfortable with a site plan, or is --

BOARD MEMBER BRODEUR: We have, A, no

site plan, and, two, no plans. So, if we take away the problem of the estate planning, and look at it from just the standpoint of the real estate aspect of it, we're breaking our own rules, which we usually want a site plan, and we want to see what they want to put on it. So this is something that you have to be concerned with, especially in this location.

VICE-CHAIR VALDES: No, the reason why I was asking, Ms. Brodeur --

BOARD MEMBER BRODEUR: It's a blank check.

VICE-CHAIR VALDES: -- was precisely for that reason. I mean, we've told people, you know, come back with a site plan, and we'll consider it. I mean, I don't want to make them go through the expense of having a site plan and then we shoot it --

CHAIRPERSON ASCENCIO-SAVOLA: And then we vote for a denial.

VICE-CHAIR VALDES: And then we deny it, you know.

CHAIRPERSON ASCENCIO-SAVOLA: Right.

BOARD MEMBER LEVINSON: There is also -- Madam Chair, if I might. There's also the height question that we constantly concern ourselves with.

BOARD MEMBER BRODEUR: The height. We just don't know enough about this property to give them a blank check. That's my final word on this.

VICE-CHAIR VALDES: Madam Chair, may I ask a question to Mr. Proctor even though the public hearing was closed?

CHAIRPERSON ASCENCIO-SAVOLA: All right.

VICE-CHAIR VALDES: Mr. Proctor, would you be -- would your client be amenable to a deferral to coming back with an actual site plan?

MR. PROCTOR: We'd prefer that you'd act, but if you --

VICE-CHAIR VALDES: Ms. Brodeur is right. I mean, we try to be consistent, and we have not granted requests without a site plan.

MR. PROCTOR: If it's --

VICE-CHAIR VALDES: Now, I realize it

is an expense to the applicant. Also I think you could appreciate the concerns that certain members of the community council has expressed with regards to basically giving a blank check.

MS. WOLIN: May I just ask one question?

MR. PROCTOR: Okay.

MS. WOLIN: Does that mean proposing what would be built after eventually I sold the property?

BOARD MEMBER BRODEUR: Yes.

MS. WOLIN: To restrict those people whoever came in and built it?

BOARD MEMBER BRODEUR: Yes.

MS. WOLIN: Or came in and bought it?

BOARD MEMBER BRODEUR: Not to restrict --

MS. WOLIN: Okay. Because I plan on doing nothing with the property.

BOARD MEMBER BRODEUR: I understand you plan on doing nothing.

MS. WOLIN: Okay, so I just wanted to clarify it for myself.

BOARD MEMBER BRODEUR: Ms. Wolin?

MS. WOLIN: Yes.

BOARD MEMBER BRODEUR: The problem is the future. Our Board has to look ahead.

MS. WOLIN: Correct.

BOARD MEMBER BRODEUR: We cannot just look at today. And that's why we're hired. This is why people vote for us. People vote for us so that we have a vision of the community, and we use our judgement of what the community should be like according to the law, according to what is permissible, and according to our experts. And we have had a very good evaluation on this property, which I think we should respect.

MS. WOLIN: Uh-huh.

BOARD MEMBER BRODEUR: And I feel for you personally, because I know what it is to pay taxes. We only make $100 a year.

VICE-CHAIR VALDES: Hey, we haven't gotten our $100 this year.

BOARD MEMBER BRODEUR: And we haven't even gotten our $100 this year. So when it comes to money, it's not --

CHAIRPERSON ASCENCIO-SAVOLA: We

already went through that --

MS. WOLIN: It's not just the taxes, it's the elder care and everything.

BOARD MEMBER BRODEUR: I understand.

MS. WOLIN: But at any rate, you answered my question. Thank you.

CHAIRPERSON ASCENCIO-SAVOLA: All right, do I have a motion on this application?

BOARD MEMBER BRODEUR: I make a motion that the application be denied.

CHAIRPERSON ASCENCIO-SAVOLA: Do I hear a second?

BOARD MEMBER LEVINSON: Second.

BOARD MEMBER BRODEUR: Without prejudice.

MR. SALVAT: It's --

VICE-CHAIR VALDES: Madam Chair, I have a question.

MR. SALVAT: I'm sorry, did Mr. Levinson second that?

BOARD MEMBER LEVINSON: Yes, second.

VICE-CHAIR VALDES: To the County Attorney, can the applicant request a deferral before we vote on the motion?

BOARD MEMBER BRODEUR: No.

MR. WILLIAMS: It's up to the Chair whether to hear that.

VICE-CHAIR VALDES: Okay, thank you.

BOARD MEMBER BRODEUR: You asked for a motion.

CHAIRPERSON ASCENCIO-SAVOLA: What is it that you want?

VICE-CHAIR VALDES: Can the applicant request a deferral before we vote on the motion?

BOARD MEMBER BRODEUR: There's a motion on the floor, and on Robert's Rules of Order, you cannot -- you have to handle --

CHAIRPERSON ASCENCIO-SAVOLA: Wait a minute, Ms. Brodeur. Hold on. Let's hear from --

MR. SANCHEZ: We're not governed by Robert's Rules of Order.

BOARD MEMBER BRODEUR: All right, but there is a motion on the floor.

MR. SANCHEZ: There's a general -- it's up to the Chair, and if somebody doesn't like what the Chair decides, you

can call for a vote on whether you should hear that or not.

CHAIRPERSON ASCENCIO-SAVOLA: A vote for what?

MR. SANCHEZ: A vote on whether or not to override the Chair.

CHAIRPERSON ASCENCIO-SAVOLA: Do you want a deferral? I mean, if I were you, I don't want a deferral.

MR. PROCTOR: Madam Chair, we'd like to go forward, but if there is a wish to defer it -- let me be clear to the Board, because you've been very patient with us. We're not in a position to do a site plan with floor plans and elevation drawings. What we can do -- we don't know that it's really necessary, because the code is really your protection in that regard, and the lot sizes are the protection, as we said earlier. But having said that, if the application is deferred, whether we like it or not, we I think are prepared to at least look at building envelopes and things which was actually what was done to the property to the north -- look at

building envelopes and building sizes and that sort of thing. Not a full site plan, which for reasons that I think you can understand, given our family situation here with the applicant, we think the code itself offers the protection that you're looking for. But if the application is deferred, again, whether we like it or not, we would entertain something that we would bring back to add to our application in that regard.

CHAIRPERSON ASCENCIO-SAVOLA: And, Mr. Gibbs, just to be clear, you object regardless, because you don't want just the property to be split, correct? Is that what your --

MR. GIBBS: Yes, that's been our position throughout, yes.

CHAIRPERSON ASCENCIO-SAVOLA: Okay.

BOARD MEMBER LEVINSON: Now can I call the question?

CHAIRPERSON ASCENCIO-SAVOLA: You know, I'll just go ahead. Let's leave it the way it is, and let's call it a vote.

MR. SALVAT: Motion for denial

without prejudice.

MR. SALVAT: Mr. Zack?

BOARD MEMBER ZACK: Yes.

MR. SALVAT: Ms. Brodeur?

BOARD MEMBER BRODEUR: Yes.

BOARD MEMBER LEVINSON: Mr. Levinson?

BOARD MEMBER LEVINSON: Yes.

MR. SALVAT: Mr. Santana?

BOARD MEMBER SANTANA: Yes.

MR. SALVAT: Vice Chairman Valdes?

VICE-CHAIR VALDES: Yes.

MR. SALVAT: Mr. Wilcosky?

BOARD MEMBER WILCOSKY: Yes.

MR. SALVAT: Madam Chair Savola?

CHAIRPERSON ASCENCIO-SAVOLA: Yes.

MR. SALVAT: Motion passes 7-0.

MR. PROCTOR: Thank you.

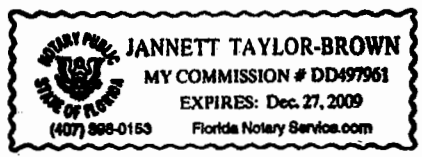
(Thereupon, the proceeding was concluded.)

CERTIFICATE OF OATH

STATE OF FLORIDA)
SS)
COUNTY OF MIAMI-DADE)

I, Jannett Taylor-Brown, FPR, Florida Professional Reporter and Notary Public in the State of Florida, certify that all witnesses personally appeared before me on this 3rd day of December 2007, and were duly sworn.

JANNETT TAYLOR-BROWN, FPR
FLORIDA PROFESSIONAL REPORTER
Notary Public, State of Florida
My Commission # DD497961
My Commission Expires: 12-27-2009



CERTIFICATE OF REPORTER

STATE OF FLORIDA)
SS:
COUNTY OF MIAMI-DADE)

I, Jannett Taylor-Brown, FPR, Florida Professional Reporter and Notary Public in the State of Florida, do hereby certify that a meeting was held before Community Zoning Appeals Board 12 on December 3, 2007; that Item Number 07-172, ROGER & DOROTHY WOLIN was heard, and that the foregoing pages, numbered 1 through 79, inclusive, constitute a true and correct transcript of my stenographic notes.

WITNESS my hand in the City of Miami, County of Miami-Dade, State of Florida, this 13th day of January 2008.

JANNETT TAYLOR-BROWN, FPR
FLORIDA PROFESSIONAL REPORTER

2. R & E AT PALM VISTA II, INC. **08-3-CC-1 (07-263)**
(Applicant) **BCC /District 8**
Hearing Date: 3/20/08

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:

Year	Applicant	Request	Board	Decision
2003	Jose A. Costa, Jr. Trustee	Zone change from AU to RU-1M(a).	CZAB-15	Approved

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
COMMUNITY ZONING APPEALS BOARD - AREA 15
MOTION SLIP

4

APPLICANT'S NAME: R & E AT PALM VISTA II, INC.

REPRESENTATIVE: **RAFAEL ROSADO**

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER		
08-1-CZ15-4 (07-263)	JANUARY 22, 2008	CZAB15		08

REQ: DEL Declaration of Restrictions in ORB 21680, Pages 2736-2740

REC: APPROVE PER (A)(7) & DWOP PER (A)(17)

☐ WITHDRAW: ☐ APPLICATION ☐ ITEM(S):_____

■ DEFER: ☐ INDEFINITELY ■ TO: **FEB 19, 2008** ☐ W/LEAVE TO AMEND

☐ DENY: ☐ WITH PREJUDICE ☐ WITHOUT PREJUDICE

☐ ACCEPT PROFFERED COVENANT ☐ ACCEPT REVISED PLANS

☐ APPROVE: ☐ PER REQUEST ☐ PER DEPARTMENT ☐ PER D.I.C.

☐ WITH CONDITIONS

■ **BOARD WANTS TO SEE PLAN APPROVED VIA ASPR**

TITLE	M/S	NAME	YES	NO	ABSENT
MR.		Paul J. MORROW (C.A.)	X		
MS.	S	Diane RICHARDSON	X		
MR.		Bobby D. STEWART			X
MADAME VICE-CHAIR		Gale L. WIMBLEY	X		
MADAME CHAIR	M	Patricia FORBES	X		
		VOTE:	4	0	

EXHIBITS: ☐ YES ■ NO COUNTY ATTORNEY: **RON BERNSTEIN**

2

MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS

APPLICANT: R & E at Palm Vista II, Inc. **PH:** Z07-263 (08-3-CC-1)

SECTION: 23-56-39 **DATE:** March 20, 2008

COMMISSION DISTRICT: 8 **ITEM NO.:** 2

==========

A. INTRODUCTION

- **REQUEST:**

  DELETION of a Declaration of Restrictions recorded in Official Record Book 21680, Pages 2736-2740.

  The purpose of this request is to allow the applicant to delete a Declaration of Restrictions tying the development of the property to a site plan and a specific number of dwelling units in order to allow the applicant to build in accordance with the Princeton Community Urban Center (PCUC) District zoning regulations.

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

- **SUMMARY OF REQUEST:**

  This application will allow the deletion of an agreement that restricts the development of the property to a previously approved residential development in order to allow the applicant to build in compliance with the Princeton Community Urban Center (PCUC) District zoning regulations.

- **LOCATION:**

  The northeast corner of S.W. 129 Avenue and S.W. 248 Street and lying east of SW 129 Avenue, on both sides of SW 246 Terrace, Miami-Dade County, Florida.

- **SIZE:** 4.7 Acres

- **IMPACT:**

  Approval of this application will allow the applicant to develop the subject property in accordance with the regulations of the Princeton Community Urban Center District which will allow additional residential units to be developed on the site which will impact traffic and could bring additional students to the area.

B. ZONING HEARINGS HISTORY:

In 2003, the Zoning Appeals Board granted, pursuant to Resolution #CZAB15-16-03, a zone change from AU, Agricultural District, to RU-1M(a), Modified Single-Family District,

subject to the acceptance of a proffered covenant. Subsequently, in November 2005, pursuant to Resolution #Z-26-05, the subject property was a part of a section of land that was approved for a district boundary change from multiple zones to PCUC (Princeton Community Urban Center) District.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Community Urban Center**.

Urban Centers

Diversified Urban Centers are encouraged to become hubs for future urban development intensification in Miami-Dade County, around which a more compact and efficient urban structure will evolve. These Urban Centers are intended to be moderate- to high-intensity design-unified areas that will contain a concentration of different urban functions integrated both horizontally and vertically. Three scales of centers are planned: Regional, the largest, notably the Downtown Miami central business district; Metropolitan Centers such as the evolving Dadeland area; and **Community Centers** which will serve localized areas. Such centers shall be characterized by physical cohesiveness, direct accessibility by mass transit service, and high quality urban design. Regional and Metropolitan Centers, as described below, should also have convenient, preferably direct, connections to a nearby expressway or major roadways to ensure a high level of countywide accessibility. The locations of Urban Centers and the mix and configuration of land uses within them are designed to encourage convenient alternatives to travel by automobile, to provide more efficient land use than recent suburban development forms, and to create identifiable "town centers" for Miami-Dade's diverse communities. These centers shall be designed to create an identity and a distinctive sense of place through unity of design and distinctively urban architectural character of new developments within them. The core of the centers should contain business, employment, civic, and/or high-or moderate-density residential uses, with a variety of moderate-density housing types within walking distance from the centers. Both large and small businesses are encouraged in these centers, but the Community Centers shall contain primarily moderate and smaller sized businesses which serve, and draw from, the nearby community. Design of developments and roadways within the centers will emphasize pedestrian activity, safety and comfort, as well as vehicular movement. Transit and pedestrian mobility will be increased and area-wide traffic will be reduced in several ways: proximity of housing and retail uses will allow residents to walk or bike for some daily trips; provision of both jobs, personal services and retailing within walking distance of transit will encourage transit use for commuting; and conveniently located retail areas will accommodate necessary shopping during the morning or evening commute or lunch hour. Urban Centers are identified on the LUP map by circular symbols noting the three scales of planned centers. The Plan map indicates both emerging and proposed centers. The designation of an area as an urban center indicates that governmental agencies encourage and support such development. The County will give special emphasis to providing a high level of public mass transit service to all planned Urban Centers. Given the high degree of accessibility as well as other urban services, the provisions of this section encourage the intensification of development at these centers over time. In addition to the Urban Center locations depicted on the Land Use Plan Map, all future

rapid transit station sites and their surroundings shall be, at a minimum, developed in accordance with the Community Center policies established below. Following are policies for Development of Urban Centers designated on the Land Use Plan (LUP) map. Where the provisions of this section authorize land uses or development intensities or densities different or greater than the underlying land use designation on the LUP map, the more liberal provisions of this section shall govern. All development and redevelopment in Urban Centers shall conform with the guidelines provided below.

Uses and Activities.

Regional and Metropolitan Centers shall accommodate a concentration and variety of uses and activities which will attract large numbers of both residents and visitors while Community-scale Urban Centers will be planned and designed to serve a more localized community. Uses in Urban Centers may include retail trade, business, professional and financial services, restaurants, hotels, institutional, recreational, cultural and entertainment uses, moderate to high density residential uses, and well planned public spaces. Incorporation of residential uses is encouraged, and may be approved, in all centers, except where incompatible with airport or heavy industrial activities. Residential uses may be required in areas of the County and along rapid transit lines where there exists much more commercial development than residential development, and creation of employment opportunities will be emphasized in areas of the County and along rapid transit lines where there is much more residential development than employment opportunity. Emphasis in design and development of all centers and all of their individual components shall be to create active pedestrian environments through high-quality design of public spaces as well as private buildings; human scale appointments, activities and amenities at street level; and connectivity of places through creation of a system of pedestrian linkages. Existing public water bodies shall also be incorporated by design into the public spaces within the center.

Radius.

The area developed as an Urban Center shall extend to a one-mile radius around the core or central transit station of a Regional Urban Center designated on the LUP map. Designated Metropolitan Urban Centers shall extend not less than one-quarter mile walking distance from the core of the center or central transit stop(s) and may extend up to one-half mile from such core or transit stops along major roads and pedestrian linkages. Community Centers shall have a radius of 700 to 1,800 feet but may be extended to a radius of one-half mile where recommended in a professional area plan for the center, consistent with the guidelines herein, which plan is approved by the Board of County Commissioners after an advertised public hearing. Urban Center development shall not extend beyond the UDB.

Density and Intensity

The range of average floor area ratios (FARs) and the maximum allowed residential densities of development within the Regional, Metropolitan and Community Urban Centers are shown in the table below.

Densities	Average Floor Area Ratios (FAR)	Max. Dwellings per Gross Acre
Regional Activity Centers	greater than 4.0 in the core not less than 2.0 in the edge	500
Metropolitan Urban Centers	greater than 3.0 in the core not less than 0.75 in the edge	250
Community Urban Centers	greater than 1.5 in the core not less than 0.5 in the edge	125

In addition, the densities and intensities of developments located within designated Community Urban Centers and around rail rapid transit stations should not be lower than those provided in Policy LU-7F. Height of buildings at the edge of Metropolitan Urban Centers adjoining stable residential neighborhoods should taper to a height no more than 2 stories higher than the adjacent residences, and one story higher at the edge of Community Urban Centers. However, where the adjacent area is undergoing transition, heights at the edge of the Center may be based on adopted comprehensive plans and zoning of the surrounding area. Densities of residential uses shall be authorized as necessary for residential or mixed-use developments in Urban Centers to conform to these intensity and height policies.

As noted previously in this section, urban centers are encouraged to intensify incrementally over time. Accordingly, in planned future rapid transit corridors, these intensities may be implemented in phases as necessary to conform with provisions of the Transportation Element.

Gross Residential Density

In order to efficiently use, and not prematurely deplete, the finite development capacity that exists inside the Plan's Urban Development Boundary (UDB), land should not be developed at densities lower than the minimum established for each category. Exceptions to the minimums may exist outside transportation or transit corridors where such an exception would serve the interest of compatibility or protect the public health, or safety, or protect important resources. For purposes of this paragraph, transportation and transit corridors are land areas located within 660 feet of planned Major Roadways identified on the LUP map, and within one-quarter mile from existing rail transit stations, express busway stops, future transit corridors and planned transit centers identified in the CDMP.

Uses and Zoning Not Specifically Depicted on the LUP Map.

Within each map category numerous land uses, zoning classifications and housing types may occur. Many existing uses and zoning classifications are not specifically depicted on the Plan map. This is due largely to the scale and appropriate specificity of the countywide LUP map, graphic limitations, and provisions for a variety of uses to occur in

each LUP map category. All existing lawful uses and zoning are deemed to be consistent with this Plan.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING	LAND USE PLAN DESIGNATION
Subject Property:	
PCUC/RM; 12 to 36 dua/ R; 6 to 18 dua; nursery	Low Density Residential, 2.5 to 6 dua Community Urban Center
Surrounding Properties:	
NORTH: PCUC/R; 6 to 18 dua; nursery	Low Density Residential, 2.5 to 6 dua Community Urban Center
SOUTH: PCUC/R; 6 to 18 dua; single-family Residences	Low Density Residential, 2.5 to 6 dua Community Urban Center
EAST: PCUC/ RM; 12 to 36 dua; nursery, vacant land	Low Density Residential, 2.5 to 6 dua Community Urban Center
WEST: PCUC/ R; 6 to 18 dua,; MO; 12 to 36 dua; nursery, service station	Low Density Residential, 2.5 to 6 dua Community Urban Center

The subject parcel is located on the northeast corner of S.W. 129 Avenue and S.W. 248 Street. The area where the subject property lies is within the Princeton Community Urban Center, which is currently being developed as a compact, mixed-use community.

E. SITE AND BUILDINGS:

Site Plan Review:	(No site plan submitted)
Scale/Utilization of Site:	**Acceptable**
Location of Buildings:	**N/A**
Compatibility:	**Acceptable**
Landscape Treatment:	**N/A**
Open Space:	**N/A**
Buffering:	**N/A**
Access:	**Acceptable**
Parking Layout/Circulation:	**N/A**
Visibility/Visual Screening:	**N/A**
Energy Considerations:	**N/A**
Roof Installations:	**N/A**
Service Areas:	**N/A**
Signage:	**N/A**
Urban Design:	**N/A**

F. PERTINENT REQUIREMENTS/STANDARDS:

33-311(A)(7) Generalized Modification Standards. The Board shall hear applications to modify or **eliminate** any condition or part thereof which has been imposed by any final decision adopted by resolution; provided, that the appropriate Board finds after public hearing that the modification or elimination, in the opinion of the Community Zoning Appeals Board, would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or would not tend to provoke a nuisance, or would not be incompatible with the area concerned, when considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned.

Section 33-311(A)(17) Modification or Elimination of Conditions and Covenants After Public Hearing. The Community Zoning Appeals Board shall approve applications to modify or eliminate any condition or part thereof which has been imposed by any zoning action, and to modify or eliminate any restrictive covenants, or parts thereof, accepted at public hearing, upon demonstration at public hearing that the requirements of at least one of the paragraphs under this section has been met. Upon demonstration that such requirements have been met, an application may be approved as to a portion of the property encumbered by the condition or the restrictive covenant where the condition or restrictive covenant is capable of being applied separately and in full force as to the remaining portion of the property that is not a part of the application, and both the application portion and the remaining portion of the property will be in compliance with all other applicable requirements of prior zoning actions and of this chapter.

G. NEIGHBORHOOD SERVICES:

DERM	**No objection***
Public Works	**No objection**
Parks	**No objection**
MDT	**No objection**
Fire Rescue	**No objection**
Police	**No objection**
Schools	**No objection**

*Subject to the conditions indicated in their memorandum.

H. ANALYSIS:

Section 33-314(C)(15) specifies that applications to modify or delete declarations of restrictive covenants recorded prior to July 27, 2005, encumbering property wholly located within any Urban Center zoning district where and to the extent that modification or elimination of the declaration of restrictive covenant or part thereof is necessary to allow development conforming in all respects to the applicable Urban Center District regulations, be heard by the Board of County Commissioners (BCC).

The subject property is located on the northeast corner of S.W. 129 Avenue and S.W. 248 Street, approximately one (1) mile east of and within the Urban Development Boundary (UDB) Line, in an area which is currently being developed as a compact, mixed-use community. The applicant is seeking to delete an agreement restricting the development of the property to a previously approved site plan for a 28-unit residential development in order to permit the development of the property in accordance with the Princeton Community Urban Center District (PCUC) zoning regulations.

The Department of Environmental Resources Management **(DERM)** has **no objections** to this application and has indicated that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County. The **Public Works Department** has **no objections** to this application and indicates that no new additional daily peak hour vehicle trips would be generated, therefore no vehicle trips have been assigned. The Miami-Dade Fire Rescue Department **(MDFR) does not object** to this application and they indicate that the estimated response time is **7:20 minutes.**

The subject property lies within a **Community Urban Center** as designated in the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). Approval of this application will allow the applicant to develop the subject property in accordance with the regulations of the Princeton Community Urban Center (PCUC) District. Urban Centers are hubs for future development intensification in Miami-Dade County, around which a more compact and efficient urban structure will evolve. Urban Centers are intended to be moderate- to high-intensity, design-unified areas that will contain a concentration of different urban functions integrated both horizontally and vertically. These centers are designed to create an identity and a distinctive sense of place through unity of design and distinctive urban architectural character. Emphasis in design and development of these centers and all of their individual components shall be to create active pedestrian environments through high-quality design of public spaces as well as private buildings; human scaled appointments, activities and amenities at street level; and connectivity of places through creation of a system of pedestrian linkages. Staff supports this application as the applicant intends to develop the subject property in accordance with the regulations. The regulations, which provide development parameters for the community urban center, have been approved by the Board of County Commissioners and are enumerated in Ordinance No. 05-146 under Article XXXIII (M) of the Zoning Code. The Princeton Community Urban Center District requires new development to be organized according to an interconnected network of tree-lined streets and sidewalks to improve pedestrian access to transit, jobs, and shopping; allocates open space in the form of squares, greens and/or plazas; and includes criteria shaping the way buildings front onto open spaces and streets.

The subject 4.7-acre property lies within the Center Sub-District and Edge Sub-District of the Princeton Community Urban Center (PCUC). The subject property is designated as Residential Modified (RM) and Residential (R) under the PCUC's Land Use Plan map. The RM zone allows residential development to occur within courtyard, sideyard, duplex, rowhouse, and apartment building types at a minimum of 12 units per net acre to a maximum of 36 units per net acre. The R zone allows residential development within single-family detached, courtyard, sideyard, rowhouse, urban villa and duplex dwelling types at a minimum of 6 units per net acre to a maximum of 18 units per net acre. Approval of this application will delete the agreement restricting the development of the

property to a previously approved site plan in order to enable the applicant to comply with the PCUC District zoning regulations. Said site plans depicted a 28 unit residential development. The Department of Planning and Zoning as well as other departments, have reviewed plans submitted by the applicant for compliance with the site plan review criteria provided in the PCUCD standards (Ordinance No. 05-143) as part of the Administrative Site Plan Review (ASPR) process. The Ordinance stipulates that, except for individual single-family homes and duplexes, all applications shall be reviewed as part of the Administrative Site Plan Review (ASPR) process by the following Departments of Miami-Dade County and other public entities for potential impacts on infrastructure and other services resulting from the applications: Public Works Department, Department of Environmental Resources Management (DERM), Miami-Dade Fire Rescue Department, and the Miami-Dade County School Board. In the event the application indicates impacts on services and infrastructure provided by any of the foregoing, the applicant shall meet with the affected department or entity to discuss potential mitigation of the impacts and shall submit evidence to the Department of Planning and Zoning of such discussion. The plans for this site indicate the development of this site for a 118-unit residential development, which furthers the intent of the PCUC. The site plans were reviewed by all of the above named departments pursuant to ASPR #06-016, which proposes a 92 unit multi-family development and ASPR #06-018, which proposes a 26-unit development, subject to the approval of this application.

The standards under Section 33-311(A)(17), Modification or Elimination of Conditions and Covenants After Public Hearing, provide for the approval of a zoning application which demonstrates at public hearing that the modification or elimination of conditions of a previously approved resolution or restrictive covenant complies with one of the applicable modification or elimination standards and does not contravene the enumerated public interest standards as established. However, the applicant has not submitted documentation to indicate which of the modification standards are applicable to this application. Due to the lack of information, staff is unable to properly analyze this application under said standards and, as such, this application should be denied without prejudice under Section 33-311(A)(17).

When analyzed under the Generalized Modification Standards, Section 33-311(A)(7), the proposed deletion of the agreement will not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, provoke excessive overcrowding of people, tend to provoke a nuisance, be incompatible with the area, nor be contrary to the public interest. Approval of this application will allow the applicant to develop the subject property in accordance with the regulations of the Princeton Community Urban Center District. The Ordinance provides for the allocation of development intensities within Core, Center and Edge sub-districts within the boundaries of the Urban Center as envisioned by the CDMP; requires new development to be organized according to an interconnected network of tree-lined streets and sidewalks to improve pedestrian access to transit, jobs, and shopping; allocates open space in the form of squares, greens and/or plazas; and includes criteria shaping the way buildings front onto open spaces and streets. The deletion of the restrictive covenant is necessary to allow the development of the site conforming in all respects to the PCUC zoning regulations. Based on all of the aforementioned, staff is of the opinion that the approval of this application would be **consistent** with the CDMP and **compatible** with the

surrounding area and would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, provoke excessive overcrowding of people, nor would it tend to provoke a nuisance or be incompatible with the area. Therefore, staff recommends approval of this application under Section 33-311(A)(7).

Accordingly, staff recommends approval of this application under Section 33-311(A)(7) (Generalized Modification Standards) and denial without prejudice under Section 33-311(A)(17) (Modification or Elimination of Conditions and Covenants After Public Hearing).

I. RECOMMENDATION:

Approval under Section 33-311(A)(7) (Generalized Modification Standards) and denial without prejudice under Section 33-311(A)(17) (Modification or Elimination of Conditions and Covenants After Public Hearing).

J. CONDITIONS: None.

DATE INSPECTED: 09/11/07
DATE TYPED: 11/28/07
DATE REVISED: 12/12/07, 12/19/07, 01/24/08, 02/07/08, 02/08/08, 02/21/08, 03/11/08
DATE FINALIZED: 03/11/08
SB:MTF:LVT:NC:CH

Subrata Basu, Interim Director
Miami-Dade County Department of
Planning and Zoning

Memorandum

MIAMI-DADE COUNTY

Date: August 31, 2007

To: Subrata Basu, AIA, AICP, Interim Director
Department of Planning and Zoning

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

Subject: C-15 #Z2007000263
R & E at Palm Vista II, Inc.
Northeast Corner of S.W. 120th Avenue and S.W. 248th Street
Deletion of Declaration of Restrictions Restricting a Site to 28 Single-Family Residences
(PCUC) (4.7 Acres)
23-56-39

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.

DERM has no pertinent comments regarding this application since the request does not entail any environmental concern.

Enforcement History
DERM has found no open or closed enforcement record for the subject property.

Concurrency Review Summary
DERM has conducted a concurrency review for this application and has determined that the same meets all applicable Level of Service (LOS) standards for an initial development order, as specified in the adopted Comprehensive Development Master Plan 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.

cc: Lynne Talleda, Zoning Evaluation - P&Z
Ron Connally, Zoning Hearings - P&Z
Franklin Gutierrez, Zoning Agenda Coordinator - P&Z

REVISION 1

PH# Z2007000263

CZAB - BCC

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names:R & E AT PALM VISTA II, INC.

This Department has no objections to this application.

This application meets the traffic concurrency criteria set for an Initial Development Order; however, one or more traffic concurrency determinations will subsequently be required before development will be permitted.

Raul A Pino, P.L.S.

08-FEB-08

REVISION 1

Memorandum

Date: 14-SEP-07

To: Subrata Basu, Interim Director
Department of Planning and Zoning

From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department

Subject: Z2007000263

Fire Prevention Unit:

This Memo supersedes Fire Memo dated August 20, 2007.
Fire Engineering and Water Supply Bureau has no objection to the deletion of the restrictive covenant. Development must adhere to revised site plan date stamped 9/1/06 approved by ASPR 06-016.

Service Impact/Demand:

Development for the above Z2007000263
located at LYING ON THE NORTHEAST CORNER OF S.W. 120 AVENUE & S.W. 248 STREET, MIAMI-DADE COUNTY, FLORIDA.
in Police Grid 2408 is proposed as the following:

N/A 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: N/A alarms-annually.
The estimated average travel time is: 7:20 minutes

Existing services:

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

Station 5, Goulds/Princeton, 13150 SW 238 Street
Rescue, BLS Engine

Planned Service Expansions:

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

Station 70, Coconut Palm, SW 248 Street and 114 Place

Fire Planning Additional Comments:

Not applicable to service impact analysis.

DATE: 02/15/08
REVISION 2

TEAM METRO

ENFORCEMENT HISTORY

R & E AT PALM VISTA II, INC.

APPLICANT

LYING ON THE NORTHEAST CORNER OF S.W. 129 AVENUE & S.W. 248 STREET, & LYING EAST OF SW 129 AVE AND ON BOTH SIDES OF SW 246 TERR, MIAMI-DADE COUNTY, FLORIDA.

ADDRESS

Z2007000263

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

Current case history;
CSR case # 08-00057706 was opened based on enforcement history request and inspected on 2-15-08. A warning notice was posted for a violation of Ch 19-8(a) junk and trash. A re-inspection will be conducted after 2-29-08 compliance date expires.

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: B4E at Palm Vista II, INC.

NAME AND ADDRESS	Percentage of Stock
Rafael Rosado	50 %
Leocadia E. Rosado	50 %.

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

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

RECEIVED
2007-265
AUG - 7 2007
ZONING HEARINGS SECTION
MIAMI-DADE COUNTY DEPARTMENT
BY

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: _____

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.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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: _____

President (Applicant) R & E at Palm Vista II, Inc.

Sworn to and subscribed before me this 1st day of August, 2007. Affiant is personally know to me or has produced _____ as identification.

_____
(Notary Public)

MICHELLE MOREJON
MY COMMISSION # DD 336066
EXPIRES: November 8, 2008
Bonded Thru Notary Public Underwriters

My commission expires: 11-8-08

*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.

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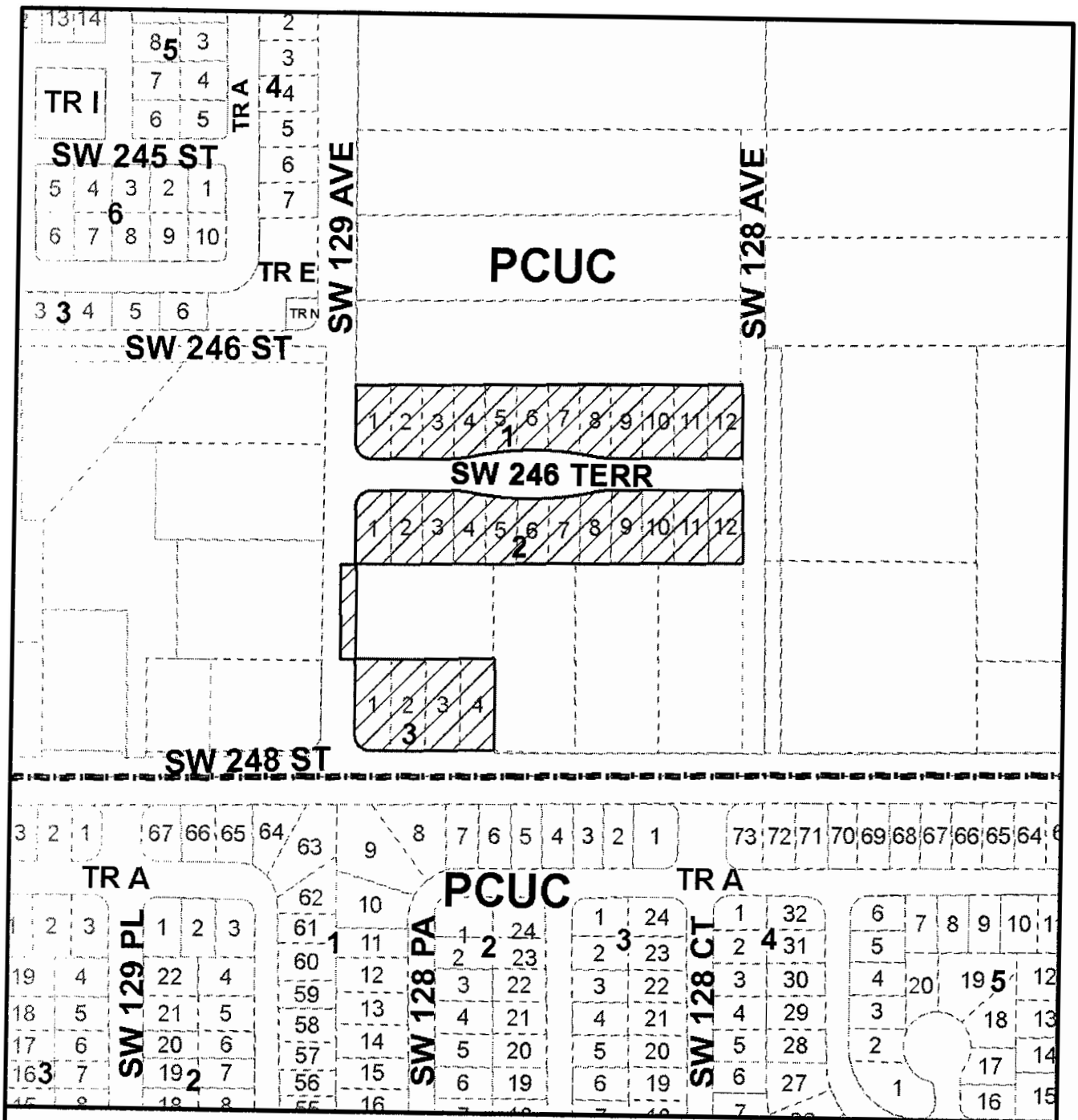
207203
AUG - 7 2007



MIAMI-DADE COUNTY
HEARING MAP

Process Number
07-263

N

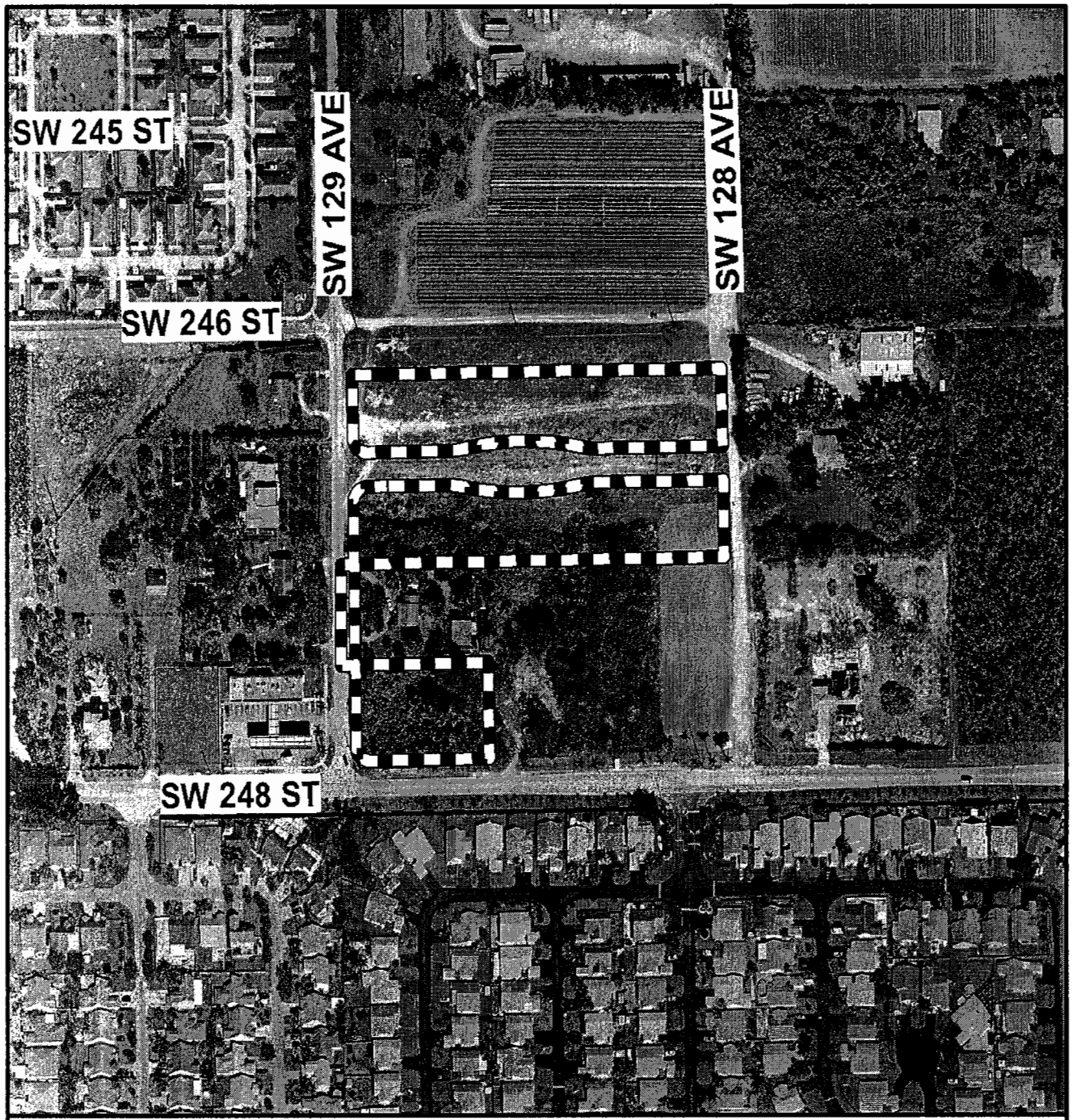
SUBJECT PROPERTY

Section: 23 Township: 56 Range: 39
Applicant: R & E AT PALM VISTA II, INC.
Zoning Board: C15
District Number: 8
Drafter ID: N'NAGBE
Scale: NTS

MIAMI-DADE COUNTY

CREATED ON: 08/17/07

REVISION	DATE	BY
Added Additional property	10/26/07	KAMAN



MIAMI-DADE COUNTY
AERIAL

Process Number
07-263

N

SUBJECT PROPERTY

Section: 23 Township: 56 Range: 39
Applicant: R & E AT PALM VISTA II, INC.
Zoning Board: C15
District Number: 8
Drafter ID: N'NAGBE
Scale: NTS

MIAMI-DADE COUNTY

CREATED ON: 08/17/07

REVISION	DATE	BY
Added Additional property	10/05/07	KABAN