



BOARD OF COUNTY COMMISSIONERS
ZONING HEARINGS

THURSDAY, FEBRUARY 19, 2009

PLACE OF MEETING: COUNTY COMMISSIONERS CHAMBERS
OF THE STEPHEN P. CLARK CENTER – 2ND FLOOR
111 NW 1 STREET, MIAMI

TIME OF MEETING 9:30 A.M.

PREVIOUSLY DEFERRED

HEARING #

DISTRICT

A. Director of the Department of Planning & Zoning

08-204

08

Request: Deletion of a covenant tying site to residential uses in order to allow development of a library and park.

Location: Lying on the northwest corner of S.W. 112 Street and S.W. 87 Avenue, Miami-Dade County, Florida, **within the Urban Development Boundary (UDB).**
Deferred from the December 4, 2008 meeting.

CURRENT

1. Kendallgate Center Associates, Ltd.

07-208

N 10

Request: Modification of covenant tying site to specific commercial uses in order to allow additional commercial uses.

Location: 12200 S.W. 88 Street, Miami-Dade County, Florida, **within the Urban Development Boundary (UDB).**

2. Transordev, LLC

08-169

N 09

Request: Deletion of a covenant tying site to a restaurant use in order to allow development of the site in accordance with Perrine CUC regulations.

Location: South of S.W. 184 Street and west of the South Dade Transportation Corridor (Busway), Miami-Dade County, Florida, **within the Urban Development Boundary (UDB).**



Official Zoning Agenda

BOARD OF COUNTY COMMISSIONERS

COUNTY COMMISSION MEETING OF THURSDAY, FEBRUARY 19, 2009

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

A. **DIRECTOR OF THE DEPARTMENT OF
PLANNING AND ZONING (08-12-CC-6/08-204)**

**9-55-40
BCC/District 8**

DELETION of a Declaration of Restrictions recorded in Official Record Book 23175, Pages 4420-4425.

The purpose of the request is to remove a previously recorded agreement that required the property to be developed with 6 residences in order to permit the site to be developed with a public library and park.

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: Lying on the northwest corner of S.W. 112 Street and S.W. 87 Avenue, Miami-Dade County, Florida.

SIZE OF PROPERTY: 3.42 Acres

Department of Planning and
Zoning Recommendation:

Approval of the application under Sections 33-311(A)(7) (generalized modification standards) or 33-311(A)(17) (modification or elimination of conditions and covenants after public hearing), subject to two conditions.

Protests: 3

Waivers: 0

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____
Deferred from 12/4/08

DEFERRED: _____

1. **KENDALLGATE CENTER ASSOCIATES LTD. (09-2-CC-3/07-208)**

**1-55-39
BCC/District 10**

MODIFICATION of a portion of Paragraph "A" of a Declaration of Restrictive Covenants recorded at Official Records Book 13326, Pages 4109-4115, only as it applies to the subject property, reading as follows:

FROM: "A. Restricted Uses: Owner covenants and agrees to further restrict and limit the uses on that portion of the Property located West of SW 122 Ave and bounded by Kendall Drive on the North and SW 92 Street on the South to BU-1 permitted uses and the following BU-1A, Limited Business District, Permitted uses:

1. Banks, including drive-in teller service.
2. Office Buildings.
3. Electrical appliance and fixtures stores including related repair shops.
4. Restaurants, including drive-through facilities."

TO: "A. Restricted Uses: Owner covenants and agrees to further restrict and limit the uses on that portion of the Property located west of SW 122 Ave and bounded by Kendall Drive on the north and S.W. 92 Street on the south to BU-1 permitted uses and the following BU-1A (Limited Business District) permitted uses:

1. Banks, including drive-in teller service.
2. Office Buildings.
3. Electrical appliance and fixtures stores including related repair shops.
4. Restaurants, including drive-through facilities.
5. Furniture Store.
6. Pharmacy and/or Drugstore with a Drive-thru (no limitation on hours of operation).
7. Post Office.
8. Office Supply Store.
9. Toy Store."

The purpose of the request is to permit the applicant to modify a covenant for a commercial development that limited the site to specific uses in order to allow additional uses.

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: 12200 S.W. 88 Street, Miami-Dade County, Florida.

SIZE OF PROPERTY: 1.35 Acres

Department of Planning and
Zoning Recommendation:

Approval with conditions of the 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),

Protests: _____ 0 _____

Waivers: _____ 0 _____

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____

DEFERRED: _____

2. TRANSORDEV L. L.C. (09-2-CC-4/08-169)

5-56-40
BCC/District 9

DELETION of a Declaration of Restrictions recorded in Official Record Book 18395, Pages 2707-2710.

The purpose of this request is to delete the Declaration of Restrictions tying the site to a site plan for a restaurant use in order to allow development of the site in accordance with the Perrine Community Urban Center (PECUC) 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 South of S.W. 184 Street and west of the South Dade Transportation Corridor (Busway), Miami-Dade County, Florida.

SIZE OF PROPERTY: 0.83 Gross Acre

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) (modification or elimination of conditions and covenants after public hearing),

Protests: _____ 0 _____

Waivers: _____ 0 _____

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____

DEFERRED: _____

T H E E N D

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.

A. DIRECTOR OF THE DEPARTMENT OF PLANNING & ZONING
(Applicant)

08-12-CC-6 (08-204)
BCC/District 8
Hearing Date: 2/19/09

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

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

Disclosure of interest form attached? Yes ☐ No ☒

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
2004	A Walk in Galloway Park, Inc.	Zone change from EU-1 to EU-S.	BCC	Approved
2004	A Walk in Galloway Park, Inc.	Zone change from EU-1 to EU-S.	CZAB-12	Denied without prejudice

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.

ZONING ACTION

MEMORANDUM

Harvey Ruvin

Clerk of the Circuit and County Courts
Clerk of the Board of County Commissioners

(305) 375-5126

(305) 375-2484 FAX

www.miami-dadeclerk.com



DATE: December 4, 2008

#Z-

ITEM: 6.

APPLICANT: DIRECTOR OF THE DEPARTMENT OF PLANNING &
ZONING (08-12-CC-6/08-204)

ACTION: Deferred to February 19, 2009

ROLL CALL	M/S	YES	NO	ABSENT
Diaz				X
Edmonson		X		
Gimenez	S	X		
Heyman		X		
Martinez		X		
Moss		X		
Rolle		X		
Seijas		X		
Sorenson	M	X		
Sosa		X		
Souto		X		
Vice Chairwoman Jordan		X		
Chairman Barreiro		X		
TOTAL		12	0	1

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

APPLICANT: Director of the Department of Planning and
Zoning

PH: Z08-204 (08-12-CC-6)

SECTION: 09-55-40

DATE: February 19, 2008

COMMISSION DISTRICT: 8

ITEM NO.: A

A. INTRODUCTION

o **REQUEST:**

DELETION of a Declaration of Restrictions recorded in Official Record Book 23175, Pages 4420-4425.

The purpose of the request is to remove a previously recorded agreement that required the property to be developed with 6 residences in order to permit the site to be developed with a public library and park.

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).

o **SUMMARY OF REQUEST:**

The applicant is seeking to delete a Declaration of Restrictions which restricts the development of the subject property to six (6) single family residences.

o **LOCATION:**

Lying on the northwest corner of S.W. 112 Street and S.W. 87 Avenue, Miami-Dade County, Florida.

o **SIZE:** 3.42 Acres

o **IMPACT:**

Approval of this application will allow the Park and Recreation Department to develop the subject property with a proposed library and park (The Killian Library Park) which will provide public services to the residents in this community and could bring additional traffic into the area.

B. ZONING HEARINGS HISTORY:

In 2004, pursuant to Resolution #CZAB12-22-04, Community Zoning Appeal Board-12 denied a request for a district boundary change from EU-1, Single-Family One-Acre Estate District, to EU-M, Estate Modified District. Subsequently, pursuant to Resolution #Z-40-04, the Board County Commissioners granted a district boundary change to EU-S, Estate Use Suburban District, in lieu of the requested E-UM zone. Additionally, pursuant to Resolution #Z-40-04, the applicant proffered a Declaration of Restrictions recorded in Official Record Book 23175 Pages 4420 – 4425 restricting the development of the subject property to a site plan submitted for the application, prohibiting the use of Severable Use Rights, and limiting the development of the site to six (6) single-family residences.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2015-2025 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.
2. The CDMP states that small-scale uses or facilities intended to serve the immediate needs of a community, including schools, **libraries** and fire-rescue facilities, may be approved on compatible sites in all Residential Communities subject to adequate design and buffering. The CDMP also states that neighborhood or community serving institutional uses, including schools and **libraries** may be approved where compatible in all urban land use categories, in keeping with the specific conditions of the applicable category, and where provided in LU-4A.
3. The areas designated Residential Communities permit housing types ranging from detached single-family to attached multifamily buildings, as well as different construction systems. Also permitted in Residential Communities are neighborhood and community services including schools, **parks**, houses of worship, day care centers, group housing facilities, and utility facilities, only when consistent with other goals, objectives and policies of this Plan and compatible with the neighborhood. The character of the "neighborhood" reflects the intensity and design of developments, mix of land uses, and their relationships.
4. **Policy LU-4A**

When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.
5. **Policy LU-10C**

Miami-Dade County shall encourage energy conservation by adopting Florida Green Building Coalition, US Green Building Council Leadership in energy and Environmental Design (LEED), or other acceptable commercial standards for County-owned facilities.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

EU-S, vacant

Estate Density Residential

Surrounding Properties:

NORTH: EU-S; Single-Family Residence

Estate Density Residential

SOUTH: EU-1, Single-Family Residence
and Religious Facility

Estate Density Residential

EAST: EU-1; Religious Facility and
Private School

Estate Density Residential

WEST: EU-1; Religious Facility and
Day nursery.

Estate Density Residential

The subject parcel is a 3.42-acre acre parcel of land located at the northwest corner of SW 87 Avenue and SW 112 Street. The surrounding area where the subject property lies is characterized by religious facilities, schools, day nurseries, vacant lots and single-family residences.

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

*with conditions

F. PERTINENT REQUIREMENTS/STANDARDS:

Section 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

5

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.

V. Modification or Elimination of Conditions and Restrictive Covenants After Public Hearing, Where Public Benefits Are Created or Enhanced to a Level or Degree that Clearly Outweighs Additional New Public Burdens. The Community Zoning Appeals Board shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, where demonstratively greater public benefit will result from the modification or elimination than the resulting public burden as measured by the following:

(A) Approval of the application will result in the provision of public benefits in two (2) or more of the following categories of public benefits:

- 1. Enhancement and/or preservation of substantial open space, public parks, environmentally sensitive land, or natural or historic resources in terms of one or more of the following:**
 - (a) provision of additional on- or off-site open space, configured in such a manner that it provides a public benefit in terms of either public use or improved aesthetics when viewed from public rights-of-way (except where 2 (d) below is relied upon); or
 - (b) an increase in the amount of land available for public parks acceptable to the Park and Recreation Department, or in the recreational facilities of public parks; or
 - (c) perpetual preservation of "environmentally endangered lands"; or
 - (d) perpetual preservation of additional wetlands (which may include, in addition, restoration or enhancement); or
 - (e) removal of a use or structure that either has an adverse effect on a wellfield or aquifer recharge area, or that poses a high risk of wellfield contamination, and replacement with a use or structure that significantly lessens the impact or risk; or

- (f) removal, or reduction of the intensity of a use, that results in a substantial reduction of risk of groundwater contamination; or
 - (g) preservation of designated historic resources or rehabilitation of contributing historic structures.
2. A substantial improvement to the character of the immediate vicinity by one or more of the following means:
- (a) elimination or rehabilitation of blighted buildings or other blighting influences; or
 - (b) substantial reduction of "sign clutter," where the character of the immediate vicinity is largely defined by an abundance of signage; or
 - (c) relocation of utility lines underground, where the character of the immediate vicinity is heavily impacted by overhead utilities; or
 - (d) substantial improvements to landscaping or streetscaping (except where 1(a) is relied upon); or
 - (e) substantial reduction in excessive noise, smoke, vibration, odors, gases, dust, risk of pollutants, or damage to jurisdictional wetlands.
3. Elimination of uses that are inappropriately located, by either:
- (a) abandonment and elimination of a lawful existing nonconforming use; or
 - (b) elimination of a lawful use or building which, although not legally nonconforming, represents an obvious departure from the established pattern of development or use in the immediate vicinity.
4. **Provision of one or more of the following facilities or services in and for locations in which there is a demonstrated need:**
- (a) schools or vocational training facilities; or
 - (b) day care services for children or the elderly; or
 - (c) a police station or substation; or
 - (d) a fire station; or
 - (e) **a library; or**
 - (f) **public buildings and facilities; or**
 - (g) water or sanitary sewer lines.
5. Direct and specific implementation of adopted land use or community development plans of Miami-Dade County, by:

- (a) implementation of two or more preferred development types or scenarios from the Miami-Dade County *Urban Design Manual* ; or
 - (b) implementation of the "guidelines for urban form" in the Land Use Element of the Comprehensive Development Master Plan; or
 - (c) implementation of a portion of the Adopted Action Plan of the Consolidated Plan of the Miami-Dade County Office of Community and Economic Development.
6. A benefit to the function of the transportation network in the immediate vicinity, in terms of one or more of the following:
- (a) a substantial decrease in trip generation during hours of peak use; or
 - (b) an increase in the proportion of pedestrian, bicycle, or transit trips in relation to total daily trips in the immediate vicinity by all modes of transportation as a result of providing multi-modal amenities or mixed-use development; or
 - (c) an improvement in the quality, capacity, and function of pedestrian and bicycle circulation systems in the immediate vicinity of the subject property; or
 - (d) a reduction in vehicle miles attributable to dwelling units within a one-half (1/2) mile radius of the subject property; or
 - (e) improvements to one or more roadways in the immediate vicinity that increase capacity or improve traffic flow or traffic safety beyond the marginal traffic impacts of the proposed development.
7. Improvements to the supply of affordable housing, by
- (a) development of affordable housing for very low, low, and moderate income households in a location where the need for such housing has been identified pursuant to the Housing Element of the Comprehensive Development Master Plan or other adopted affordable housing initiatives; or
 - (b) rehabilitation or redevelopment of substandard housing units resulting in an increase in the number of very low, low, and moderate income units provided on the site of the rehabilitation or redevelopment.
- 8. The creation of 15 or more new permanent jobs.**
9. Substantial improvement to the design of the subject property through improvements in two or more of the following:
- (a) pedestrian, bicycle, or vehicular access and circulation; or
 - (b) the design of parking areas; or
 - (c) drainage or stormwater retention and treatment; or

- (d) connectivity, by elimination of dead-end, cul-de-sac or similar street types, or elimination of walled-in residential communities, or by providing streets that interconnect within the development and connect to adjacent neighborhoods and rights-of-way.

(B) Notwithstanding the provisions of the preceding paragraphs, no application will be approved under this subsection if such approval would result in:

1. a use of land which will have a significant adverse effect upon the value of properties in the immediate vicinity;
2. community design, architecture, or layout and orientation of buildings, open space, or amenities that is inconsistent with and deleterious to the aesthetic character of the immediate vicinity;
3. a material change in the density, intensity, or use of the subject property that so differs from the density, intensity, or use of other existing or approved development in the immediate vicinity that the subject property would represent an obvious and significant departure from the established development pattern of the immediate vicinity which has a deleterious effect on its community character;
4. a substantial degradation of localized traffic patterns or a substantial adverse impact on the roadway network;
5. unmitigated demands on potable water, sanitary sewer, or stormwater treatment systems which exceed the capacity of those systems; or
6. a new or continued and substantial risk to human life or safety or to the environment, or a nuisance; or
7. a material increase in height or volume of open lot uses or facilities, or a material increase in intensity of allowed open lot uses, including but not limited to such open lot uses as outdoor storage of products, materials or equipment, fleamarkets, carnivals, telecommunications facilities, concrete and asphalt batching plants, landfills and private playgrounds and recreational facilities;

The Community Zoning Appeals Board shall impose such conditions and requirements in connection with an approval under this subsection as shall prevent or mitigate any resulting adverse impacts to the County or to any aggrieved person who has reasonably, demonstrably and detrimentally relied upon the condition or covenant sought to be modified or eliminated.

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 comment

H. **ANALYSIS:**

This item was deferred from the December 4, 2008 agenda at the request of the applicant. This application is seeking to delete a Declaration of Restrictions from the subject property in order to allow the development of a Governmental Facility, the Killian Library Park. The Declaration of Restrictions was submitted in conjunction with the rezoning of the subject property to EU-S in 2004 pursuant to Resolution #Z-40-04, which restricts the development of the subject property to the site plan submitted for the hearing, limits the development of the site to six single-family residences, and prohibits the use of Severable Use Rights. Miami-Dade County has considered that this property is an appropriate site for the development of a library and park. In order for the Board of County Commissioners to consider this site for a Governmental Facility, the covenant on this property must be released. The Killian Library Park is being heard in conjunction with this application under Governmental Facility Application No. GF08-001.

The 3.42-acre site is currently undeveloped and is designated **Estate Density Residential use** on the Adopted 2015-2025 Land Use Plan map of the Comprehensive Development Master Plan (CDMP). This density range is typically characterized by detached estate homes. 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. The surrounding lands to the north, south, east and west are also designated Estate Density Residential. Additionally, the CDMP states that small-scale uses or facilities intended to serve the immediate needs of a community, including schools, **libraries** and fire-rescue facilities, may be approved on compatible sites in all Residential Communities subject to adequate design and buffering, and that neighborhood or community serving institutional uses, including schools and **libraries**, may be approved where compatible in all urban land use categories in keeping with the specific conditions of the applicable category, and where provided in LU-4A. The Park and Recreation Department has indicated that the building will be certified in accordance with Leadership in Energy and Environmental Design (LEED) requirements, which is consistent with CDMP Policy LU-10C. Also permitted in Residential Communities are neighborhood and community services including schools, **parks**, houses of worship, day care centers, group housing facilities, and utility facilities, only when consistent with other goals, objectives and policies of this Plan and compatible with the neighborhood. The library and park, as community-serving institutional uses, are **consistent** with the policies and objectives of the Comprehensive Development Master Plan (CDMP).

The Public Works Department **does not object** to this application as indicated in their memorandum submitted for this application. Staff also notes that the Department of Environmental Resources Management (DERM) **does not object** to this application and that the Fire Department offers **no objections** to this application and indicates that the average travel response time to this property is **5.36** minutes.

When analyzed under the Generalized Modification Standards, Section 33-311(A)(7), staff opines that the approval of the request to delete the Declaration of Restrictions which restricts the development of the subject property only to six (6) single family residences, that the proposed library and park facility will not be contrary to the public interest and will not be incompatible with the area, when considering the necessity and reasonableness of the deletion in relation to the present and future development of the area. The site is surrounded

on the three (3) sides by institutional uses. A religious facility and private school are located to the east, another religious facility to the west and a religious facility and private school to the south. In addition, the site lies at the northwest corner of the intersection of two major roads; SW 87 Avenue which is a section-line road and SW 112 Street which is a half-section line road. In addition, this Department has recommended certain conditions on the proposed park and library governmental facility application, and is also recommending that certain conditions be imposed on this application, in order to ensure compatibility with the surrounding uses. In staff's opinion, the use of the property as a library and park is **compatible** with the surrounding uses, is easily accessible by two major roads and is in the public interest. Therefore, staff recommends the approval of this application to delete the existing Declaration of Restrictions in order to allow the development of the site by the County as a public park and a public library. As such, staff recommends approval of this request under Section 33-311(A)(7).

Staff notes that when the Declaration of Restrictions limiting the subject property to 6 units is deleted on the subject property, it reverts back to the existing EU-S zoning. The 3.42-acre site is currently undeveloped and is designated **Estate Density Residential use** on the Adopted 2015-2025 Land Use Plan map of the Comprehensive Development Master Plan (CDMP). This density range is typically characterized by detached estate homes. 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. As such, the 3.42-acre subject property generates a numerical density threshold that would allow the applicant to develop the site with a minimum of 3 to a maximum of 8 dwelling units and notes that even without the Declaration of Restrictions, the subject property is **consistent** with the LUP map of the CDMP. Staff opines however that the site should be used as a Library/Park facility but notes that in the event that this use is ever abandoned the property would again revert back to the EU-S zoning.

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. In staff's opinion, this request meets the criteria for approval under Section 33-311(A)(17)(V) Where Public Benefits Are Created or Enhanced to a Level or Degree that Clearly Outweighs Additional New Public Burdens. This Section requires that the Board shall approve an application where demonstratively greater public benefit will result from the modification or elimination than the resulting public burden as measured in two (2) or more categories of public benefits. The first category of public benefit satisfied by this proposal is the enhancement and/or preservation of substantial open space, **public parks**, environmentally sensitive land, or natural or historic resources as per Section 33-311(A)(17)(V)(A)(1). As previously mentioned, the removal of the covenant is necessary in order to enable the Board to consider the approval of a Governmental Facility application submitted jointly by the Park and Recreation Department and the Public Library System for the development of the Killian Library Park. The development of a park and library satisfy a second category of this Section which is the provision that certain facilities and services should be located where there is a demonstrated need. Specifically a **"library"** and **"public buildings and facilities"** as stated in Sections 33-311(A)(17)(V)(A)(4)(e) and (f) will provide a public benefit. Additionally, the Miami-Dade Public Libraries has indicated that the proposed facility will generate more than "15 permanent jobs", thus complying with Section

33-311(A)(17)(V)(A)(8). The deletion also meets the requirement of Section 33-311(A)(17)(V)(B) since it will not result in: a use of land which will have a significant adverse effect upon the value of properties in the immediate vicinity; community design, architecture, or layout and orientation of buildings, open space, or amenities that is inconsistent with and deleterious to the aesthetic character of the immediate vicinity; a material change in the density, intensity, or use of the subject property that so differs from the density, intensity, or use of other existing or approved development in the immediate vicinity that the subject property would represent an obvious and significant departure from the established development pattern of the immediate vicinity which has a deleterious effect on its community character; a substantial degradation of localized traffic patterns or a substantial adverse impact on the roadway network; unmitigated demands on potable water, sanitary sewer, or storm-water treatment systems which exceed the capacity of those systems; or a new or continued and substantial risk to human life or safety or to the environment, or a nuisance; or a material increase in height or volume of open lot uses or facilities, or a material increase in intensity of allowed open lot uses, including but not limited to such open lot uses as outdoor storage of products, materials or equipment, flea-markets, carnivals, telecommunications facilities, concrete and asphalt batching plants, landfills and private playgrounds and recreational facilities. Noting all the aforementioned, staff recommends approval of the request under Section 33-311(A)(17) (Modification or Elimination of Conditions After Public Hearing).

Accordingly, staff recommends approval of this application under Section 33-311(A)(7) (Generalized Modification Standards) or under Section 33-311(A)(17) (Modification or Elimination of Conditions or Covenants After Public Hearing), subject to two conditions.

I. RECOMMENDATION:

Approval of the application under Section 33-311(A)(7) (Generalized Modification Standards) or under Section 33-311(A)(17) (Modification or Elimination of Conditions or Covenants After Public Hearing), subject to two conditions.

J. CONDITIONS:

1. That the library building or any other structures do not exceed a height of 35' and two stories.
2. That a preliminary site plan be submitted to the Department of Planning and Zoning prior to submittal for building permit. The Department's preliminary review will ensure that all passive activities be located close to the abutting residences and that substantial landscape buffering be provided along the property lines abutting residential uses.

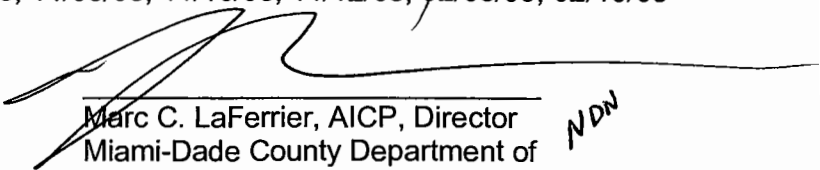
DATE INSPECTED: 10/22/08

DATE TYPED: 10/22/08

DATE REVISED: 10/28/08; 10/29/08; 11/03/08; 11/10/08; 11/12/08; 02/03/09; 02/10/09

DATE FINALIZED: 02/10/09

MCL:MTF:NN:AA


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


NDN

Memorandum



Date: November 12, 2008

To: Marc C. LaFerrier, Director
Department of Planning & Zoning

From: Jack Kardys, Director

Park and Recreation Department

Subject: Killian Library Park – acquisition

With reference to the attached request to provide justification of the “demonstrated need” for the removal of a restrictive covenant on the subject property and the “necessity and reasonableness” of doing so, the following is provided.

The Miami-Dade County Park and Recreation Department and the Library Department are coordinating to plan and build Killian Library Park. The Library Park will serve the Killian area with facilities scaled to the neighborhood level.

Killian Library Park will serve as a prototype for the development of joint-use civic spaces offering multiple public services. The collaboration of the two Departments increases efficiency in spending of County funds to develop two services on one property and increases efficiency of access to public services.

As there is no similar existing facility, a site plan does not yet exist for a library and park fully integrated on one property. The Governmental Facilities application addresses the land use of the site as a library and park on a property Zoned EU-S, Single-Family Estate Use Suburban. With the approval of this land use, removal of the covenant and subsequent acquisition of the property; a detailed site planning process, to include public input, will commence.

PROJECT HISTORY

The Park and Recreation & Library Departments have taken several measures to ensure the community has been informed of the proposed project and were provided the opportunity to ask questions and discuss the project.

Initially, the Departments held a meeting with the neighbors immediately adjacent to the property on January 8, 2008. This was an effort to assess the willingness of the neighbors directly affected by the proposed development. The majority of the attendees were in support of the project. Several questions were raised in regard to traffic, trees that had been removed from the site, and the proposed facilities.

In response, the Departments conducted research including a traffic study, an Environmental Site Review by DERM, tree removal permits from both DERM and FDOT, as well as contracting a planning consultant to assess site opportunities and constraints.

On July 31, 2008, the Departments held a second meeting with the immediate neighbors to address the questions raised in the January meeting and to share the results of the research that had been conducted. Again, the consensus among the immediate neighbors to the site was in support of the project.

A formal public meeting was held on August 28, 2008 which was advertised via ads in four newspapers, postcards were mailed to residents within the service area, and signs posted at the site. The meeting was intended to inform area residents of the proposed project and to provide an opportunity for questions, comments, and discussion.

On September 9, 2008, the Departments presented the project to Community Council 12 who voted in favor of a recommendation of approval. Most recently, on November 7, 2008, the Recreation and Cultural Affairs Committee (RCAC) also recommended approval of the project. The item is scheduled on the December 4, 2008 agenda for review by the Board of County Commissioners.

PROPERTY INFORMATION

The property in question is a 3.42-acre or 149,052 sq ft site, located on the northwest corner of the intersection of SW 112th Street and SW 87th Avenue, two section line roads (Exhibit 1).

The site consists of 6 folios which were platted as single family residences consistent with the current zoning of EU-S, Single-Family Estate Use Suburban. The six folios which the County intends to purchase to create Killian Library Park were platted as Forrest Subdivision, Plat # 22249 as recorded in Plat Book 165, Page 23. After the acquisition of the properties, the land will be replatted for the revised configuration and use.

In addition, the six properties are located on a dedicated right-of-way cul de sac which was also part of the Forrest Subdivision. The Departments will submit a request to vacate the right of way as part of the site reconfiguration.

LEVEL OF SERVICE

Park and Recreation Department Level of Services Standards as defined within the Comprehensive Development Master Plan require 2.75-acres of public park land for every 1000 residents in the unincorporated area. Within a 2-mile service area of the proposed Killian Library Park site, there is a 52.91-acre deficiency in the Level of Service.

Population (based on 2000 census)	Local Park Acres Needed (2.75-acres/1000 residents)	Existing Local Park Acres	Local Park Acres Deficient
35,810	98.48	45.57	-52.91

Based on U.S. Census Bureau data from the 2000 census, the unincorporated population within the 2-mile service area is 35,810 people. The area east of U.S. Highway 1 was not included, because these tracts are within municipalities, which are not included in the level of service analysis. Six county local parks are located within the service area, which collectively provide 45.57 acres of parks and open space. Although K-Land is a local park, it functions as

a Boys & Girls Club. Since there is limited public access to K-Land, it is not included in the LOS calculation (Exhibit 2).

Dividing the local park acres in the 2-mile service area of Killian Library Park by the UMSA population for year 2000 yields 0.00127 acres of local park per person, or 1.27 acres of local park land per 1,000 people. Comparing that figure to the Park and Recreation Department's countywide level of service goal of a minimum of 2.75 acres of park land per 1,000 people, there is a deficiency of 1.48 acres of park land per 1,000 people in this 2-mile service area. To alleviate the deficiency, 53.0 additional acres of parks and open space are needed within the service area. Thus, acquisition of the Killian Library Park site is recommended to help the Department meet its level of service goals for providing parks and open space to the community.

NEIGHBORING LAND USES & ZONING

Neighboring properties are institutional and include churches, other religious organizations, a private Montessori school and a non-profit organization for developmentally disabled children (Exhibit 3). Adjacent to the property on the west side is a property Zoned EU-1 with Institutional Land Use being used as a church. On the east side of the site, across SW 87th Avenue are two properties Zoned EU-1 with Institutional Land Use. One is a church; the other is the Children's Resource Fund, Inc. a youth oriented business. On the south east side of the intersection is a Montessori school located on a property Zoned EU-1 with Institutional Land Use. Directly across SW 112th Street is the Chabad Center of Kendall, Inc, a religious organization, on property Zoned EU-1 with Institutional Land Use. Directly north and adjacent to the site is a residential property. The County has been in contact with them and they are supportive of the project.

A Library Park would complement the neighboring properties and surrounding residential area; providing public facilities for youth, elderly, and families to enjoy.

TRAFFIC STUDY

The Park and Recreation & Library Departments contracted Florida Transportation Engineers, the same firm used by the Department of Planning & Zoning, to conduct a traffic study to assess the potential impacts of the proposed Killian Library Park. Completed in March 2008, the study (Exhibit 4) determined that "In summary, the proposed development would not have an adverse impact on the surrounding roadway network." The analysis included:

- Two vehicular access points into the property are possible, one on SW 112th Street and the second on SW 87th Avenue.
- The proposed entrance from SW 87th Avenue will comply with access management requirements of 245 feet as minimum connection spacing as per the access management class 6 (non-restrictive).

- Trip Generation estimates using the ITE Trip Generation Manual (7th Edition) determined that the proposed development would generate 14 trips during the AM Peak Hour and 102 trips during the PM Peak Hour.
- The proposed development will not have an adverse impact on level of service along the segment of SW 87th Avenue.
- The signalized intersection at SW 112th Street and SW 87th Avenue would operate at an acceptable level of service with the proposed development.
- Based on Miami-Dade County zoning ordinances, one parking space is required for every 250 sq ft of facility; therefore, 60 parking spaces would be required for a 15,000 sq ft facility.
-

EAST KENDALL CHARETTE

The Department of Planning & Zoning held the East Kendall Charette October 21-27, 2006. The final report was published January 2008 and is currently in the process of being reviewed by the Board of County Commissioners with a recommendation for approval from the Governmental Operations and Environment Committee on November 10, 2008.

Through the East Kendall Charette process, area residents, elected officials, business owners, and Kendall Community Council 12 members identified a need for a library park in the area (Exhibit 5).

The Charette report identifies a 9.6-acre site (i.e., Paint Testing Facility) as the suggested location for the library park. The County evaluated acquisition of the Paint Testing Facility but did not purchase the site as funds were unavailable to meet the high property value of such a large site. The owners were unwilling to divide and to sell a portion of the property. In addition, access to the site is mainly through secondary residential roads (Exhibit 6).

The County considered two additional sites before pursuing acquisition of the property on SW 112th Street & SW 87th Avenue. The Suniland site, located on SW 112th Street and SW 80th Avenue, was also identified in the East Kendall Charette. This 1-acre property is currently owned by the County. The small size is not suitable for a Library Park. However, the Park and Recreation Department is interested in acquisition of the site for development of a mini-park in support of the adjacent South Dade Trail and greenway network.

The former Shaw Nursery, a 3.09-acre property, located at 7990 SW 112th Street was also considered. Acquisition of the site was not pursued due to access and utility issues, and a large tree with a DERM covenant on the property which would have significantly hindered site planning and development.

MIAMI-DADE COUNTY PARK AND OPEN SPACE SYSTEM MASTER PLAN

On February 19, 2008 the Miami-Dade County Board of County Commissioners adopted Resolution R-171-08 (Exhibit 4) which approved the Miami-Dade County Park and Open Space System Master Plan and endorsing the plan's principles, goals and vision.

The Miami-Dade County Park and Open Space System Master Plan (OSMP) is a 50 year unifying vision for a livable, sustainable Miami-Dade County. It is based on six guiding principles:

- 1) **EQUITY** – Every resident should be able to enjoy the same quality of public facilities and services regardless of income, age, race, ability or geographic location
- 2) **ACCESS**- Every resident should be able to safely and comfortably walk, bicycle, drive and/or ride public transit from their home to work, school, parks, libraries, shopping and community facilities
- 3) **BEAUTY**- Every public space including streets, parks, plazas and civic buildings should be designed to be aesthetically pleasing and complement the natural and cultural landscape
- 4) **MULTIPLE BENEFITS**- Every single public action should generate multiple benefits to maximize taxpayer dollars
- 5) **SEAMLESSNESS**– Every element of the County, including neighborhoods, parks, natural areas, streets, schools, civic centers and commercial areas should be connected without regard to jurisdiction
- 6) **SUSTAINABILITY**- Natural resources, including water, wildlife habitat and open space, must be protected for future generations

The development of Killian Library Park supports the OSMP by:

- Providing **multiple benefits** to the public by offering both park and library facilities on the same site.
- The property is **accessed** by public transit along SW 112th Street and is within walking distance of 35,000+ residents within the 2-mile service area.
- **Seamless** collaboration of multiple County departments in providing quality services and facilities to the public.
- Establishing a public Library Park available to residents and visitors of the Killian area (**equity**).
- In designing a site plan which seamlessly integrates the park and library into one site, striving for **beauty** and functionality.
- Promoting **sustainability** by integrating Green Building principles into the design of both the library and park by following Leadership in Energy and Environmental Design (LEED) guidelines.

COMPREHENSIVE DEVELOPMENT MASTER PLAN

This project supports the guidelines in the County's Comprehensive Development Master Plan. Page I-53 states that "Neighborhood or community-serving institutional uses, cell towers and utilities including schools, libraries, sanitary sewer pump stations and fire and rescue facilities in particular, and cemeteries may be approved where compatible land use categories, in keeping with conditions specified in the applicable category, and where provided in certain Open Land sub areas. Compatibility shall be determined in accordance with LU-4A."

Policy LU-4A states "When evaluating compatibility among proximate land uses, the County shall consider factors such as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable."

The site will be designed to be compatible with the area. A traffic study completed by Florida Transportation Engineering in March 2008 on behalf of the County found that the proposed project would not have an adverse impact on the surrounding roadway network (please refer to Exhibit 3).

The section on Residential Communities (CDMP: Page I-27, #4) addresses "Intersections of section line roads shall serve as focal points of activity, hereafter referred to as activity nodes. Activity nodes shall be occupied by any nonresidential components of the neighborhood including public and semi-public uses."

The development of a Library Park at the intersection of SW 112th Street and SW 87th Avenue adheres to the guideline as stated above and enhances the existing activity node by including public uses and facilities.

PARK AND LIBRARY FACILITIES

Typically, the Library Department requires 2-acres to build a 15,000 sq ft library including parking. As the site is 3.42-acres, the remaining 1.42-acres would be developed as a park.

Killian Library Park will incorporate a library which will be approximately 15,000 sq ft. As determined through the site plan process, the library may be less than 15,000 sq ft. Parking, as specified in Miami-Dade County Zoning Ordinances, will include one space per 250 sq ft of facility or 60 parking spaces for a 15,000 sq ft facility.

Parking will be shared for park and library visitors. Typically, the Park and Recreation Department does not provide parking in Mini or Neighborhood Parks as most people access the site through bicycling, walking, or transit. However, since parking will be included on site, it will be shared by all visitors to the facilities.

The design of the Library Park will be integrated so that Storytime Canopies, a common library facility, can be built into the outdoor or park area of the facility; allowing for seamless incorporation of park and library services.

The park will offer passive recreational opportunities. The park planning process will include public input, and development of the site plan will take place once the property has been acquired. Potential park improvements may include benches for reading under shade trees, additional landscaping, a walking path, a small tot-lot, site furniture, and other passive recreation facilities.

The Miami-Dade Public Library System proposes to design and construct a Library facility of approximately 15,000 SQF to serve as a neighborhood branch library in the Killian Community – Commission District 8. The Building Better Communities Bond has allocated the following funds for the development of Killian Library:

Project Name: Construct Killian Library

Project Number: 301

GOB Allocation: \$ 9,000,000

Cost Estimate: \$9,000,000


Description: Construction of the Killian Library- 15,000 sq. ft.

Cc: Maria Teresa Fojo, DPZ
Antonio Atatla, DPZ

Attachments

Memorandum



Date: November 21, 2008
To: Mark C. LaFerrier, Director
Department of Planning & Zoning
From: Raymond Santiago 
Director of Libraries
Subject: The Killian Library

The Miami-Dade Public Library System and the Miami-Dade Park and Recreation Department are in the process of acquiring a 3.42-acres property, located on the northwest corner of the intersection of S.W. 112 Street and S.W. 87 Avenue. Both departments will team their resources in order to develop a Library and Park in keeping with the Comprehensive Development Master Plan (CDMP) guidelines. The project will be designed compatibly with the surrounding area.

The acquisition of this property will allow the Miami-Dade Public Library System and the Miami-Dade Park and Recreation Department the opportunity to provide the residents library and park services in one convenient location. The Library Park Project will provide the neighboring properties and surrounding residential area with public access facilities for all age groups. The Library and Park Project will be scaled and customized to the neighborhood and will serve as a prototype for the future development of joint-use civic spaces offering multiple public services.

The Miami-Dade Public Library System seeks to design and construct a 15,000 SQF Library facility to serve as a neighborhood branch library in the Killian Community – Commission District 8. This facility will be designed to provide a full range of Library services and programs geared to all age groups represented in the community. Its main service areas would be subdivided as follows: adult room, young adult area, children's room, and multi-purpose room. Additionally, the Library is also expected to have a staff work room, a delivery area, a mechanical room, an electrical room & a telecommunication room. The Library will have ample and comfortable seating for the public as well as easily accessible public service desks such as Customer Service and Information. The size of the library's opening day collection would be approximately 30,000 items that would encompass books, DVDs, audio books, periodicals etc. The building would be equipped with approximately 30 computer workstations and 20 laptops. In addition to the facility's hard-wired network, the Library would also be equipped with wireless network access that would allow patrons to use their own, or library-borrowed wireless devices, to access the Internet and all of the Library System's online services. The design of this facility would be in keeping with its surroundings and the building and site will be LEED certified.

On November 2, 2004 Miami-Dade County voters approved general obligation bonds to construct and improve cultural, library and multicultural education facilities. One of those projects is the construction of the Killian Library (project number 301). The project has \$9,000,000 in funding that covers the acquisition of the land as well as subsequent design and construction of the Library.



MIAMI-DADE COUNTY
KILLIAN LIBRARY PARK - ACQUISITION SITE

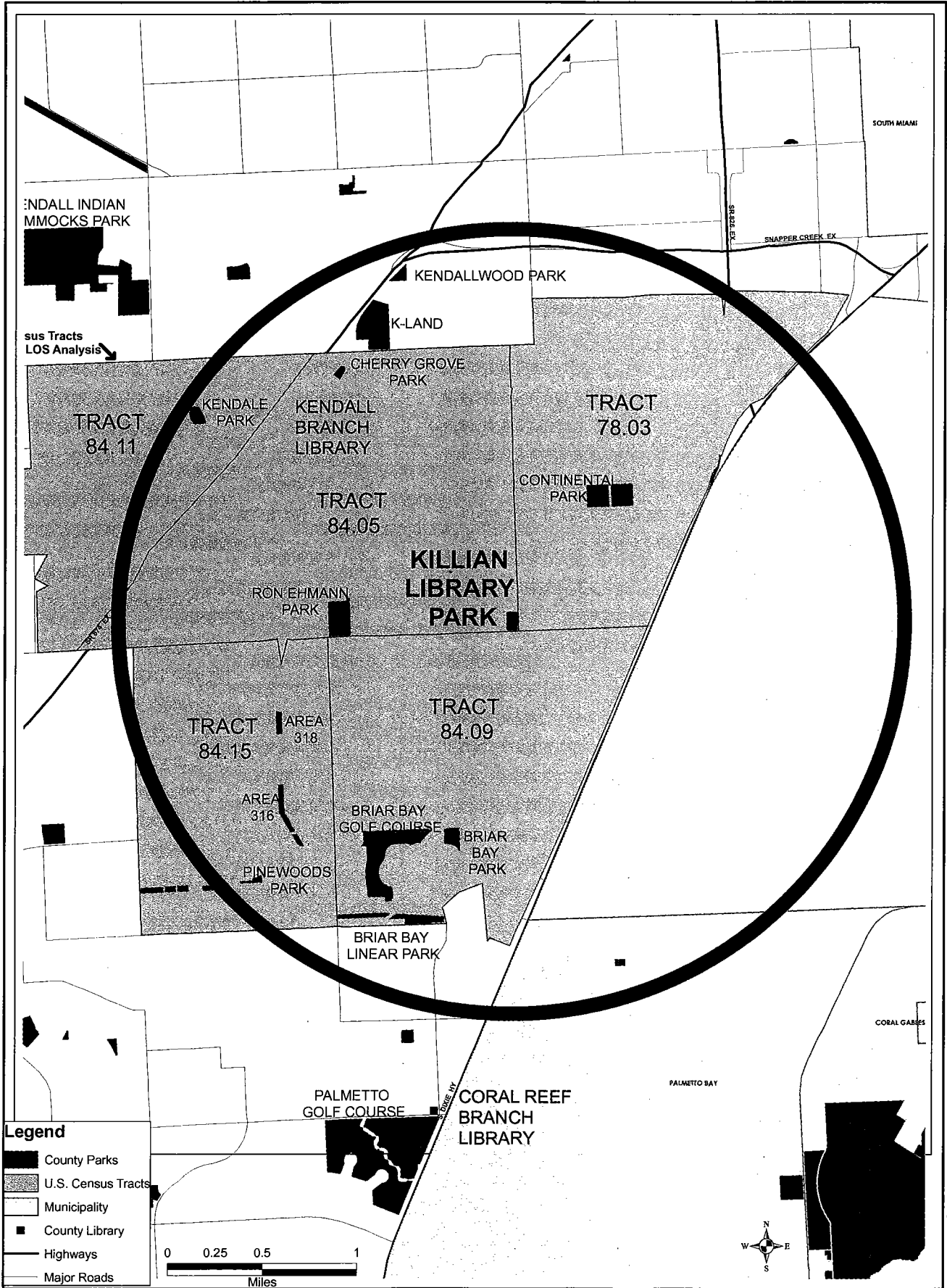


LEGEND

- Property Tax
- Park-Library Site



MIAMI-DADE COUNTY
PARK AND RECREATION DEPARTMENT
KILLIAN LIBRARY PARK
2-MILE LEVEL OF SERVICE ANALYSIS



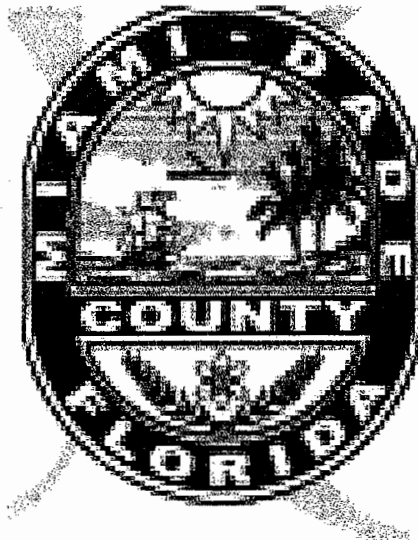


MIAMI-DADE COUNTY KILLIAN LIBRARY PARK - ACQUISITION SITE



TECHNICAL MEMORANDUM

KILLIAN LIBRARY PARK MIAMI-DADE COUNTY, FLORIDA TRAFFIC IMPACT STATEMENT



Prepared by:



◆ Miami ◆ Punta Gorda ◆ Tallahassee ◆ Tampa

March 2008

24

1.0 EXECUTIVE SUMMARY

Miami-Dade County is considering to build a 15,000 square foot Library-Park in the NW quadrant of SW 87th Avenue and SW 112th Street in Miami-Dade County. The proposed project will have two driveway accesses. The anticipated build-out year for the proposed development is 2009.

Trip Generation estimates were performed using the ITE Trip Generation Manual, 7th Edition for the proposed development. The proposed development would generate 14 trips during the AM Peak Hour and 102 trips during the PM Peak Hour.

Based on the Directional Trip Distribution Report obtained from Miami-Dade County MPO, the project trips were distributed on to the roadway network. The project trips from the development were distributed 40% to the north and 12% to the south on SW 87th Avenue and 28% to the west and 20% to the east on SW 112th Street. The background traffic for 2009 was developed by applying a growth rate of 3.64 percent to the existing traffic. The 2009 total traffic was calculated by adding 2009 background traffic with the project trips.

Based on the link analysis, the roadway links on SW 87th Avenue currently operate at a deficient level of service. However, the affect of the proposed development will not have significant impact along the segment of SW 87th Avenue.

Intersection analysis was performed on SW 87th Avenue at SW 112th Street. Based on the analysis, the signalized intersection would operate at an acceptable level of service with the proposed development.

Based on Miami Dade zoning ordinances, one parking space is required for every 250 SF of facility; therefore, 60 parking spaces would be required based on a 15,000 SF library facility.

In addition, based on roadway access standards, a new entrance on SW 87th Avenue will comply with the access management requirements of 245 feet as minimum connection spacing as per the access management class 6 (non-restrictive).

10.0 CONCLUSION

Based on the existing conditions, the roadway segments on SW 87th Avenue currently operate at a deficient level of service. However, the affect of the proposed development will not have significant impact along the segment of SW 87th Avenue.

An intersection analysis was performed on SW 87th Avenue and SW 112th Street. Based on the analysis, the signalized intersection would operate at an acceptable level of service with the proposed development.

In addition, based on roadway access standards, a new entrance on SW 87th Avenue will comply with the access management requirements of 245 feet as minimum connection spacing as per the access management class 6 (non-restrictive).

Based on Miami Dade zoning ordinances, one parking space is required for every 250 SF of facility; therefore, 60 parking spaces would be required for a 15,000 SF library facility.

Based on the crash analysis data review, during the analysis period for the intersection there were a total of 18 crashes reported in 2005; and a total of seven (7) crashes reported for the years 2006 and 2007.

In summary, the proposed development would not have an adverse impact on the surrounding roadway network.

Memorandum



Date: October 30, 2008

To: Marc C. LaFerrier, AICP, Director
Department of Planning and Zoning

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

A handwritten signature in black ink, appearing to read "Jose Gonzalez", written over the printed name of the sender.

Subject: C-12 #Z2008000204
Director of Department of Planning and Zoning
Northwest Corner of S.W. 87th Avenue and S.W. 112th Street
Deletion of a Declaration of Restrictions that Tied the Subject Property to
a Specific Site Plan
(EU-S) (3.36 Acres)
09-55-40

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

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.

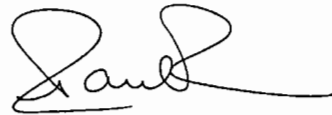
If you have any questions concerning the comments, or wish to discuss this matter further, please contact Enrique A. Cuellar at (305) 372-6764.

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: DIRECTOR OF THE DEPARTMENT OF PLANNING & ZONING

This Department has no objections to this application.

This application does not generate any new additional daily peak hour trips, therefore no vehicle trips have been assigned. This application meets the traffic concurrency criteria set for an Initial Development Order.

A handwritten signature in black ink, appearing to read "Raul", with a stylized flourish extending to the right.

Raul A Pino, P.L.S.

29-OCT-08

This instrument was prepared by:
Name: Simon Ferro, Esquire
Address: Greenberg Traurig, P.A.
1221 Brickell Avenue
Miami, Florida 33131

CFN 20050262459
OR Bk 23175 Pgs 4420 - 4425; (6pgs)
RECORDED 03/17/2005 09:49:45
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

A/9

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

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

IN ORDER TO ASSURE the County that the representations made by the owner during consideration of Public Hearing No. 2003-0318 will be abided by the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property:

- (1) That said Property shall be developed substantially in accordance with the plans previously submitted, prepared by Bellon Milanes, Architects Planners entitled, A Walk in Galloway Park, A Residential Subdivision, Miami-Dade County, Florida, dated 10-05-04, signed and sealed 10-05-04, said plans being on file with the Miami-Dade County Department of Planning and Zoning, and by reference made a part of this agreement.
- (2) In the event the Property is zoned EU-S (Estates Subdivision, 1 Family 25,000 Sq. Ft. Gross) use of Severable Use Rights (SURs) shall be prohibited.
- (3) Not more than six (6) single family EU-S homes shall be built upon the Property.

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

Covenant Running with the Land. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is

[L:\Forms\1\FXH-L04_ (1/1/7/04)]

(Public Hearing)

Section-Township-Range:
Folio number:

29
6

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

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

Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, whichever by law over such matters, after public hearing.

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

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

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

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

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and

[L:\Forms\1\FXHL04_110/13/04]

(Public Hearing)

Section-Township-Range:
Folio number:

Déclaration of Restrictions
Page 3

inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

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

Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost to the Owner following the adoption by the Miami-Dade County Board of County Commissioners or Community Zoning Appeals Board of a resolution approving the application.

Acceptance of Declaration. Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance.

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

[Execution Pages Follow]

[L:\forms\1FXHL04_(10/13/04)]

Section-Township-Range:
Folio number:

(Public Hearing)

(Space reserved for Clerk)

**ACKNOWLEDGMENT
CORPORATION**

Signed, witnessed, executed and acknowledged on this 20th day of October, 2004

IN WITNESS WHEREOF, A Walk in Galloway Park, Inc. has caused these presents to be signed in its name by its proper officials.

Witnesses:

Catherine Lucas
Signature
Catherine Lucas
Print Name
Leyla M. Lucas
Signature
Leyla M. Lucas
Print Name

A WALK IN GALLOWAY PARK, INC.

Address:
21001 SW 167 Avenue
Miami, Florida 33187

By [Signature]
President
Print Name: Manuel Rodriguez-Fiol

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE**

The foregoing instrument was acknowledged before me by Manuel Rodriguez-Fiol, the President, of A Walk in Galloway Park, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me or has produced Florida Driver's License No. R362-553-57-166-0, as identification.

Witness my signature and official seal this 20th day of October 2004, in the County and State aforesaid.



Leyla M. Lucas
My Commission DD201132
Expires September 24, 2005

Leyla M. Lucas
NOTARY PUBLIC-STATE OF FLORIDA
Leyla M. Lucas
Print Name

My Commission Expires:

(L:\forms\1FX\HL04_(10/13/04))

Section-Township-Range:
Folio number:

(Public Hearing)

(Space reserved for Clerk)

**JOINDER BY MORTGAGEE
CORPORATION**

The undersigned TIB Bank of the Keys, a Florida Bank (state) corporation and Mortgagee under that certain mortgage from A Walk in Galloway Park, Inc., dated the 20th day of October, 2003, and recorded in Official Records Book 21758 Page 3243 of the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing agreement, does hereby acknowledge that the terms of this agreement are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed this 18 day of October, 2004.

Witnesses:

Nicole S. Mowry
Signature
NICOLE S. MOWRY
Print Name
Melissa Freaney
Signature
Melissa Freaney
Print Name

TIB BANK OF THE KEYS

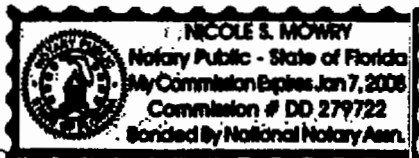
600 North Homestead Blvd.
Homestead, FL 33030

By Michael O. Welsh
Title: Commercial Loan Officer, AVP
Print Name: Michael O. Welsh

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE**

The foregoing instrument was acknowledged before me by Michael O. Welsh the Asst VP of TIB Bank of the Keys, corporation, on behalf of the corporation. He/She is personally known to me or has produced _____, as identification.

Witness my signature and official seal this 18 day of October, 2004, in the County and State aforesaid.



My Commission Expires:

Nicole S. Mowry
Notary Public-State of FLORIDA
NICOLE S. MOWRY
Print Name

\\MIA-SRV01\Ferro\1555013v01\1FX501_DOC\7/1/04

LEGAL DESCRIPTION

The South ½, of the East ½, of Tract 7, DADE COUNTY DEVELOPMENT COMPANY SUBDIVISION, according to the plat thereof, as recorded in Plat Book 1, at Page 97, of the Public Records of Miami-Dade County, Florida.

Memorandum



Date: 22-OCT-08
To: Marc LaFerrier, Director
Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department
Subject: Z2008000204

Fire Prevention Unit:

No site plan submitted for review.

Service Impact/Demand:

Development for the above Z2008000204
located at LYING ON THE NORTHWEST CORNER OF S.W. 112 STREET & S.W. 87 AVENUE, MIAMI-DADE
COUNTY, FLORIDA.

in Police Grid 1894 is proposed as the following:

<u>6</u> residential	dwelling units	<u>N/A</u> industrial	square feet
<u>N/A</u> Office	square feet	<u>N/A</u> institutional	square feet
<u>N/A</u> Retail	square feet	<u>N/A</u> nursing home/hospitals	square feet

Based on this development information, estimated service impact is: 1.68 alarms-annually.
The estimated average travel time is: 5:36 minutes

Existing services:

The Fire station responding to an alarm in the proposed development will be:
Station 23 - Suniland - 7825 SW 104 Street
Rescue, BLS 75' Ladder

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:
None.

Fire Planning Additional Comments:

Current service calculated based on submitted GIS sketch.

TEAM METRO

ENFORCEMENT HISTORY

DIRECTOR OF THE DEPARTMENT
OF PLANNING & ZONING

LYING ON THE NORTHWEST
CORNER OF S.W. 112 STREET &
S.W. 87 AVENUE, MIAMI-DADE
COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2008000204

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

Open Case # 200802009470 for overgrown grass.

Tim McCrink

DIRECTOR'S APPLICATION
FOR ZONING PUBLIC HEARING

RECEIVED
208-204
OCT 08 2003

Sec. 9-55-40

Radius Assigned: 1/2 mile

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

Date Received Stamped

1. DIRECTOR OF THE DEPARTMENT OF PLANNING & ZONING

Mailing Address: 111 N.W. First Street, 11th Floor, Miami, FL 33128
Tel. No. 305-375-2640

2. Legal Description of the Property covered by the application: See below

The South 1/2 of the East 1/2 of Tract 7, Dade County Development Company Subdivision, according to the plat thereof, as recorded in Plat Book 1, at page 97, of the Public Records of Miami-Dade County, Florida.

3. Address or Location of Subject Property: The northwest corner of SW 87th Avenue and SW 112 Street.

4. THIS APPLICATION INTENDED TO COVER:

SIZE OF PROPERTY:

- () Non-Use Variance: _____
() Alternative Site Development: Option: _____
(x) OTHER: Deletion of a Declaration of Restrictions Recorded in Or. Bk. 23175, pages 4420 - 4425.

5. Has a public hearing been held on this property within the last 2 years? No

If yes, in whose name? _____ When _____?

Nature of hearing _____; Decision of hearing: _____

DIRECTOR'S AFFIDAVIT

I, Marc C. LaFerrier being first duly sworn, depose and say that I am the Interim Director of Miami-Dade County Department of Planning & Zoning and as such and in my official capacity have filed the application concerned, and that the statements and answers therein contained and the information submitted therewith are in all respects true and correct and honest to the best of my knowledge and belief.


SIGNATURE

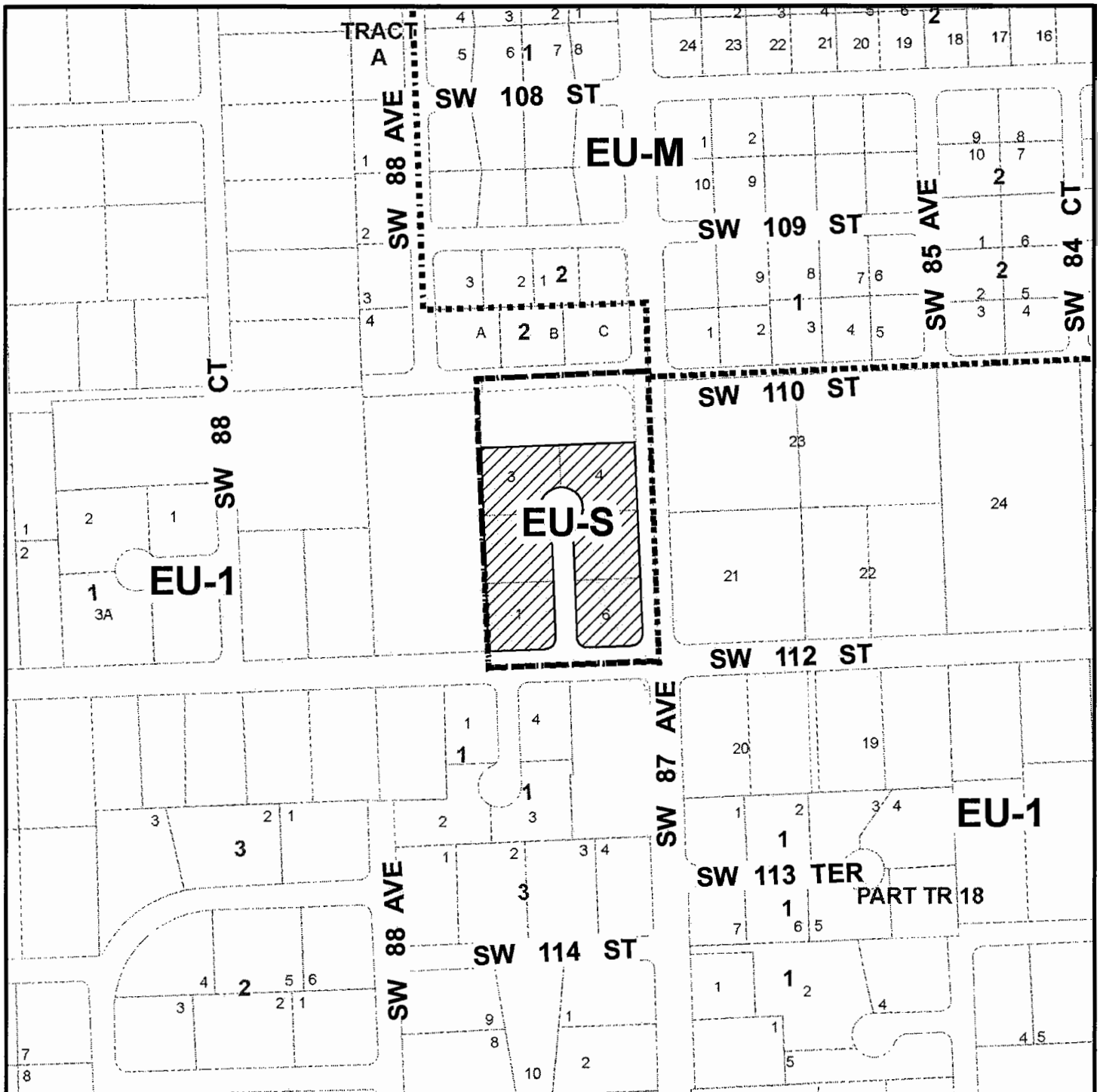
Sworn to and Subscribed before me

this 8th day of October 2008

Dianne Hough
NOTARY PUBLIC



DIANNE HOUGH
MY COMMISSION # DD 594191
EXPIRES: December 6, 2010
Bonded Thru Budget Notary Services



MIAMI-DADE COUNTY

HEARING MAP

Section: 09 Township: 55 Range: 40

Applicant: DIRECTOR DEPARTMENT OF PLANNING & ZONING

Zoning Board: BCC

Commission District: 08

Drafter ID: JEFFER

Scale: NTS

----- Zoning

Process Number

08-204



SUBJECT PROPERTY



SKETCH CREATED ON: 10/16/08

REVISION	DATE	BY
	3/8	



MIAMI-DADE COUNTY
AERIAL YEAR 2008

Process Number

08-204



SUBJECT PROPERTY

Section: 09 Township: 55 Range: 40
 Applicant: DIRECTOR DEPARTMENT OF PLANNING & ZONING
 Zoning Board: BCC
 Commission District: 08
 Drafter ID: JEFFER
 Scale: NTS
 ----- Zoning



SKETCH CREATED ON: 10/16/08

REVISION	DATE	BY

1. KENDALLGATE CENTER ASSOCIATES, LTD.
(Applicant)

09-2-CC-3 (07-208)
BCC/District 10
Hearing Date: 2/19/09

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

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

Disclosure of interest form attached? Yes ☒ No ☐

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
1988	Guaranty Service Corp.	Non-Use variance of signs.	ZAB	Approved w/conds.
1989	Kendallgate Center Associates, Ltd.	- Modification covenant. - Special exception for pub.	BCC	Approved w/conds.
1989	Kendallgate Center Associates, Ltd.	- Zone change from GU to RU-1. - Unusual Use to permit non-commercial parking in RU-1 to serve BU-1A. - Non-Use variance lot frontage.	BCC	Approved in part w/conds.

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: Kendallgate Center Associates LTD.

PH: Z07-208 (09-2-CC-3)

SECTION: 1-55-39

DATE: February 19, 2009

COMMISSION DISTRICT: 10

ITEM NO.: 1

A. INTRODUCTION

o REQUEST:

MODIFICATION of a portion of Paragraph "A" of a Declaration of Restrictive Covenants recorded at Official Records Book 13326, Pages 4109-4115, only as it applies to the subject property, reading as follows:

FROM: "A. Restricted Uses: Owner covenants and agrees to further restrict and limit the uses on that portion of the Property located West of SW 122 Ave and bounded by Kendall Drive on the North and SW 92 Street on the South to BU-1 permitted uses and the following BU-1A, Limited Business District, Permitted uses:

1. Banks, including drive-in teller service.
2. Office Buildings.
3. Electrical appliance and fixtures stores including related repair shops.
4. Restaurants, including drive-through facilities."

TO: "A. Restricted Uses: Owner covenants and agrees to further restrict and limit the uses on that portion of the Property located west of SW 122 Ave and bounded by Kendall Drive on the north and S.W. 92 Street on the south to BU-1 permitted uses and the following BU-1A (Limited Business District) permitted uses:

1. Banks, including drive-in teller service.
2. Office Buildings.
3. Electrical appliance and fixtures stores including related repair shops.
4. Restaurants, including drive-through facilities.
5. Furniture Store.
6. Pharmacy and/or Drugstore with a Drive-thru (no limitation on hours of operation).
7. Post Office.
8. Office Supply Store.
9. Toy Store."

The purpose of the request is to permit the applicant to modify a covenant for a commercial development that limited the site to specific uses, in order to allow additional uses.

Upon a demonstration that the applicable standards have been satisfied, approval of 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).

o **SUMMARY OF REQUEST:**

The applicants seek to modify a portion of a paragraph of a previously recorded Declaration of Restrictions for a commercial development that limited the site to specific uses in order to permit additional uses.

o **LOCATION:**

12200 S.W. 88 Street, Miami-Dade County, Florida.

o **SIZE:** 1.35 Acres

B. ZONING HEARINGS HISTORY:

In September 1974, pursuant to Resolution #Z-235-74, the subject property was a part of a parcel of land that was rezoned from GU, Interim District to RU-1, Single-Family Residential District, RU-TH, Townhouse District and RU-3M, Minimum Apartment House District. Similarly, in April 1975, pursuant to Resolution #Z-103-75, the subject property was a part of a tract of land that was approved for Special Exceptions to permit a planned unit development in the RU-TH and RU-3M zone, to waive the requirement that all uses should front on public streets and roads and to permit night illumination for four (4) tennis courts. The aforementioned tract was later expanded to include Tract "B" of a proposed tentative plat of Kendall Gardens, pursuant to Resolution #Z-18-76, in January 1976. Additionally, in July 1980, the subject property was a part of a tract of land, referred to as Parcel "C", that was rezoned from RU-3M to RU-TH, as well as a Special Exception to permit a townhouse development to be serviced by private drives, pursuant to Resolution #Z-164-80. In October 1985, the subject property was a part of a tract of land that was approved for a zone change from RU-1, RU-TH and RU-3M Districts to RU-4L, Limited Apartment House District, pursuant to Resolution #Z-213-85. Subsequently, in June 1987, the subject property was a part of a tract of land that was approved for a zone change from RU-4L to BU-1A, along with the deletion of an agreement recorded in Official Record Book 12676 only as applied to the subject property, to allow the release of the subject property from the restrictions of a previously recorded agreement, which restricted the uses on the subject property to banks, including drive-in tellers, office buildings, electrical appliance and fixture stores including repair shops and restaurants including drive-through facilities, pursuant to Resolution #Z-151-87. Simultaneously, pursuant to Resolution #Z-152-87, the subject property was approved for a Special Exception to permit site plan approval for a shopping center along with non-use variances to waive a portion of a required 5' high masonry wall along the rear (east) property line to allow for an ingress/egress drive and to permit a reduced number of parking spaces. In May 1988, pursuant to Resolution #4-ZAB-184-88, the subject property was a part of a tract of land located to the south of SW 88 Street (Kendall Drive) and east and west of SW 122 Avenue, approved for a non-use variance of the sign regulations to allow an oversized detached sign with an area of 50 sq. ft. and setback 13.5' from the interior side west property line. In June 1989, the subject property was granted a modification of a previously approved covenant to allow the establishment of a billiard parlor and a Special Exception to permit a pub in the BU-1A zone, pursuant to Resolution #Z-142-89. The

owner, pursuant to the approval of the aforementioned Resolution, also agreed to further limit the uses on the property to the west of SW 122 Avenue, to exclude additional uses permitted in the BU-1A zone, to include banks with drive-in teller service, office buildings, electrical appliance and fixture stores and restaurants, including drive-through facilities. In December 1989, pursuant to Resolution #Z-270-89, the subject property was a portion of that application which was approved for a zone change from GU to BU-1A. Additionally, pursuant to said resolution, the subject property was granted variances to permit a parcel of land to have access to a public street by means on an ingress and egress easement; to permit 16 parking spaces with 0' to back-out; to permit a building setback 0' from the RU-1 boundary line to the south; to permit a reduced number of parking spaces; to permit increased lot coverage and floor area ratio; to permit a reduced landscape area and to waive the requirement for a 5' high wall along the rear (south) property line.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2015 and 2025 Land Use Plan designates the subject property, which approximately **3.5 miles east of and inside the Urban Development Boundary (UDB)** as being within the Urban Development Boundary for **Business and Office**. This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, call centers, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes (also allowed in the institutional category), entertainment and cultural facilities, amusements and commercial recreation establishments such as private commercial marinas. Also allowed are telecommunication facilities (earth stations for satellite communication carriers, satellite terminal stations, communications telemetry facilities and satellite tracking stations). These uses may occur in self-contained centers, high-rise structures, campus parks, municipal central business districts or strips along highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly compatibility with both adjacent and adjoining uses, and availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be limited when necessary to protect both adjacent and adjoining residential use from such impacts as noise or traffic, and in most wellfield protection areas uses are prohibited that involved the use, handling, storage, generation or disposal of hazardous material or waste, and may have limitations as to the maximum buildable area, as defined in Chapter 24 of the County Code. When the land development regulations are amended pursuant to Land Use Element Policies LU-9P and LU-9Q, live-work and work-live developments shall be permitted on land designated as Business and Office, as transitional uses between commercial and residential areas.

2. Uses and Zoning Not Specifically Depicted.

Some existing uses and zoning are not specifically depicted on the LUP map. However, all such existing lawful uses and zoning are deemed to be consistent with this Plan as provided in the section of this chapter titled "Concepts and Limitations of the Land Use Plan Map". The limitations referenced in this paragraph pertain to existing zoning districts and uses. All approval of new commercial locations must be consistent with the LUP map or the specific exceptions provided in the various LUP map categories, the objectives and policies of this Plan.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

BU-1A; commercial building

Business and Office

Surrounding Properties

NORTH: BU-1A; shopping center

Business and Office

SOUTH: RU-4L; apartment buildings

Business and Office

EAST: BU-1A; shopping center

Business and Office

WEST: RU-4L; condominiums

Medium Density Residential, 13 to 25 du

The subject property is located at 12200 S.W. 88 Street, approximately 3.5 miles east of and inside the UDB. To the north and east of the subject property are predominantly developed with commercial shopping centers. The properties to the south and west are developed with residential apartments and condominiums.

E. SITE AND BUILDINGS:

Site Plan Review:

(No site plan submitted)

Scale/Utilization of Site:

N/A

Location of Buildings:

N/A

Compatibility:

N/A

Landscape Treatment:

N/A

Open Space:

N/A

Buffering:

N/A

Access:

Acceptable

Parking Layout/Circulation:

N/A

Visibility/Visual Screening:

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

H. ANALYSIS:

The 1.35-acre subject parcel is developed with an existing one-story commercial building, located at 12200 S.W. 88 Street. In June 1987, pursuant to Resolution #Z-151-87, the subject property was a part of a tract of land that was approved for a zone change from RU-4L to BU-1A, along with the deletion of an agreement recorded in Official Record Book 12676 only as applied to the subject property, in order to allow the release of the subject property from the restrictions of a previously recorded agreement. The owners at the time proffered a Declaration of Restrictions, recorded in Official Records Book 13326, Pages 4109-4115, which further limited the uses on the property to the west of SW 122 Avenue, to BU-1, Neighborhood Business District uses and the following BU-1A, Limited Business District uses, banks with drive-in teller service, office buildings, electrical appliance and fixture stores and restaurants, including drive-through facilities. In June 1989, the subject property was a part of a larger parcel that was approved for a modification of the previously approved covenant to allow the establishment of a billiard parlor and a Special Exception to permit a pub in the BU-1A zone, pursuant to Resolution #Z-142-89. The owner, pursuant to the approval of said Resolution, proffered a Declaration of Restrictions recorded in Official Records Book 14379, Pages 560-566. The applicant is requesting to modify a portion of paragraph "A" of the previously mentioned Declaration of Restrictions to permit additional BU-1A uses on the subject property. The additional uses listed in the applicant's letter of intent include a furniture store, pharmacy and /or drug store with a drive-through, post office, office supply store and toy store.

The Department of Environmental Resources Management (**DERM**) has **no objections** to this application and indicates that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida. However, the applicants will have to comply with all DERM conditions as set forth in their memorandum pertaining to this application. The **Public Works Department** also has **no objections** to this application. Their memorandum indicates that this

application will not generate any new additional daily peak hour vehicle trips and, therefore, meets traffic concurrency. The Miami-Dade Fire and Rescue Department (**MDFRD**) has **no objections** to this application and indicates that the estimated average travel response time is **6:06 minutes**.

Approval of this application would allow the applicant to modify a covenant only as it applies to the subject property for a previously approved development that limited the site to specific uses in order to permit additional uses. The Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) designates the subject property for **Business and Office** use. This category accommodates a full range of sales and services activities, including retail, wholesale, personal and professional services, commercial and professional offices, hotels and motels, hospitals, medical buildings, entertainment and cultural facilities and commercial recreational establishments. The subject site's existing BU-1A zoning allows uses such as, restaurants, banks with drive-in teller service, electrical appliance and fixture stores and office buildings. As such, the proposed expansion of uses to include a pharmacy, furniture store, post office, office supply and toy stores uses are **consistent** with the LUP Map of the CDMP. Based on the aforementioned, staff opines that the approval of the applicants' request for a modification of a previously approved Declaration of Restrictions to allow additional business uses is **compatible** with the surrounding area and thereby **consistent** with the interpretative text of the CDMP.

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 modification or elimination standards are applicable to the request. Due to the lack of information, staff is unable to properly analyze this request under said standards and, as such, the application should be denied without prejudice under these standards.

When analyzed under the Generalized Modification Standards, Section 33-311(A)(7), the proposed modification of the previously approved restrictive covenant approved pursuant to Resolution # Z-151-87 to allow the applicants additional BU-1A uses in the shopping center will not generate excessive noise or traffic, provoke excessive overcrowding of people, or tend to provoke a nuisance, and will not be contrary to the public interest. As previously mentioned, the Public Works Department has indicated that the proposed uses would not generate any new additional peak hour trips in excess of those that have previously been assigned. Further, staff is of the opinion that the approval of this modification of the Declaration of Restrictions to allow additional BU-1A uses, for the previously approved commercial building will not cause an undue burden on the surrounding area. Staff also notes that the applicant is not proposing any changes to the previously approved plans and the additional BU-1A uses are **consistent** with the LUP map of the CDMP and **compatible** with the previously approved BU-1 and BU-1A uses on the surrounding properties. However, staff recommends as a condition for approval of this application that all other paragraphs of the Declaration of Restrictions remain in place except as herein modified. As such, staff recommends approval with conditions of the application under the Generalized Modification Standards, Section 33-311(A)(7).

Based on the foregoing, staff recommends approval with conditions of the application under Section 33-311(A)(7), the Generalized Modification Standards, and denial without prejudice of same under Section 33-311(A)(17), Modification or Elimination of Conditions and Covenants After Public Hearing.


I. RECOMMENDATION:

Approval with conditions of the application under Section 33-311(A)(7), and denial without prejudice of same under Section 33-311(A)(17).

J. CONDITIONS:

1. That a revised Declaration of Restrictions be submitted to the Department of Planning and Zoning within 30 days after final public hearing approval of this application, unless a time extension is granted by the Director, for good cause shown.
2. That all the conditions of Declaration of Restrictions, recorded in Official Records Book 13326, Pages 4109-4115, pursuant to Resolution #Z-151-87, remain in full force and effect except as herein modified.

DATE INSPECTED: 12/27/07
DATE TYPED: 01/08/09
DATE REVISED: 01/09/09, 01/23/09, 02/10/09
DATE FINALIZED: 02/10/09
MCL:MTF:NN:AA:CH



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

NDW

Memorandum



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

A handwritten signature in black ink, appearing to read "Jose Gonzalez", written over the printed name.

Subject: C-11 #Z2007000208
Kendallgate Center Associates, Ltd.
12200 S.W. 88th Street
Modification of a Previous Declaration of a Restrictive Covenant to Allow
Additional Uses in BU-1A Zone
(BU-1A) (1.35 Acres)
01-55-39

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.

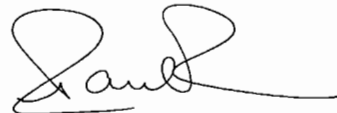
cc: Lynne Talleda, Zoning Evaluation - P&Z
Ron Connally, Zoning Hearings - P&Z
Franklin Gutierrez, Zoning Agenda Coordinator - P&Z

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: KENDALLGATE CENTER ASSOCIATES, LTD

This Department has no objections to this application.

This application does not generate any new additional daily peak hour trips, therefore no vehicle trips have been assigned. This meets the traffic concurrency criteria set for an Initial Development Order.

A handwritten signature in black ink, appearing to read "Raul", with a stylized flourish extending to the right.

Raul A Pino, P.L.S.

29-AUG-07

Memorandum



Date: 26-JUN-07
To: Subrata Basu, Interim Director
Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department
Subject: Z2007000208

Fire Prevention Unit:

Not applicable to Fire Engineering and Water Supply Bureau Site Requirements.

Service Impact/Demand:

Development for the above Z2007000208
located at 12200 S.W 88. STREET, MIAMI-DADE COUNTY, FLORIDA.
in Police Grid 1824 is proposed as the following:

<u>N/A</u> residential	dwelling units	<u>N/A</u> industrial	square feet
<u>N/A</u> Office	square feet	<u>N/A</u> institutional	square feet
<u>N/A</u> Retail	square feet	<u>N/A</u> nursing home/hospitals	square feet

Based on this development information, estimated service impact is: N/A alarms-annually.
The estimated average travel time is: 6:06 minutes

Existing services:

The Fire station responding to an alarm in the proposed development will be:
Station 57 - West Kendall - 8501 SW 127 Avenue
Rescue

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:
None.

Fire Planning Additional Comments:

Not applicable to service impact analysis.

TEAM METRO

ENFORCEMENT HISTORY

KENDALLGATE CENTER
ASSOCIATES,LTD

12200 S.W 88. STREET, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2007000208

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

There are no enforcement cases for this property.

DISCLOSURE OF INTEREST*

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

CORPORATION NAME: _____

<u>NAME AND ADDRESS</u>	<u>Percentage of Stock</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

TRUST/ESTATE NAME: _____

<u>NAME AND ADDRESS</u>	<u>Percentage of Interest</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: Kendallgate Center Associates, Ltd.

<u>NAME AND ADDRESS</u>	<u>Percent of Ownership</u>
<u>See attached disclosure</u>	_____
_____	_____
_____	_____
_____	_____
_____	_____

RECEIVED
207208
JUN - 6 2007

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT
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 similar entities, further disclosure shall be made to identify natural persons having ultimate ownership interests].

NAME OF PURCHASER: _____

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

Date of contract: _____

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

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

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

Signature: _____
(Jeffrey L. Berkowitz as President of Bersin Development Corp., General Partner)

Sworn to and subscribed before me this day of 5, JUNE, 2007 Affiant is personally known to me or has produced _____ as identification.

Yasmin S. Eley
(Notary Public)

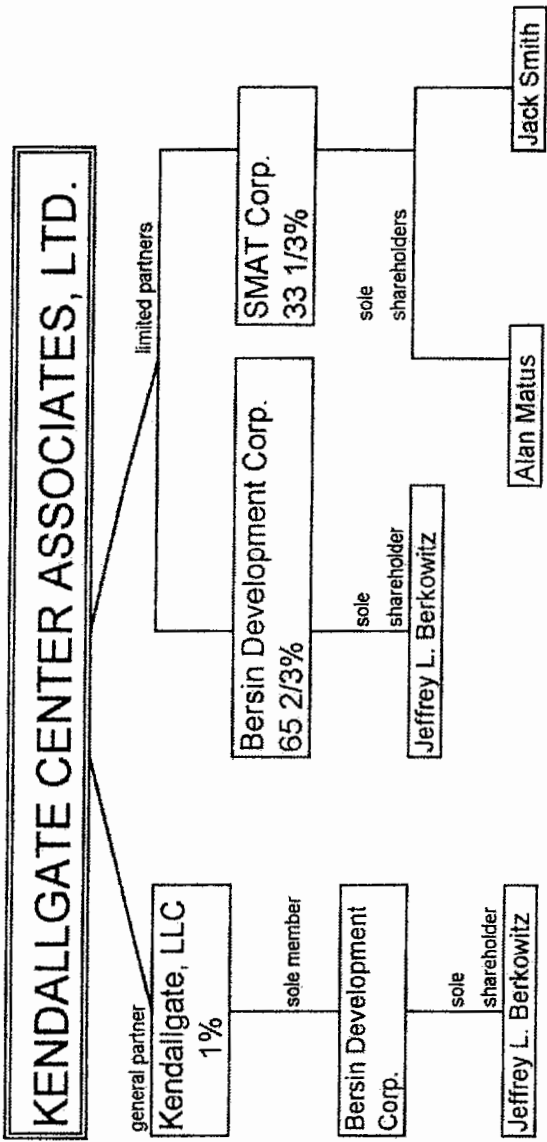
Yasmin S. Eley

My commission expires _____
My Commission DD271358
Expires December 01, 2007

*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 a other country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership and where no one (1) person or entity holds more than a total of five percent (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.

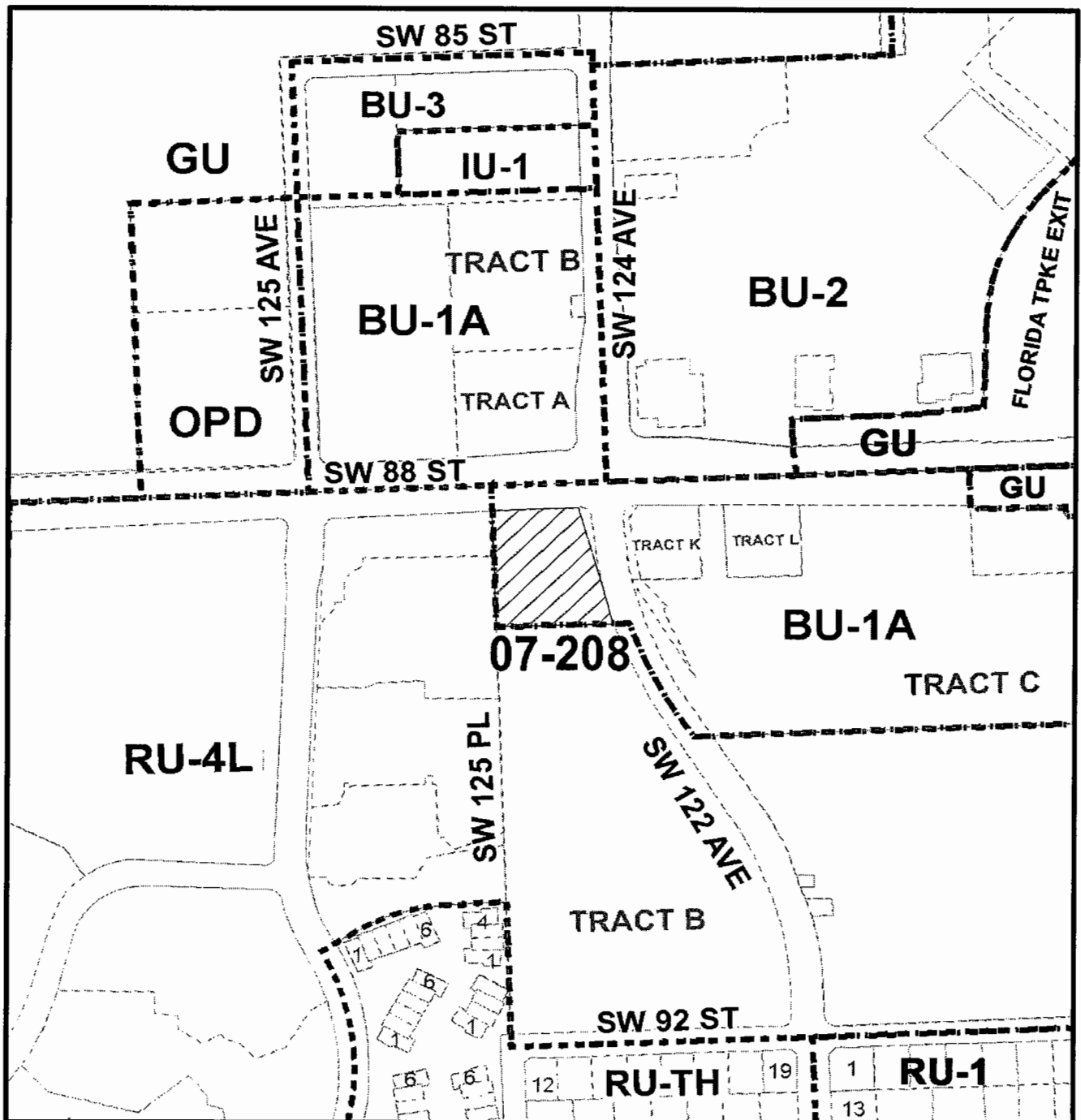
RECEIVED
JUN - 6 2007

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY _____



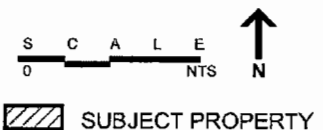
RECEIVED
2072008
JUN - 6 2007

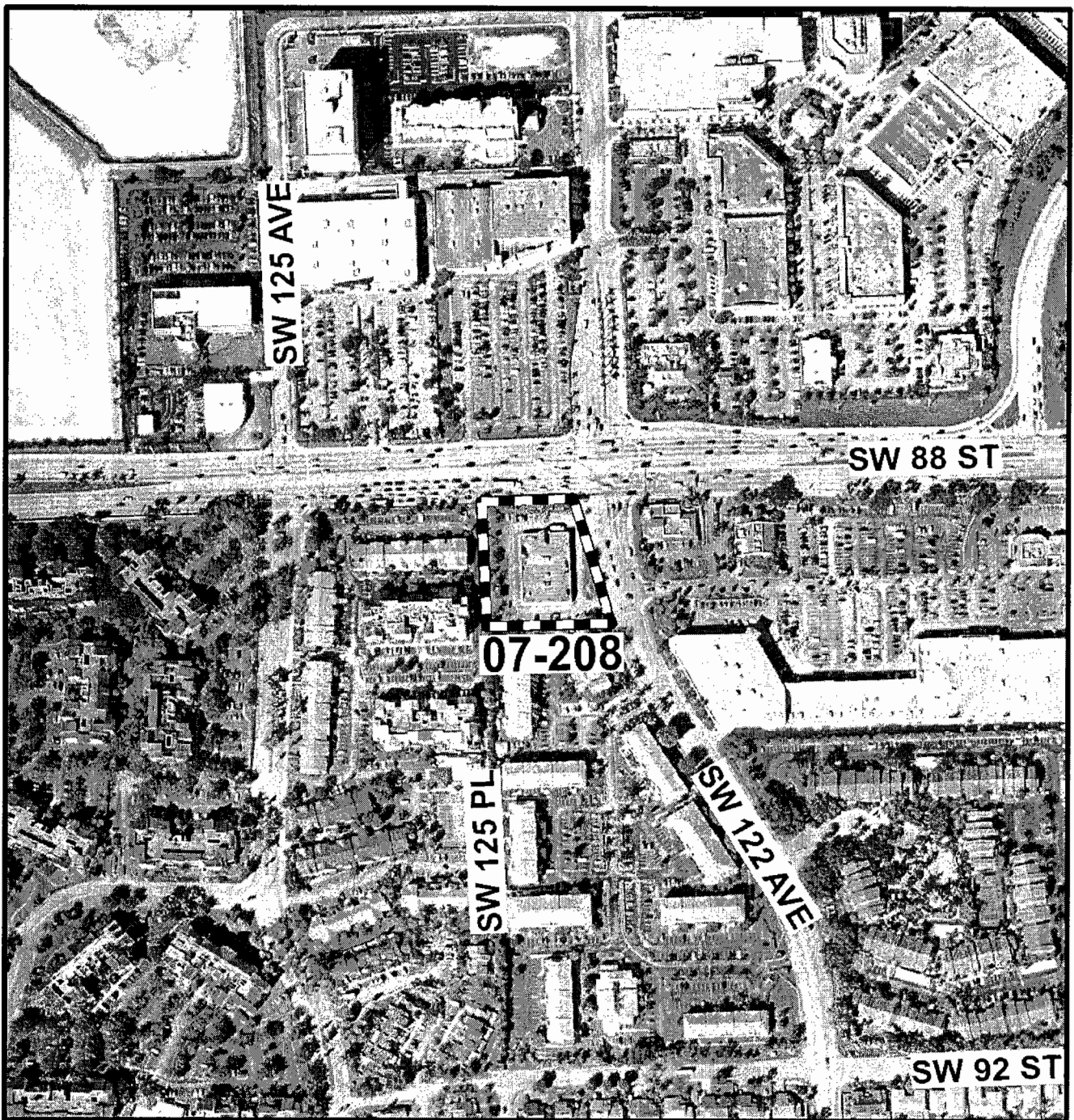
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT
BY



**MIAMI-DADE COUNTY
HEARING MAP**

Section: 01 Township: 55 Range: 39
 Process Number: 07-208
 Applicant: KENDALLGATE CENTER ASSOCIATES, LTD
 Zoning Board: BCC
 District Number: 10
 Cadastral: N'NAGBE
 Scale: NTS





MIAMI-DADE COUNTY
AERIAL

Section: 01 Township: 55 Range: 39
Process Number: 07-208
Applicant: KENDALLGATE CENTER ASSOCIATES, LTD
Zoning Board: BCC
District Number: 10
Cadastral: N'NAGBE
Scale: NTS



SUBJECT PROPERTY

(AERIAL DATE, FIRST QUARTER 2007)



2. TRANSORDEV, LLC
(Applicant)

09-2-CC-4 (08-169)
BCC/District 9
Hearing Date: 2/19/09

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

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

Disclosure of interest form attached? Yes ☒ No ☐

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
1998	Florida East Coast Railway Company	<ul style="list-style-type: none">- Zone change from GU to BU-1A.- Special exception for site plan approval for a commercial development.- Unusual use to permit outdoor dining.- Non-Use variances.	CZAB-14	Approved w/conds.
2007	Director of the Dept. of Planning & Zoning	<ul style="list-style-type: none">- Zone change from multiple zones to Perrine Community Urban Center District (PECUC).	BCC	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 DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS**

APPLICANT: Transordev, L.L.C.

PH: Z08-169 (09-2-CC-4)

SECTION: 5-56-40

DATE: February 19, 2009

COMMISSION DISTRICT: 9

ITEM NO.: 2

A. INTRODUCTION

o **REQUEST:**

DELETION of a Declaration of Restrictions recorded in Official Record Book 18395, Pages 2707-2710.

The purpose of this request is to delete the Declaration of Restrictions tying the site to a site plan for a restaurant use and to allow development of the site in accordance with the Perrine Community Urban Center 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).

o **SUMMARY OF REQUEST:**

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

o **LOCATION:** South of S.W. 184 Street and west of the South Dade Transportation Corridor (Busway), Miami-Dade County, Florida.

o **SIZE:** 0.83 Gross Acres

ZONING HEARINGS HISTORY:

In November 1998, pursuant to Resolution #CZAB14-46-98, the subject property was granted a zone change from GU, Interim District, to BU-1A, Limited Business District, a Special Exception to permit site plan approval for a proposed commercial development, an Unusual Use to permit outdoor dining in connection with a proposed restaurant and a variance to the zoning regulations requiring a 5' masonry wall along the property line abutting a dissimilar land use to the subject property. Said resolution also permitted the applicant a variance of the zoning regulations to permit a one-way drive with a width of 10' subject to the acceptance of a voluntarily proffered covenant. Subsequently, in October 2007, pursuant to Resolution #Z-52-07, the subject property was a part of a section of land that was approved for a district boundary change from multiple zones to PECUC (Perrine 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		Max.
	(FAR)	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:

PECUC/ MM; maximum 60 dua;
Vacant lot

Business & Office
Community Urban Center

Surrounding Properties:

NORTH:	PECUC/ Institutional; Miami-Dade County Clinic	Business & Office Community Urban Center
SOUTH:	PECUC/ MM: maximum 60 dua; Vacant land	Business & Office Community Urban Center
EAST:	PECUC; Miami-Dade Transit Busway	Transportation
WEST:	PECUC/ MM: maximum 60 dua; Vacant land	Business & Office Community Urban Center

The subject parcel is located south of the corner of S.W. 184 Street and west of the South Dade Transportation Corridor (Busway). The area where the subject property lies is within the Perrine 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)

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 south of the corner of S.W. 184 Street and west of the South Dade Transportation Corridor (Busway), approximately **3.5 miles east of and within the Urban Development Boundary (UDB) Line**, in an area which is currently being developed as a compact, mixed-use community. In November 1998, the subject property was granted a zone change from GU, Interim District, to BU-1A, Limited Business District, a Special Exception to permit site plan approval for a proposed commercial development, an Unusual Use to permit outdoor dining in connection with a proposed restaurant and a variance to the zoning regulations requiring a 5' masonry wall along the property line abutting a dissimilar land use to the subject property, pursuant to Resolution #CZAB14-46-98. Said resolution also permitted the applicant a variance of the zoning regulations to permit a one-way drive with a width of 10'. The applicant at that time voluntarily proffered a covenant limiting the use on the property to a restaurant use, which would permit development consistent with the then Industrial and Office designation of the subject property on the LUP map of the CDMP. The Industrial and Office designation allows limited commercial uses, particularly those intended to serve the workers in the Industrial and Office area. The applicant is seeking to delete this agreement tying the site to a site plan for a restaurant use and to allow development of the site in accordance with the Perrine Community Urban Center (PECUC) District 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 (**MDFRD**) **does not object** to this application.

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 Perrine Community Urban Center (PECUC) 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. 04-217 under Article XXXIII (N) of the Zoning Code. The Perrine 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 0.83-acre property lies within the Core Sub-District of the Perrine Community Urban Center (PECUC). The subject property is designated as Mixed Use Main Street (MM) under the PECUC's Land Use Plan map. The MM zone allows businesses, professional offices, civic, education and government offices on the first and second floors and residential uses on the second floor and above to a maximum of 60 units per net acre. Approval of this application will remove the agreement restricting the development of the property to a previously approved restaurant in order to enable the applicant to comply with the PECUC District zoning regulations and, therefore, be **consistent** with the PECUC's Master Plan. The aforementioned, previously approved site plans depicted a commercial restaurant development. The Department of Planning and Zoning as well as other departments, shall review plans submitted by the applicant for compliance with the site plan review criteria provided in the PECUCD 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 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 development regulations of the Perrine Community Urban Center District. The Ordinance provides for the allocation of development intensities within Core 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 PECUC 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: 11/26/08
DATE REVISED: 12/1/08, 01/13/09, 01/14/09
DATE FINALIZED: 01/20/09
MCL:MTF:NN:NC:CH



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

NDN

Memorandum



Date: September 29, 2008

To: Marc C. LaFerrier, AICP, Director
Department of Planning and Zoning

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

A handwritten signature in black ink, appearing to read "Jose Gonzalez".

Subject: C-14 #Z2008000169
TRANSORDEV, LLC
Southwest Corner of S.W. 184th Street and Bus Way Right-of-Way
Release of a Declaration of Restrictions
(PECUC) (0.83 Acres)
05-56-40

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

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.

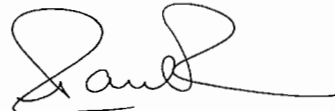
If you have any questions concerning the comments, or wish to discuss this matter further, please contact Enrique A. Cuellar at (305) 372-6764.

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names:TRANSORDEV, LLC

This Department has no objections to this application.

This application does not generate any new additional daily peak hour trips, therefore no vehicle trips have been assigned. This application meets the traffic concurrency criteria set for an Initial Development Order.

A handwritten signature in black ink, appearing to read "Raul", with a stylized flourish extending to the right.

Raul A Pino, P.L.S.

08-OCT-08

Memorandum



Date: 17-SEP-08
To: Marc LaFerrier, Director
Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department
Subject: Z2008000169

Fire Prevention Unit:

Not applicable to Fire Engineering & Water Supply Bureau site requirements.

Service Impact/Demand:

Development for the above Z2008000169
located at LYING ON THE SOUTHWEST CORNER OF S.W. 184 STREET & MIAMI DADE BUSWAY, MIAMI-DADE
COUNTY, FLORIDA.

in Police Grid 5206 is proposed as the following:

<u>N/A</u> residential	dwelling units	<u>N/A</u> industrial	square feet
<u>N/A</u> Office	square feet	<u>N/A</u> institutional	square feet
<u>N/A</u> Retail	square feet	<u>N/A</u> nursing home/hospitals	square feet

Based on this development information, estimated service impact is: N/A alarms-annually.
The estimated average travel time is: 5:09 minutes

Existing services:

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

Station 50 - Perrine - 9798 Hibiscus Street
Rescue

Planned Service Expansions:

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

None.

Fire Planning Additional Comments:

Not applicable to service impact analysis.

TEAM METRO

ENFORCEMENT HISTORY

TRANSORDEV, LLC

LYING SOUTH OF S.W. 184
STREET & west of the South Dade
Transporation Corridor (BUSWAY),
MIAMI-DADE COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2008000169

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

Current case history;

Case 200801007317 was opened based on enforcement history request and inspected on 12-2-08.

No violations were observed and the case was closed.

DISCLOSURE OF INTEREST*

If a **COMPANY** owns or leases the subject property, list members and percent interest owned by each.

COMPANY NAME: TRANSORDEV, LLC, a Florida limited liability company

<u>NAME AND ADDRESS</u>	<u>Percentage of Stock</u>
<u>Ryder Investments, LLC – Manager</u>	<u>46.2825%</u>
<u>William & Jeanne Ryder, tenants by the entireties (William Ryder – Managing member) 52.8%</u>	
<u>Katherine V. Rey – Managing member – 47.2%</u>	
<u>Grouper Transit, LLC</u>	<u>9.8985%</u>
<u>Scott Silver - 50%</u>	
<u>Fred Garvett – 50%</u>	
<u>Grove Bay Investments</u>	<u>32.8966%</u>
<u>Armando Cazo – 40%</u>	
<u>Esperanza Cazo – 40%</u>	
<u>Alex Cazo – 20%</u>	
<u>William & Jeanne Ryder as tenants by the entireties</u>	<u>1.7551%</u>
<u>Ivan Almeida</u>	<u>1.6707%</u>
<u>Michael Kesti</u>	<u>1.7551%</u>
<u>Realka, LLC</u>	<u>.1875%</u>
<u>Alex Rey – 48.5%</u>	
<u>Katherine Rey – 48.5%</u>	
<u>Ivan Almeida – 3%</u>	
<u>WJLN Partnership</u>	<u>.2415%</u>
<u>Jeanne W. Ryder – 42.5357%</u>	
<u>Neil P. Ryder - 13.8306%</u>	
<u>Lise A. Ryder – 13.8306%</u>	
<u>Jeff W. Ryder – 13.8306%</u>	
<u>William Ryder – 14.7147%</u>	
<u>WJLN Holdings, Inc. (General Partner) – 1.2578%</u>	
<u>Neil P. Ryder - .419267%</u>	
<u>Lise A. Ryder - .419267%</u>	
<u>Jeff W. Ryder – .419267%</u>	
<u>Transordev, LLC (as noted above)</u>	<u>treasury stock 5.3125%</u>

RECEIVED
SEP - 2 2008

CONTRIBUTIONS SECTION
DEEDS, EASEMENTS, PLANNING AND FINANCING DEPT.
DIV.

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

TRUST/ESTATE NAME: _____

<u>NAME AND ADDRESS</u>	<u>Percentage of Stock</u>
-------------------------	----------------------------

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

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

NAME AND ADDRESS _____ Percentage of Stock _____

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

Signature: Katherine Ray (Applicant)

Sworn to and subscribed before me this 27 day of August, 2008 Affiant is
personally known to me or has produced _____ as identification.

M. J. Penicill
(Notary Public)



MARILYN SOMODEVILLA
MY COMMISSION # DD 704988
EXPIRES: September 13, 2011
Bonded Thru Budget Notary Services

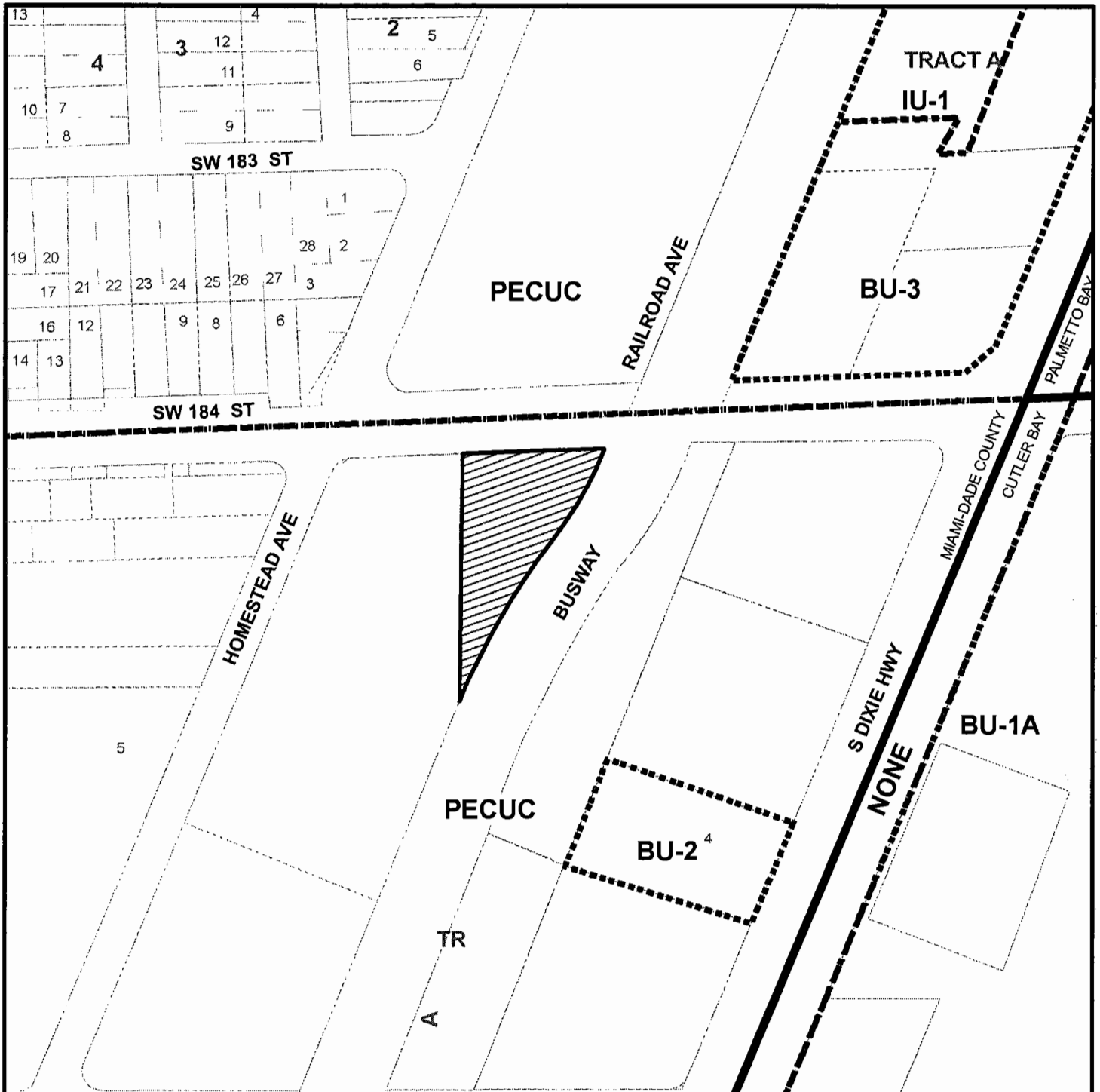
My commission expires _____

*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.

RECEIVED
2008
SEP 2 2008

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT
BY _____

15



MIAMI-DADE COUNTY HEARING MAP

Section:05 Township:56 Range: 40
 Applicant: TRANSORDEV, LLC.
 Zoning Board: BCC
 Commission District: 09
 Drafter ID: ALFREDO
 Scale: NTS
 ----- Zoning

Process Number
08-169

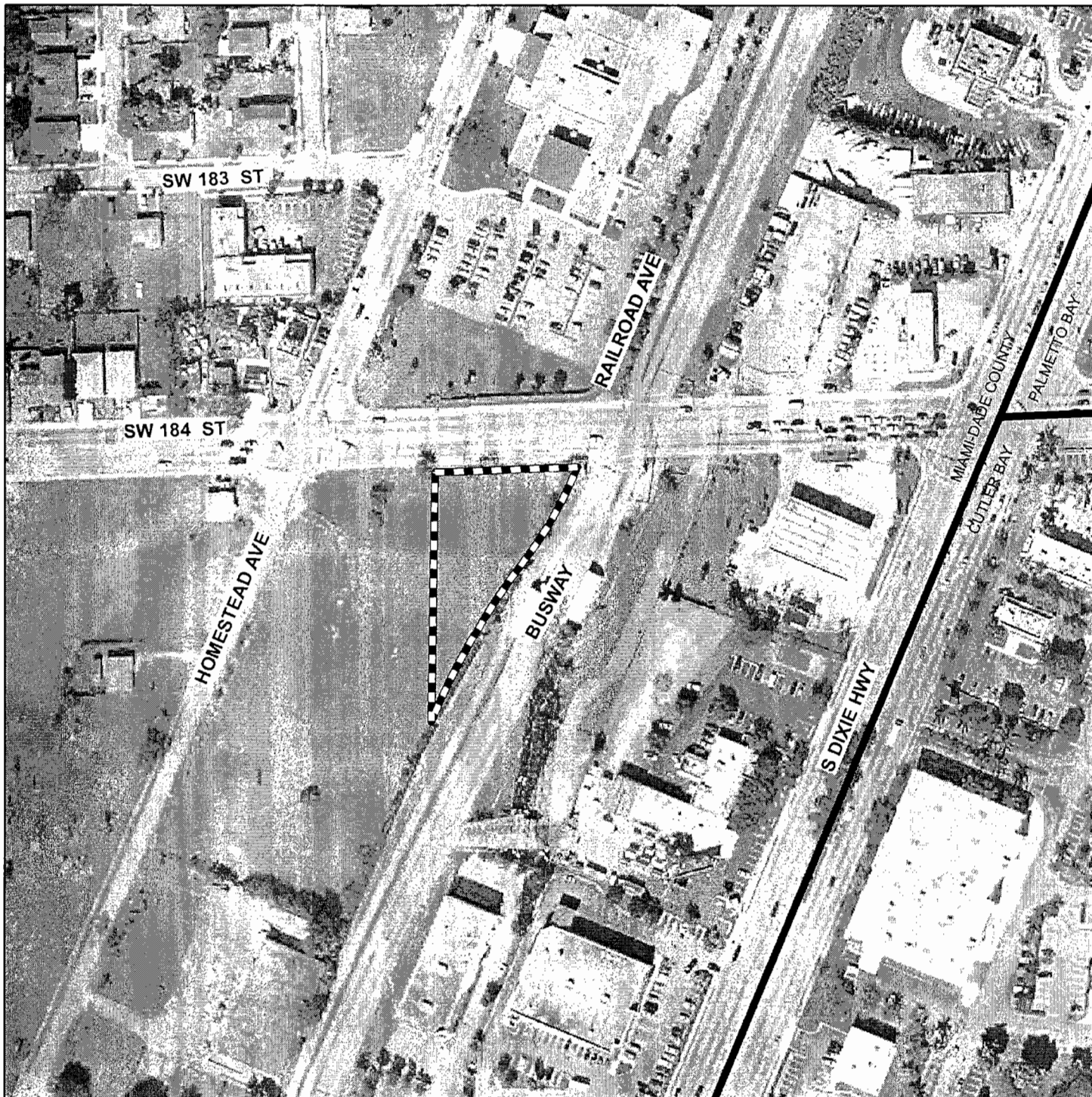


SUBJECT PROPERTY



SKETCH CREATED ON: 10/09/08

REVISION	DATE	BY
		16



MIAMI-DADE COUNTY
AERIAL YEAR 2008

Section:05 Township:56 Range: 40
 Applicant: TRANSORDEV, LLC.
 Zoning Board: BCC
 Commission District: 09
 Drafter ID: ALFREDO
 Scale: NTS
 ----- Zoning

Process Number
08-169



SUBJECT PROPERTY



SKETCH CREATED ON: 10/09/08

REVISION	DATE	BY