



KITS

2-19-09 Version #1

BOARD OF COUNTY COMMISSIONERS ZONING HEARINGS

THURSDAY, MARCH 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. 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 February 19, 2009 meeting.



Official Zoning Agenda

BOARD OF COUNTY COMMISSIONERS

COUNTY COMMISSION MEETING OF THURSDAY, MARCH 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 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.

Protests: 3

Waivers: 0

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____

DEFERRED: _____

Deferred from 2/19/09

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: 3/19/09

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: 2/19/2009

ITEM: A

APPLICANT: Director of the Department of Planning & Zoning

MOTION: Deferred to March 19, 2009

ROLL CALL	M/S	YES	NO	ABSENT
Barreiro				X
Edmonson		X		
Gimenez		X		
Heyman		X		
Jordan		X		
Martinez		X		
Rolle				X
Seijas				X
Sorenson	M	X		
Sosa	S	X		
Souto				X
Vice Chairman Diaz				X
Chairman Moss		X		
TOTAL		8	0	5

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: March 19, 2009

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 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

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 and from the February 19, 2009 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.

Director of the Department of Planning and Zoning

Z08-204

Page 11


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;
02/20/09

DATE FINALIZED: 02/20/09

MCL:MTF:NN:AA



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

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.

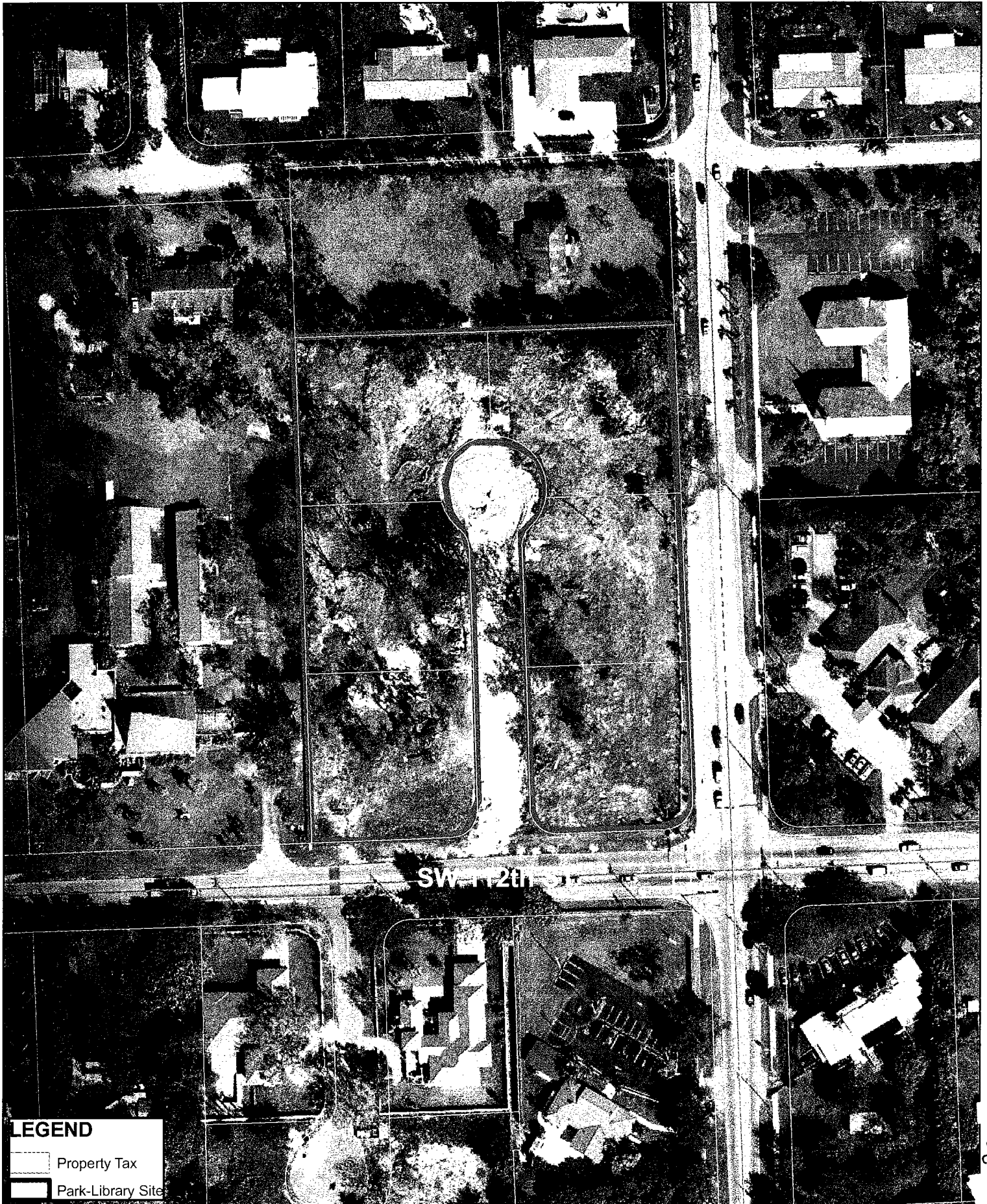
The acquisition of this property will allow the Miami-Dade Public Library System and the Miami-Dade Park and Recreation Department the opportunity to provide the residents library and park services in one convenient location. The Library Park Project will provide the neighboring properties and surrounding 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

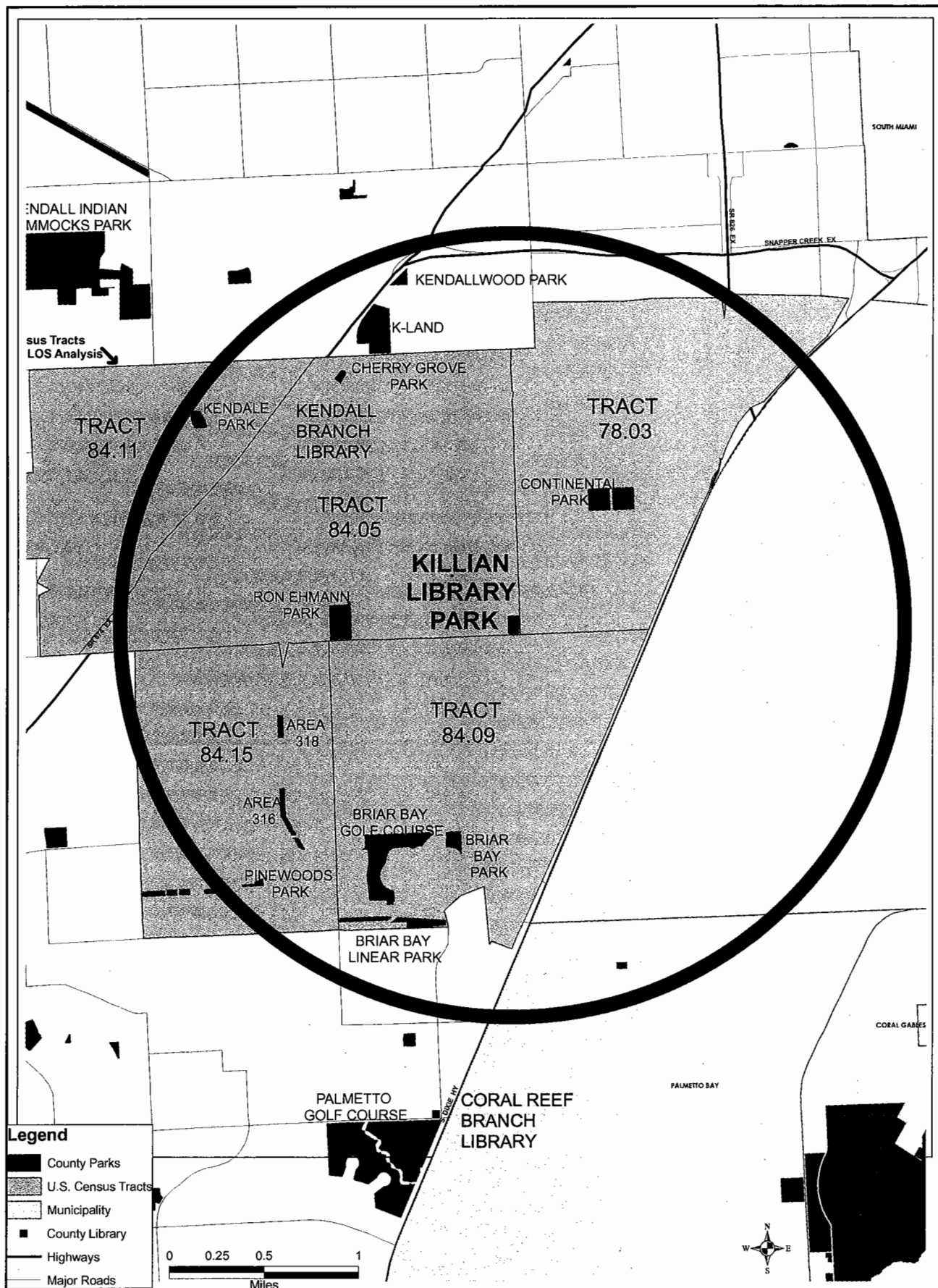


LEGEND

- 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

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 Assistant Director.

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.

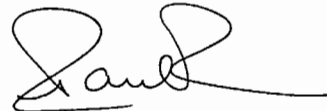
If you have any questions concerning the comments, or wish to discuss this matter further, please contact Enrique A. Cuellar at (305) 372-6764.

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

A9

(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\FXHLD4_(11/17/04)]

Section-Township-Range:
Folio number:

(Public Hearing)

31
M/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:

32

Declaration 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\1FXHL04_(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

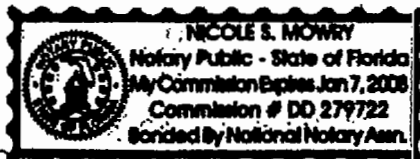
600 North Homestead Blvd.
Homestead, FL 33030

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\FerroS\1555013v01\1FX501_DOC\7/1/04

LEGAL DESCRIPTION

The South $\frac{1}{2}$, of the East $\frac{1}{2}$, 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.

36

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

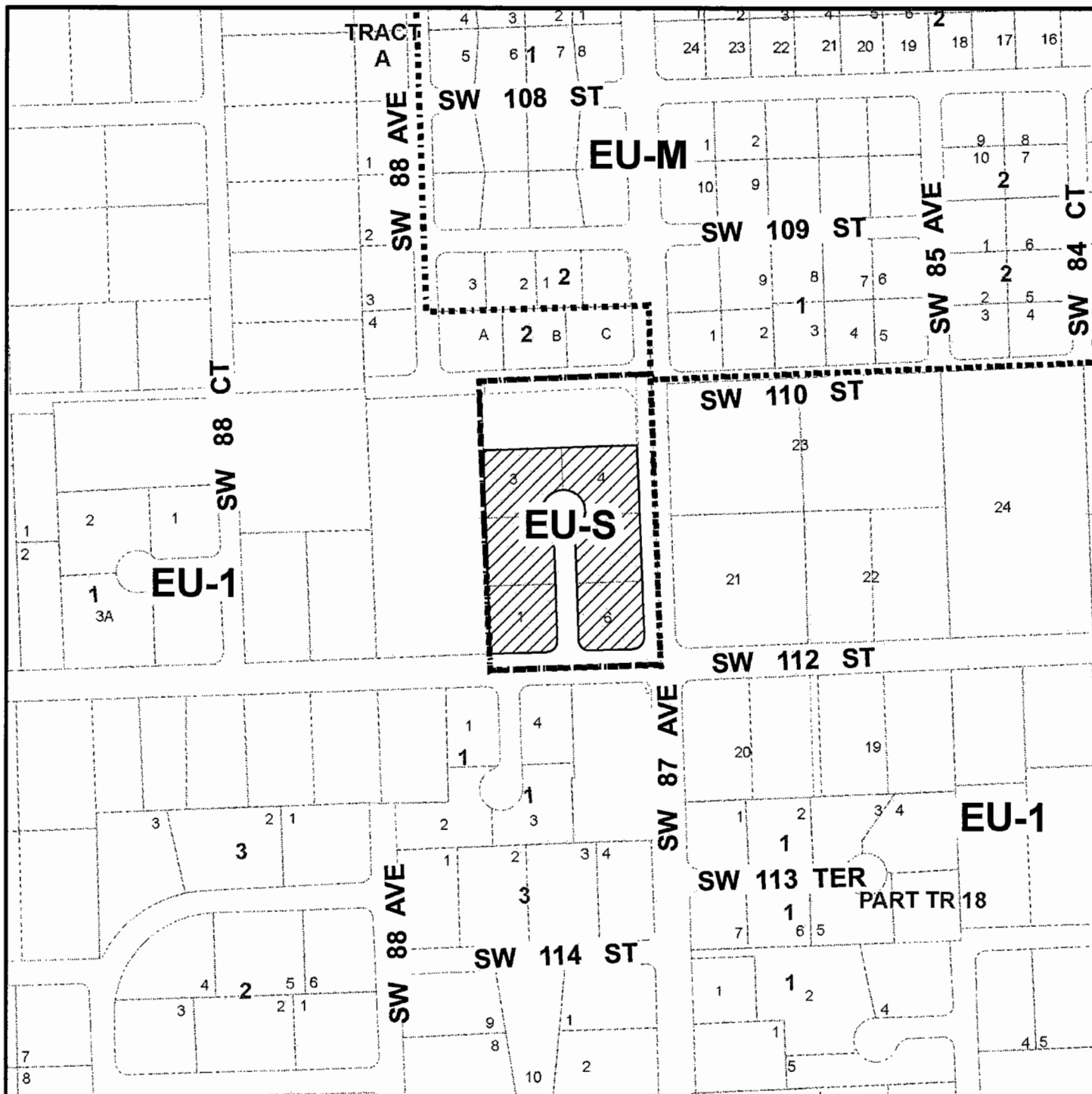
this 8th day of October, 2008


NOTARY PUBLIC



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

39



MIAMI-DADE COUNTY

HEARING MAP

Section: 09 Township: 55 Range: 40

Applicant: DIRECTOR DEPARTMENT OF PLANNING & ZONING

Zoning Board: BCC

Commission District: 08

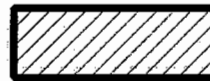
Drafter ID: JEFFER

Scale: NTS

----- Zoning

Process Number

08-204



SUBJECT PROPERTY



SKETCH CREATED ON: 10/15/08

REVISION	DATE	BY
		40



MIAMI-DADE COUNTY

AERIAL YEAR 2008

Section: 09 Township: 55 Range: 40

Applicant: DIRECTOR DEPARTMENT OF PLANNING & ZONING

Zoning Board: BCC

Commission District: 08

Drafter ID: JEFFER

Scale: NTS

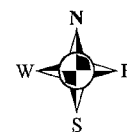
----- Zoning

Process Number

08-204



SUBJECT PROPERTY



SKETCH CREATED ON: 10/16/08

REVISION	DATE	BY