

KITS

5-19-2009 Version # 1



**COMMUNITY ZONING APPEALS BOARD 8
NFL YET CENTER AT GWEN CHERRY PARK
7090 NW 22 Avenue, Miami
Wednesday, June 24, 2009 at 7:00 p.m.**

CURRENT

- | | | | | | |
|----|------------|-------------------------|--------|----------|---|
| 1. | 09-6-CZ8-1 | JOSE M. DAVILA | 08-178 | 04-53-41 | N |
| 2. | 09-6-CZ8-2 | ELKIN ERNESTO SOMARRIBA | 08-225 | 28-53-41 | N |

1. JOSE M. DAVILA
(Applicant)

09-6-CZ8-1 (08-178)
Area 8/District 2
Hearing Date: 6/24/09

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>
1947	Margaret Rawlins & Dade County Zoning Department	- Zone Change from multiple zone changes	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 COMMUNITY COUNCIL No. 8**

APPLICANT: Jose M. Davila

PH: Z08-178 (09-6-CZ8-1)

SECTION: 4-53-41

DATE: June 24, 2009

COMMISSION DISTRICT: 2

ITEM NO.: 1

A. INTRODUCTION

o **REQUESTS:**

- (1) USE VARIANCE to permit a duplex use in the RU-1 zone as would be permitted in the RU-2 zone.
- (2) Applicant is requesting to permit a parcel of land with a lot frontage of 50' (75' required) and a lot area of 7,000 sq. ft. (7,500 sq. ft. required).
- (3) Applicant is requesting to permit Unit "A" setback 8.3' (15' required) from the side street (east) property line.
- (4) Applicant is requesting to permit Unit "B" setback a minimum of 3.89' (5' required) from the rear (south) property line, setback varying from 3' to 4.4' (7.5' required) on the interior side (west) property line and setback a minimum of 14.83' (20' required) from the side street (east) property line.

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

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Addition and Remodeling Legalization on Existing Duplex Residence," as prepared by Juan A. Rodriguez Jomolca, 5 sheets dated stamped received 9/15/08 and 1 sheet dated stamped received 12/19/08 for a total of 6 pages. Plans may be modified at public hearing.

- o **SUMMARY OF REQUESTS:** The applicant seeks a use variance to permit a duplex use in the RU-1, Single-Family Residential District zone which is an RU-2, Two-Family Residential District use. The applicant also seeks to permit a parcel of land with less lot frontage and lot area than that required by the Zoning Code. In addition, the applicant seeks to permit Unit A of the existing duplex residence setback closer to the side street property line than permitted and to permit Unit B of the existing residence setback closer to the rear, interior side, and side street property lines.

- o **LOCATION:** 9680 N.W. 29 Avenue, Miami-Dade County, Florida.

- o **SIZE:** 50' x 140'

- B. ZONING HEARINGS HISTORY:** In 1947, the subject property was included in an application on a larger tract of land that was granted a zone change from BU-1, Neighborhood Business District,

BU-2, Special Business District, and GU, Interim District, to RU-1, Single-Family Residential District, pursuant to Resolution No. 2427.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Low Density Residential** use. The residential densities allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre. Residential densities of blocks abutting activity nodes as defined in the Guidelines for Urban Form, or of blocks abutting section line roads between nodes, shall be allowed a maximum residential density of 10.0 dwelling units per gross acre. To promote infill development, residential development exceeding the maximum density of 6.0 dwelling units per acre is permitted for substandard lots that were conveyed or platted prior to August 2nd, 1938. This density category is generally characterized by single family housing, e.g., single family detached, cluster, and townhouses. It could include low-rise apartments with extensive surrounding open space or a mixture of housing types provided that the maximum gross density is not exceeded.
2. **Policy LU-4C.** Residential neighborhoods shall be protected from intrusion by uses that would disrupt or degrade the health, safety, tranquility, character, and overall welfare of the neighborhood by creating such impacts as excessive density, noise, light, glare, odor, vibration, dust or traffic.

D. NEIGHBORHOOD CHARACTERISTICS:

<u>ZONING</u>	<u>LAND USE PLAN DESIGNATION</u>
<u>Subject Property:</u>	
RU-1; Duplex residence	Low Density Residential, 2.5 to 6 dua
<u>Surrounding Properties:</u>	
<u>NORTH:</u> RU-1; Single-family residence	Low Density Residential, 2.5 to 6 dua
<u>SOUTH:</u> RU-1; Single-family residence	Low Density Residential, 2.5 to 6 dua
<u>EAST:</u> RU-1; Single-family residence	Low-Medium Density Residential, 6 to 13 dua
<u>WEST:</u> RU-1; Religious facility	Low Density Residential, 2.5 to 6 dua

E. SITE AND BUILDINGS:

Site Plan Review:	(Site plans submitted.)
Scale/Utilization of Site:	Unacceptable
Location of Buildings:	Unacceptable
Compatibility:	Unacceptable
Landscape Treatment:	Unacceptable
Open Space:	Unacceptable
Buffering:	Unacceptable
Access:	Acceptable
Parking Layout/Circulation:	Unacceptable

Visibility/Visual Screening:
Urban Design:

Unacceptable
N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

Section 33-311(A)(4)(a) Use Variance. The Board shall hear and grant applications for **use variances** from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in **unnecessary hardship**, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum use variance that will permit the reasonable use of the premises. A "use variance" is a variance which permits a use of land other than which is prescribed by the zoning regulations and shall include a change in permitted density.

Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations. Upon appeal or direct application in specific cases, the Board shall hear and grant applications for **non-use variances** from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.

Section 33-311(A)(4)(c) Alternative Non-Use Variance Standard. Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances from the terms of the zoning regulations the Board (following a public hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

Section 33-311(A)(14) Alternative Site Development Option for Single Family and Duplex Dwellings.

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

(c) Setbacks for a single family or duplex dwelling shall be approved after public hearing upon demonstration of the following:

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

3. the proposed alternative development will not reduce the amount of open space on the parcel proposed for alternative development to less than 40% of the total net lot area; and
4. any area of shadow cast by the proposed alternative development upon an adjoining parcel of land during daylight hours will be no larger than would be cast by a structure constructed pursuant to the underlying district regulations, or will have no more than a *de minimus* impact on the use and enjoyment of the adjoining parcel of land; and
5. the proposed alternative development will not involve the installation or operation of any mechanical equipment closer to the adjoining parcel of land than any other portion of the proposed alternative development, unless such equipment is located within an enclosed, soundproofing structure; and
6. the proposed alternative development will not involve any outdoor lighting fixture that casts light on an adjoining parcel of land at an intensity greater than permitted by this code; and
7. the architectural design, scale, mass, and building materials of any proposed structure or addition are aesthetically harmonious with that of other existing or proposed structures or buildings on the parcel proposed for alternative development; and
8. the wall of any building within a setback area required by the underlying district regulations shall be improved with architectural details and treatments that avoid the appearance of a "blank wall"; and
9. the proposed development will not result in the destruction or removal of mature trees within a setback required by the underlying district regulations, with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the same side of the lot; and
10. any windows or doors in any building to be located within an interior setback required by the underlying district regulations shall be designed and located so that they are not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; and
11. total lot coverage shall not be increased by more than twenty percent (20%) of the lot coverage permitted by the underlying regulations; and
12. the area within an interior side setback required by the underlying district regulations located behind the front building line will not be used for off-street parking except:
 - a. in an enclosed garage where the garage door is located so that it is not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; or
 - b. if the off-street parking is buffered from property that abuts the setback area by a solid wall at least six (6) feet in height along the area of pavement and parking, with either:

- i. articulation to avoid the appearance of a “blank wall” when viewed from the adjoining property, or
 - ii. landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement regarding its maintenance in recordable form from the adjoining landowner; and
13. any structure within an interior side setback required by the underlying district regulations;
 - a. is screened from adjoining property by landscape material of sufficient size and composition to obscure at least sixty percent (60%) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure at time of planting; or
 - b. is screened from adjoining property by an opaque fence or wall at least six(6) feet in height that meets the standards set forth in paragraph (f) herein; and
14. any proposed alternative development not attached to a principal building, except canopy carports, is located behind the front building line; and
15. any structure not attached to a principal building and proposed to be located within a setback required by the underlying district regulations shall be separated from any other structure by at least three (3) feet; and
16. when a principal building is proposed to be located within a setback required by the underlying district regulations, any enclosed portion of the upper floor of such building shall not extend beyond the first floor of such building within the setback; and
17. the eighteen (18) inch distance between any swimming pool and any wall or enclosure required by this code is maintained; and
18. safe sight distance triangles shall be maintained as required by this code; and
19. the parcel proposed for alternative development will continue to provide on-site parking as required by this code; and
18. the parcel proposed for alternative development shall satisfy underlying district regulations or, if applicable, prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002), regulating lot area, frontage and depth.
19. the proposed development will meet the following:
 - A. interior side setbacks will be at least three (3) feet or fifty percent (50%) of the side setbacks required by the underlying district regulations, whichever is greater.
 - B. Side street setbacks shall not be reduced by more than fifty percent (50%) of the underlying zoning district regulations;

- C. Interior side setbacks for active recreational uses shall be no less than seven (7) feet in EU, AU, or GU zoning district or three (3) feet in all other zoning districts to which this subsection applies;
 - D. Front setbacks will be at least twelve and one-half (12 ½) feet or fifty percent (50%) of the front setbacks required by the underlying district regulations, whichever is greater;
 - E. Rear setbacks will be at least three (3) feet for detached accessory structures and ten (10) feet for principal structures.
- (d) The **lot area, frontage, or depth** for a single family or duplex dwelling shall be approved upon demonstration of at least one of the following:
1. the proposed lot area, frontage or depth will permit the development or redevelopment of a single family or duplex dwelling on a parcel of land where such dwelling would not otherwise be permitted by the underlying district regulations due to the size or configuration of the parcel proposed for alternative development, provided that:
 - A. the parcel is under lawful separate ownership from any contiguous property and is not otherwise grandfathered for single family or duplex use; and
 - B. the proposed alternative development will not result in the further subdivision of land; and
 - C. the size and dimensions of the lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - D. the lot area is not less than ninety percent (90%) of the minimum lot area required by the underlying district regulations; and
 - E. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - F. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - G. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
 2. the proposed alternative development will result in open space, community design, amenities or preservation of natural resources that enhances the function or aesthetic character of the immediate vicinity in a manner not otherwise achievable through application of the underlying district regulations, provided that:
 - A. the density of the proposed alternative development does not exceed that permitted by the underlying district regulations; and
 - B. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if

applicable, any prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002); and

- C. each lot's area is not less than eighty percent (80%) of the lot area required by the underlying district regulations; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
3. the proposed lot area, frontage or depth is such that:
- A. the proposed alternative development will not result in the creation of more than three (3) lots; and
 - B. the size and dimensions of each lot are sufficient to provide all setbacks required by the underlying district regulations; and
 - C. no lot area shall be less than the smaller of:
 - i. ninety percent (90%) of the lot area required by the underlying district regulations; or
 - ii. the average area of the developed lots in the immediate vicinity within the same zoning district; and
 - D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - E. the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and
 - F. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.
4. If the proposed alternative development involves the creation of new parcels of smaller than five (5) gross acres in an area designated agricultural in the Comprehensive Development Master Plan:
- A. the abutting parcels are predominately parcelized in a manner similar to the proposed alternative development on three (3) or more sides of the parcel proposed for alternative development; and
 - B. the division of the parcel proposed for alternative development will not precipitate additional land division in the area; [and]

- C. the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations; and
- D. the proposed alternative development will not result in an obvious departure from the aesthetic character of the surrounding area defined by the closest natural and man-made boundaries lying with [in] the agricultural designation; and
- E. sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

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

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

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

- A. the types of needs of the residents of the parcel proposed for development and the immediate vicinity that would likely be occasioned by the development, including but not limited to recreational, open space, transportation, aesthetic amenities, and buffering from adverse impacts; and
- B. the proportionality between the impacts on residents of the proposed alternative development and the immediate vicinity and the amenities or buffering required. For example, a reduction in lot area for numerous lots may warrant the provision of additional common open space. A reduction in a particular lot's interior side setback may warrant the provision of additional landscaping.

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/1 student*

*Subject to the conditions indicated in their memoranda.

H. ANALYSIS:

The subject property is a corner parcel located at 9680 NW 29 Avenue in an area characterized by single-family residences and a religious facility that is located to the west, midblock within the block where the subject property lies. The subject property is neighbored to the north, south and to the east by single-family residences. The 0.16-net acre subject site is currently improved with a duplex residence that consists of two detached dwelling units with an existing one-story shed located towards the center of the site, which the applicants have noted on the plan is to be removed. The subject site is designated for **Low Density Residential** use on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). This category permits a density range of a minimum of 2.5 to a maximum of 6 dwelling units per gross acre, which would allow the applicant to develop the site with a maximum of 1 dwelling unit on the 7,000 sq. ft. (0.255-gross acre) subject site. As such, the existing duplex residence on the site exceeds the maximum density threshold permitted by the LUP map designation of the CDMP and is **inconsistent** with the CDMP.

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 (**PWD**) has **no objections** to this application and their memorandum indicates that the proposal meets traffic concurrency because it lies within the Urban Infill Area (UIA). However, their memorandum also indicates that the subject site requires platting in accordance with Chapter 28 of the Miami-Dade County Code. The Miami-Dade Fire Rescue Department (**MDFR**) has **no objections** to this application and indicates that their estimated response time is 5:28.

As previously mentioned, the existing duplex residence is **inconsistent** with the density threshold of the LUP map of the CDMP, which allows a maximum of 1 dwelling unit on this site. Moreover, request #1 as proposed cannot be approved. A **use variance** as provided in Section 33-311(A)(4)(a) permits a use of land other than which is prescribed by the zoning regulations. The standard stipulates that the Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions thereof will result in **unnecessary hardship**, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulations. Staff acknowledges that the property located at 3110 NW 98 Street, approximately 773' to the northwest of the subject site, was granted approval of a use variance to permit 3 residential units in the RU-1 zone as would be permitted in the RU-3, Four Unit Apartment House District, pursuant to Resolution #Z-209-80. In addition, staff acknowledges that property located at 3081-3083 NW 97 Street, approximately 1,571' to the southwest of the subject site, was granted approval of a use variance to permit a duplex residence in an RU-1 zone as would be

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permitted in the RU-2, Two-Family Residential District, pursuant to Resolution #4-ZAB-320-76. However, staff is of the opinion that the applicant has not demonstrated any special conditions related to the subject site where the literal enforcement of applicable zoning district provisions would result in unnecessary hardship. Moreover, although staff's research did reveal two similar approvals in the area, the area immediately surrounding the subject site is predominately characterized by single-family residences. Accordingly, staff opines that the approval of the requested use variance to permit a duplex residence would be out of character with the surrounding area and as such, staff recommends denial without prejudice of the requested use variance (request #1) under Section 33-311(A)(4)(a).

When requests #2 and #3 are analyzed under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards, staff is of the opinion that the approval of said requests subject to a condition that the subject site be limited to single-family residential use only, maintain the basic intent and purpose of the zoning, subdivision and other land use regulations and as such, would be **compatible** with the surrounding area. Staff notes that the subject site was once described as Lot 1, Block 19 of The Tropics Subdivision (Plat book 10, Page 17), an older subdivision of Miami-Dade County platted in 1926. However, staff notes that in 1933 the block where the subject property lies was replatted and was reverted back to metes and bounds as a 1.92 acre tract of land. As such, the subject site does not meet the requirements for grandfathering under Section 33-7 for the maintenance and continued use of a single-family residence on this 50' x 140' lot. It should be noted that property located approximately 1,924' to the east of the subject site was granted approval of a request to permit a lot with a lot frontage of 50' and a lot area of 7,000 sq. ft. as a buildable site for single-family residential use, pursuant to Resolution #4-ZAB-351-83. Moreover, staff notes that the surrounding area consists of sites with the same lot frontage and lot area as the subject property, including a property located at 2901 NW 96 Street, which abuts the subject property to the south, and a property located at 2850 NW 97 Street, which is located to the east of the subject property, each improved with a single-family residence. Approval of request #3, to permit Unit "A" setback 8.3' (15' required) from the side street (east) property line will allow the applicant the maintenance and continued use of the single-family residence located towards the approximate center of the site. Staff acknowledges that the approval of request #3 will result in an encroachment of 6.7' into the side street setback area. However, staff recommends as a condition for the approval of request #3 that the applicant provide a hedge along the side street (east) property line. As such, staff is supportive of the approval of requests #2 and #3 subject to conditions and only as it pertains to the use of the site for single-family residential use only. Therefore, staff recommends approval with conditions of requests #2 and #3 under Section 33-311(A)(4)(b) (NUV).

When request #4 is analyzed under Section 33-311(A)(4)(b) (NUV), staff is of the opinion that the request does not maintain the basic intent and purpose of the zoning, subdivision and other land use regulations and as such, would be **incompatible** with the surrounding area. Approval of request #4 would permit the applicant the maintenance and continued use of Unit "B" setback a minimum of 3.89' (5' required) from the rear (south) property lines, setback varying from 3' to 4.4' (7.5' required) on the interior side (west) property line and setback a minimum of 14.83' (20' required) from the side street (east) property line. As previously mentioned, the existing duplex residence is **inconsistent** with the density threshold of the LUP map of the CDMP, which allows a maximum of 1 dwelling unit on this site. Staff notes that Unit "B" is detached from the principal residence (Unit "A"), consists of a total of 1,028.69 sq. ft., and features 2 bedrooms, a kitchen, living room and bath room. Therefore, staff notes that Unit "B" constitutes a second dwelling unit on the property which exceeds the maximum density permitted on this site by the LUP Map of the CDMP. Moreover, staff's research reveals that although some approvals for use variances to permit duplexes and triplexes have been granted in the area, the majority of the surrounding area is characterized by single-family residences. As such staff opines that the approval of this request

would be an obvious departure from the aesthetic character of the surrounding area which is predominantly characterized by single-family residences. Furthermore, staff is not supportive of request #4 and notes that said request is germane to and an integral part of request #1, which staff does not support since no zoning hardship exists on the site. Therefore, staff recommends denial without prejudice of request #4 under Section 33-311(A)(4)(b) (NUV).

The Alternative Site Development Option (ASDO) Standards, Section 33-311(A)(14), provide for the approval of a zoning application which can demonstrate at a public hearing that the development requested is in compliance with the applicable ASDO Standards and does not contravene the enumerated public interest standards as established. Request #2 meets some of the criteria for approval under the ASDO Standards for lot frontage and area. Specifically, the site provides sufficient frontage for vehicular access (Section 33-311(A)(14)(d)(1)(G)); the site is not zoned GU or AU; the site is not designated as agriculture or open land on the LUP map of the CDMP (Section 33-311(A)(14)(d)(1)(F)) and the substandard sized lot will not result in an obvious departure from the aesthetic character of the immediate vicinity as evidenced by the similarly sized parcels of land that are prevalent in the surrounding area (Section 33-311(A)(14)(d)(1)(E)); the substandard sized lot will not result in the further subdivision of land (Section 33-311(A)(14)(d)(1)(B)). Further, the request, to permit a parcel of land with a lot area of 7,000 sq. ft. (7,500 sq. ft. required), complies with the ASDO Standard in Section 33-311(A)(14)(d)(1)(D) which requires that no lot area shall be less than ninety percent (90%) of the lot area required by the underlying district. The subject property's lot area of 7,000 sq. ft. exceeds the minimum numerical lot area of 6,750 sq. ft., which is the 90% minimum required for approval in this zone under the ASDO Standard. Further, as previously mentioned the parcel is not otherwise grandfathered for single family or duplex use and is under lawful separate ownership from any contiguous property (Section 33-311(A)(14)(d)(1)(A)). However, the applicant seeks to permit Unit "A" setback 8.3' (15' required) from the side street (east) property line. As such, the subject site does not comply with the ASDO standard that requires that the lot size be sufficient to provide all setbacks (Section 33-311(A)(14)(d)(1)(C)). Therefore, request #2 cannot be approved under Section 33-311(A)(14) (ASDO). As such, staff recommends denial without prejudice of request #2 under Section 33-311(A)(14) (ASDO).

The Alternative Site Development Option (ASDO) Standards, Section 33-311(A)(14), provide for the approval of a zoning application which can demonstrate at a public hearing that the development requested is in compliance with the applicable ASDO Standards and does not contravene the enumerated public interest standards as established. However, the applicant has not provided staff with the documentation required for analysis of requests #3 and #4 under the ASDO standards. As such, staff is unable to properly analyze the requests under these standards and recommends denial without prejudice of requests #3 and #4 under Section 33-311(A)(14) (ASDO).

When requests #2 through #4 are analyzed under the Alternative Non-Use Variance (ANUV) Standards, Section 33-311(A)(4)(c), the applicant would have to prove that the requests are due to an unnecessary hardship and that, should the requests not be granted, such denial would not permit the reasonable use of the premises. Since the applicant has not proven that compliance with same would result in an unnecessary hardship, staff is therefore of the opinion that requests #2 through #4 cannot be approved under the ANUV Standards and should be denied without prejudice under Section 33-311(A)(4)(c) (ANUV).

Based on all of the aforementioned, staff notes that the existing duplex residence is **inconsistent** with the LUP Map of the CDMP and **incompatible** with the existing single-family residences that characterize the surrounding area. Moreover, the applicant has not demonstrated any special conditions related to the subject site where the literal enforcement of applicable zoning district

provisions would result in **unnecessary hardship**. As such, staff recommends denial without prejudice of the requested use variance (request #1); approval with conditions of requests #2 and #3 under Section 33-311(A)(4)(b) (NUV) and denial without prejudice of request #4 under Section 33-311(A)(4)(b) (NUV). Further recommends denial without prejudice of requests #2 through #4 under Section 33-311(A)(14) (ASDO) and under Section 33-311(A)(4)(c) (ANUV).

I. RECOMMENDATION:

Denial without prejudice of the requested use variance (request #1); approval with conditions of requests #2 and #3 under Section 33-311(A)(4)(b) (NUV); denial without prejudice of request #4 under Section 33-311(A)(4)(b) (NUV) and denial without prejudice of requests #2 through #4 under Section 33-311(A)(14) (ASDO) and under Section 33-311(A)(4)(c) (ANUV).

J. CONDITIONS:

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit and/or Certificate of Completion; said plan to include, but not limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing, entitled "Addition and Remodeling Legalization on Existing Duplex Residence," as prepared by Juan A. Rodriguez Jomolca, 5 sheets dated stamped received 9/15/08 and 1 sheet dated stamped received 12/19/08 for a total of 6 pages, except as herein modified to show the removal of "Unit B" and removal of the existing storage shed. Except as may be specified by any zoning resolution applicable to the subject property, any future additions on the property which conform to Zoning Code requirements will not require further public hearing action.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicants apply for and secure a permit for the existing single-family residence (Unity A) from the Building Department within 120 days of the expiration of the appeal period for this Public Hearing, unless a time extension is granted by the Director of the Department of Planning and Zoning for good cause shown.
5. That the applicant submit to the Department of Planning and Zoning for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to final zoning inspection.
6. That buffering be provided along the side street (east) property line, in the form of a 6' hedge, not less than 3' high at the time of planting, which shall grow to and be maintained at a height of 6'. Said buffering shall be installed prior to final zoning inspection for the existing single-family residence (Unit A).
7. That the subject site be limited to one single-family residence and that a Declaration of Use agreement, in recordable form, limiting the property to single-family use be submitted to and meet with the approval of the Director of the Department of Planning and Zoning prior to permit issuance.

DATE INSPECTED: 03/30/09
DATE TYPED: 05/13/09
DATE REVISED: 05/21/09; 05/26/09; 05/28/09; 06/03/09
DATE FINALIZED: 06/03/09
MCL:MTF:NN:TA:NC



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

Memorandum



Date: October 16, 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". The signature is written in a cursive, flowing style.

Subject: C-08 #Z2008000178
Jose Davila
9680 N.W. 29th Avenue
Use Variance to Allow an Existing Duplex in the RU-1 Zoning District and
Non-use Variance of Lot Coverage and Setback Requirements
(RU-1) (0.16 Acres)
04-53-41

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

Potable Water Service

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

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

Wastewater Disposal

Public sanitary sewers are not located within feasible distance for connection to the subject property. Consequently, any proposed development would have to be served by a septic tank and drainfield as a means for the disposal of domestic liquid waste.

The subject property does not meet the minimum allowable lot size requirements of Section 24-43.1(3) of the Code for a single-family residence or duplex served with a septic tank and public water. However, since the legal subdivision, creating by plat such tract of land, occurred prior to the effective date of the aforesaid Code Section, the subject property is grandfatherable and may be administratively approved by DERM. DERM does not object to the proposed use served by a septic tank and drainfield disposal system, provided that all the above criteria are met and connection is made to public water.

Wetlands

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

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

Tree Preservation

According to the site plan submitted with this zoning application, the proposal to permit an existing duplex will not impact tree resources. Therefore, DERM has no objection to this zoning application, however, please be advised that a Miami-Dade County Tree Removal Permit is required prior to the removal or relocation of any tree that is subject to the Tree Preservation and Protection provisions of the Code.

Concurrency Review Summary

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

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

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

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

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: JOSE M. DAVILA

This Department has no objections to this application.

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

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



Raul A Pino, P.L.S.

28-NOV-08



Miami-Dade County Public Schools

giving our students the world

c-8

Superintendent of Schools
Alberto M. Carvalho

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

November 13, 2008

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

c-8

RECEIVED
NOV 19 2008

ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING
BY _____

Re: Jose M. Davila – No. 08-178
9680 NW 29 Avenue

Dear Ms. Fojo:

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

Attached please find the School District's review analysis of potential impact generated by the above referenced application. Please note that none of the schools impacted by the proposed development meet the review threshold. As such, no dialogue between the applicant and the School District will be required.

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

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

Sincerely,

Corina S. Esquijarosa
Coordinator III

CSE:cse
L-221
Attachment

cc: Ms. Ana Rijo-Conde Mr. Fernando Albuerne Mr. Michael A. Levine
Mr. Ivan M. Rodriguez Ms. Vivian G. Villaamil

18

SCHOOL IMPACT REVIEW ANALYSIS

(October 30, 2008)

APPLICATION: Jose M. Davila, - No. 08-178

REQUEST: Use variance to allow a duplex

ACRES: 0.16 acre

LOCATION: 9680 NW 29 Avenue

**MSA/
MULTIPLIER:** 4.2/.52 Single-Family Attached

UNITS: 2 units

**ESTIMATED
STUDENT
POPULATION:** 1 students*

ELEMENTARY: 1

MIDDLE: 0

SENIOR: 0

SCHOOLS SERVING AREA OF APPLICATION:

ELEMENTARY: Broadmoor Elementary – 3401 NW 83 Street

MIDDLE: Madison Middle – 3400 NW 84 Street

SENIOR HIGH: Miami Central Senior High – 1781 NW 95 Street

All schools are located in North Central Regional Center.

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

The following population and facility capacity data are as reported by the Office of Information Technology, as of October 2008:

	STUDENT POPULATION	FISH DESIGN CAPACITY PERMANENT	% UTILIZATION FISH DESIGN CAPACITY PERMANENT	NUMBER OF PORTABLE STUDENT STATIONS	% UTILIZATION FISH DESIGN CAPACITY PERMANENT AND RELOCATABLE
Broadmoor Elementary	442	708	62%	0	62%
	443 *		63%		63%
Madison Middle	717	783	92%	218	72%
	717 *		92%		72%
Miami Central Senior High	1,785	2,319	77%	71	75%
	1,785 *		77%		75%

*Student population increase as a result of the proposed development

Notes:

- 1) Figures above reflect the impact of the class size amendment.
- 2) Pursuant to the Interlocal Agreement, none of the impacted schools meet the review threshold.

PLANNED RELIEF SCHOOLS

<u>School</u>	<u>Status</u>	<u>Projected Occupancy Date</u>
N/A		

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

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

ELEMENTARY	DOES NOT MEET THRESHOLD
MIDDLE	DOES NOT MEET THRESHOLD
SENIOR HIGH	DOES NOT MEET THRESHOLD
Total Potential Capital Cost	\$0

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

Memorandum



Date: 08-OCT-08
To: Marc LaFerrier, Director
Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department
Subject: Z2008000178

Fire Prevention Unit:

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

Service Impact/Demand:

Development for the above Z2008000178
located at 9680 N.W. 29 AVENUE, MIAMI-DADE COUNTY, FLORIDA.
in Police Grid 0676 is proposed as the following:

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

Based on this development information, estimated service impact is: 0.27 alarms-annually.
The estimated average travel time is: 5:28 minutes

Existing services:

The Fire station responding to an alarm in the proposed development will be:
Station 7 - W Little River - 9350 NW 22 Avenue
Rescue, ALS Engine, Squad

Planned Service Expansions:

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

Fire Planning Additional Comments:

Current service impact calculated based on plans date stamped September 15, 2008. Substantial changes to the plans will require additional service impact analysis.

TEAM METRO

ENFORCEMENT HISTORY

JOSE M. DAVILA

9680 N.W. 29 AVENUE, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2008000178

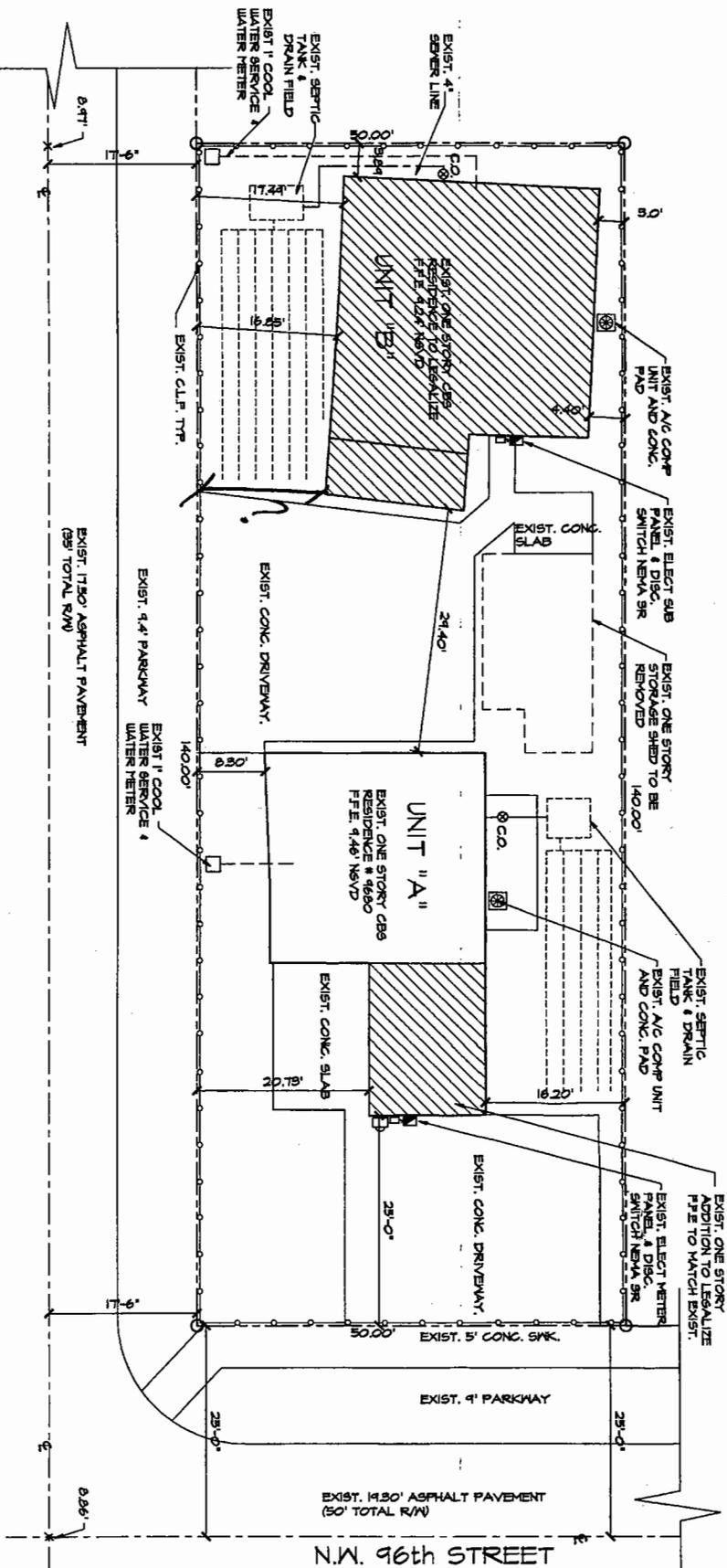
HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

CURRENT ENFORCEMENT HISTORY:

Case #200904003930 was opened based on enforcement history request and inspected on 05/18/09. No violations observed and case closed. Case #200804003365 was opened for unauthorized use (multi family use) and inspected on 05/14/08. CVN issued and extension granted until 07/02/09. Case #200704010776 was opened for overgrowth and inspected on 12/21/07. Warning notice issued and case closed. Case #200704010353 was opened for junk and trash and inspected on 12/04/07. Warning notice issued and case closed. Case #200004000771 was opened for junk and trash and inspected on 02/10/2000. Warning notice issued and case closed.

Lourdes Orozco



1 SITE PLAN
SCALE: 10' = 1"



ENLARGED SITE PLAN

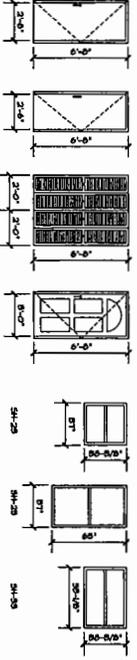
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ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT
BY *[Signature]*

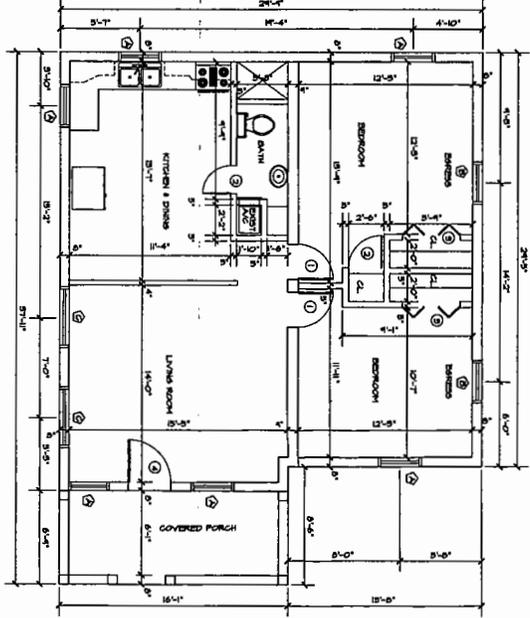
DOOR SCHEDULE								
N.	SIZE	HEIGHT	THICK	TYPE	MATERIAL	FINISH	JAMB	REMARKS
1	2'-0"	6'-0"	-	SLAB	WOOD	W/HR	WOOD	
2	2'-0"	6'-0"	-	SLAB	WOOD	W/HR	WOOD	
3	2'-0"	6'-0"	-	SLAB	WOOD	W/HR	WOOD	
4	2'-0"	6'-0"	-	SLAB	WOOD	W/HR	WOOD	

WINDOW SCHEDULE								
N.	WIDTH	HEIGHT	THICK	TYPE	MATERIAL	FINISH	JAMB	REMARKS
A	3'-0"	7'-0"	-	AW	ALUM	EMERS		
B	3'-0"	7'-0"	-	AW	ALUM	EMERS		
C	3'-0"	7'-0"	-	AW	ALUM	EMERS		

1. LATHES AND INSULATION SHALL COVER UP TO 1/4" MIN. REINFORCING AND EXPANSION JOINTS WITH REINFORCING APPROVAL AND SEPARATE REPORT. CONTRACTOR SHALL VERIFY ALL DIMENSIONS IN ORDER TO PREVENT CONSTRUCTION OF THE WINDOW SCHEDULE FROM BEING IN ACCORDANCE WITH THE ARCHITECT'S INTENT. ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED.



- KEY NOTES:**
1. 5'-0" W/HT. STAIRS & STAIRS MUST BE OPEN FULL BOARD APPROX. HORIZONTAL EACH SIDE.
 2. FLOORING LAYERS OF 1/2" GYPSUM HALFBOND APPLIED HORIZONTAL OVER AND PRESURE TREATED WOOD FLOORING.
 3. STAIRS & STAIRS MUST BE OPEN FULL BOARD APPROX. HORIZONTAL EACH SIDE.
 4. ALL STAIRS TO HAVE W/HT. CLAD ALUMINUM VERTICAL SHEETS.



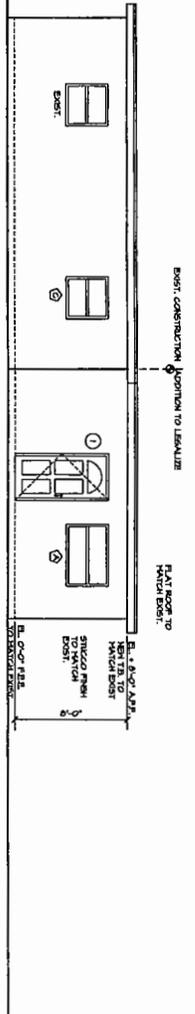
UNIT "B"
 FLOOR PLAN
 SCALE: 1/4" = 1'-0"
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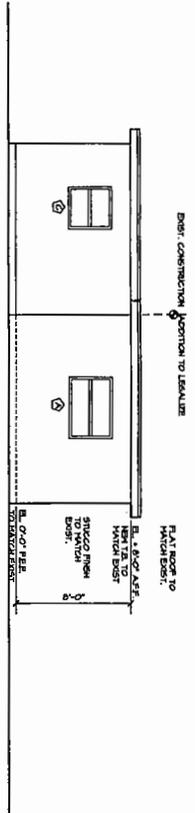
ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.
 BY _____

<p>ADDITION & REMODELING LEGALIZATION ON EXISTING DUPLEX RESIDENCE 9680 N.W. 29th AVENUE MIAMI, FLORIDA 33147</p>	<p>JUAN A. RODRIGUEZ JOMILA 250 CATALONIA AVE. SUITE 500 CORAL GABLES, MIAMI FL 33134 P.A. # 6691 TEL: 305 444 4595</p>
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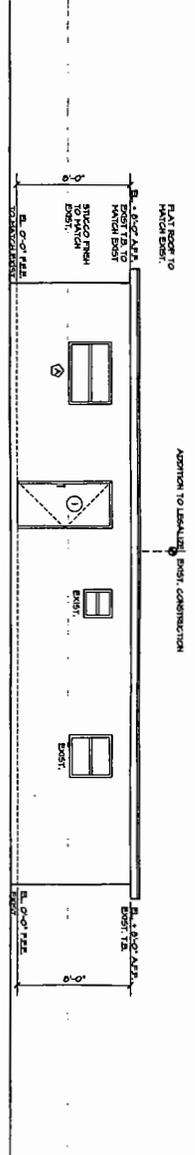
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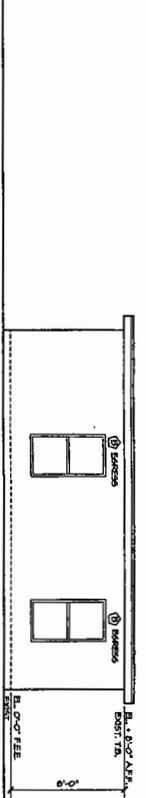
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3 WEST ELEVATION
SCALE: 1/4" = 1'-0"



4 SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

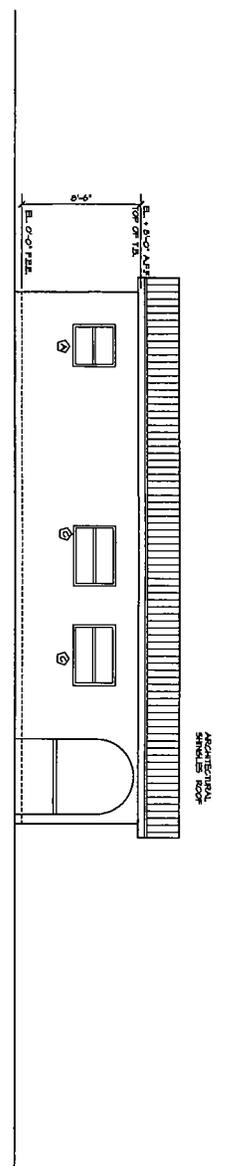


ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT
BY: *[Signature]*

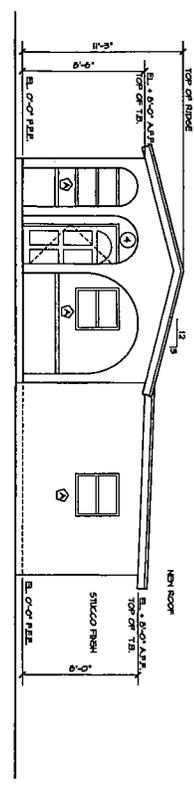
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SEP 15 2008

	JUAN A. RODRIGUEZ JOMOLCA ARCHITECT 250 CATALONIA AVE. SUITE 803 CORAL GABLES, MIAMI FL. 33134 P.A. # 6691 TEL: 305 444 4595
	ADDITION & REMODELING LEGALIZATION ON EXISTING DUPLEX RESIDENCE 9680 N.W. 29th AVENUE MIAMI, FLORIDA 33147

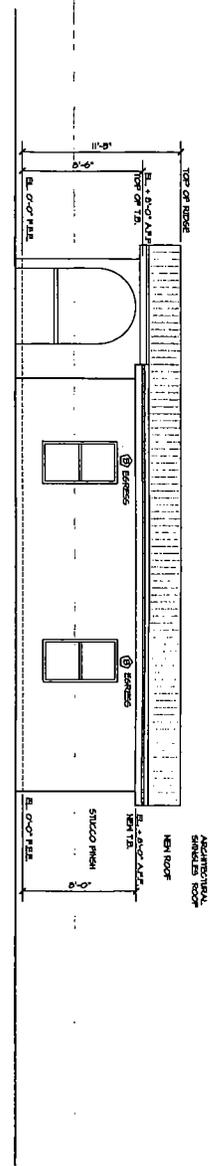
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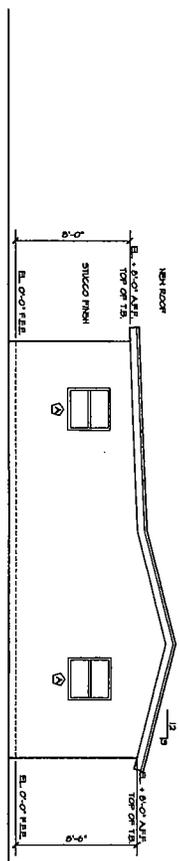
2 NORTH ELEVATION
SCALE: 1/4" = 1'-0"



3 WEST ELEVATION
SCALE: 1/4" = 1'-0"



4 SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



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ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT 1
BY *[Signature]*

<p>REVISIONS</p> <table border="1"> <tr><th>NO.</th><th>DESCRIPTION</th></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>	NO.	DESCRIPTION							<p>DATE 08/12</p>	<p>DESIGNER JUAN A. RODRIGUEZ JOMOLGA</p>	<p>PROJECT ADDITION & REMODELING LEGALIZATION ON EXISTING DUPLEX RESIDENCE 9680 N.W. 29th AVENUE MIAMI, FLORIDA 33147</p>	<p>OWNER JUAN A. RODRIGUEZ JOMOLGA 250 CATALONIA AVE. SUITE 503 CORAL GABLES, MIAMI FL. 33134 P. 305 444 6691 TEL. 305 444 4595</p>
NO.	DESCRIPTION											

LEGAL DESCRIPTION

LOT 1, BLOCK 19, OF THE "THE PROPOS" ACCORDING TO THE PLAT HEREOF AS RECORDED IN PLAT BOOK 10 AT PAGE 17 OF THE PUBLIC RECORDS OF MIAMI DADE COUNTY, FLORIDA. ALSO BEING PART OF THE EAST 50 FEET OF TRACT 19, OF THE RECORDED PLAT PORTION OF "THE PROPOS", A SUBDIVISION ACCORDING TO THE PLAT HEREOF AS RECORDED IN PLAT BOOK 38 AT PAGE 50 OF THE PUBLIC RECORDS OF MIAMI DADE COUNTY, FLORIDA.

ZONING INFORMATION

LOT AREA =	7,000.00 SF
EXISTING RESIDENCE =	6,131 SF
ADDITION =	240.97 SF
TOTAL RESIDENCE =	6,372 SF
UNIT "B" =	916.84 SF
EXISTING COVERED PORCH =	1,025.84 SF
TOTAL RESIDENCE =	1,025.84 SF
TOTAL LOT COVERED =	1,902.14 SF
EXIST CONC. DRIVEWAY & DECKS =	1,981.20 SF
GREEN AREA (lawn area) =	3,047.27 SF
MAX LOT COVERAGE ALLOWED (50%) =	3,500.00 SF
LOT COVERAGE PROPOSED =	1,902.14 SF (27.1%)
GREEN AREA REQ. (15% MIN) =	1,050.00 SF
GREEN AREA PROPOSED =	3,047.27 SF (43.53%)

EXISTING PLANT SPECIES

NAME	QTY	ACTUAL HEIGHT	CALIPER
COCONUT PALM (Cocos Nucifera)	1	18'	7"
ARECA PALM (Caryacthacarpus Lutescens)	1	7'	3"
AVOCADO TREE (Persea Americana)	1	14'	5"
LEMON TREE (Citrus Limonum)	1	12'	2(1)
ROSEOLA (SLAND SHINE (Ficus Complanata)	1	14'	2(4)

NEW PLANT SPECIES

NAME	QTY	TYPE	HEIGHT	MATURITY	WATER	WATER
COCONUT PALM (Cocos Nucifera)	1	LOT TREE	10'	25'	8"	8"
SLAND SHINE (Ficus Complanata)	2	LOT TREE	10'	20'	5"	5"
CHRISTMAS PALM (Vehicla Merrilii)	6	STREET TREE	12'	15'	3"	3"
BANANA COFFEE (Psychotria Ligustralis)	90	SHRUBS	18"	24"	N/A	N/A

LEGEND

- STRUCTURES TO LEGALIZE
- LAWN AREA (grass)
- PARKING SPACES
- CONCRETE DRIVEWAYS OR DECKS
- EXISTING POLE AND/OR CABLE
- EXISTING OVERHANGING UTILITY LINES
- SHRUBS
- NEW TREES
- EXISTING TREES

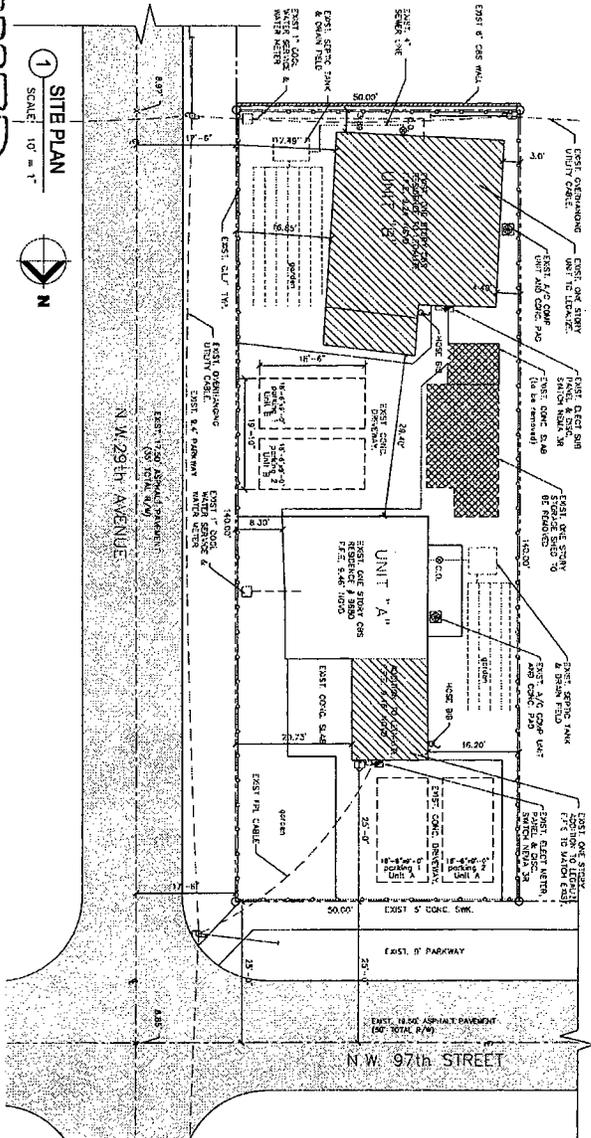
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MIAMI DADE PLANNING AND ZONING DEPT

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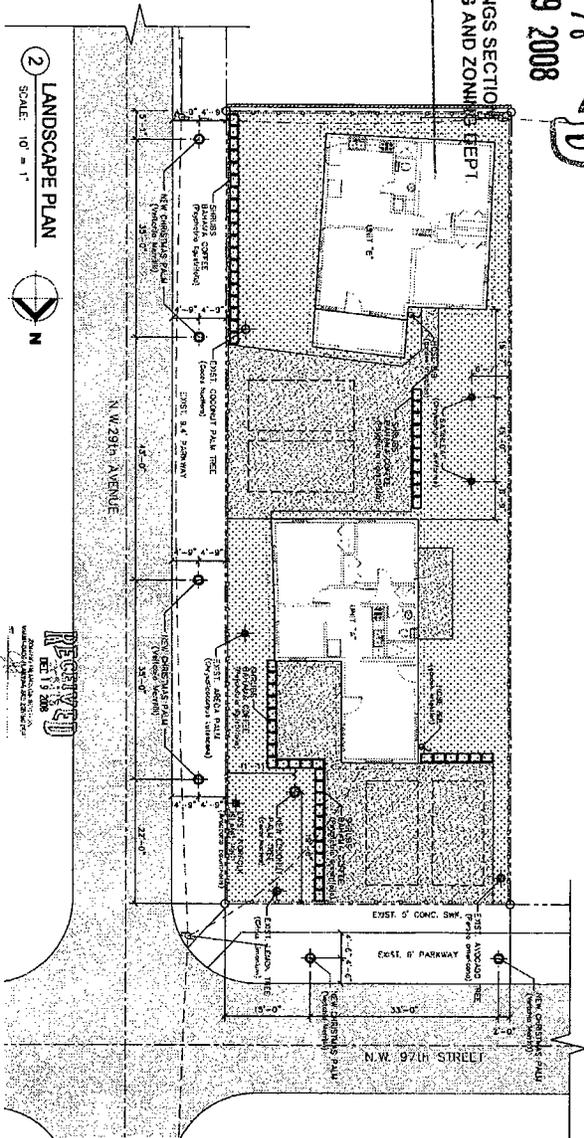
1 SITE PLAN

SCALE: 1/8" = 1'



2 LANDSCAPE PLAN

SCALE: 1/8" = 1'



A-1
10/1

REVISIONS

DATE

BY

JOB NUMBER

0812

REVISIONS

DATE

BY

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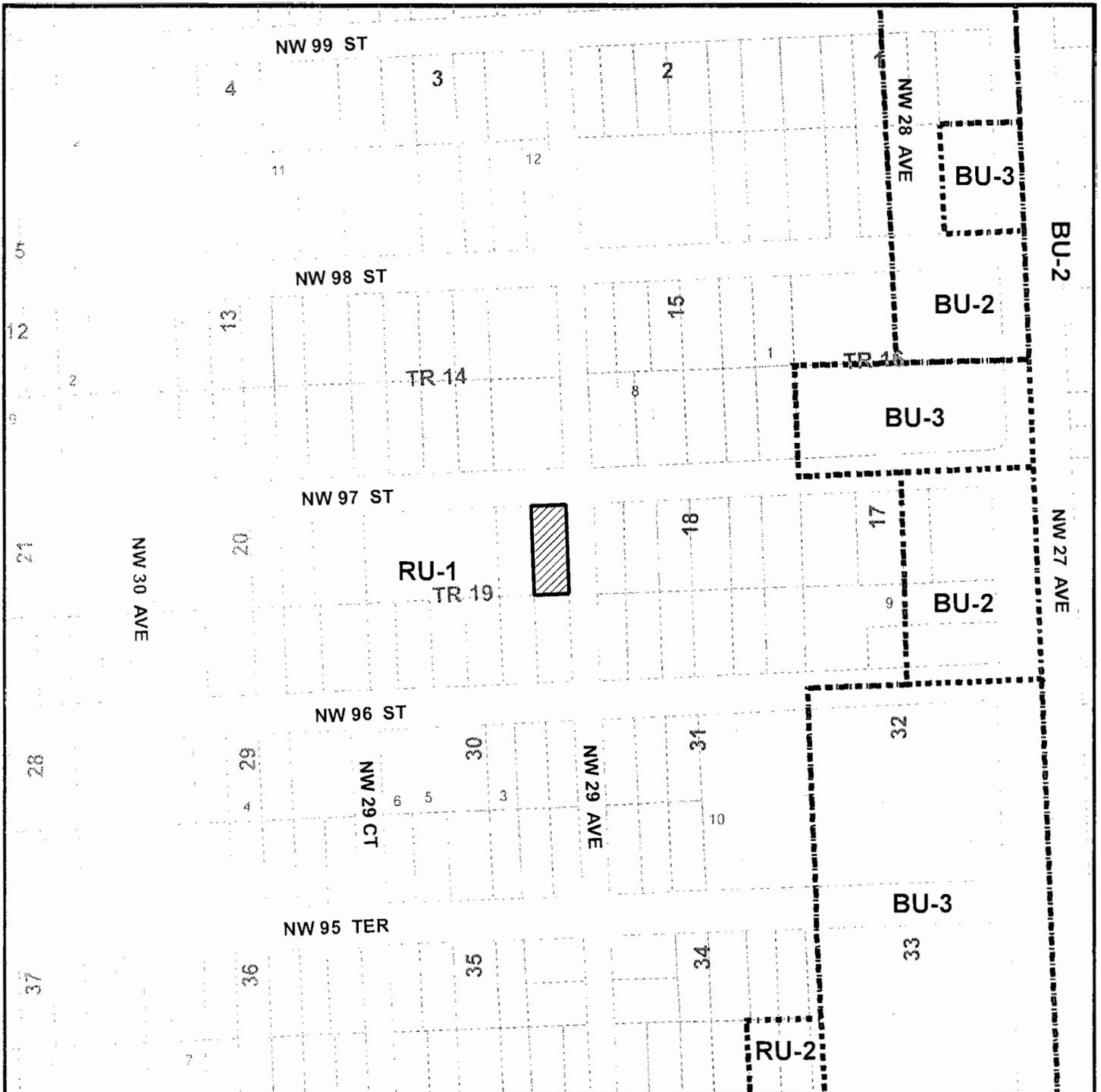
DATE

BY

ADDITION & REMODELING LEGALIZATION ON EXISTING DUPLEX RESIDENCE
9680 N.W. 29th AVENUE
MIAMI, FLORIDA 33147

JUAN A. RODRIGUEZ JOMOLCA
625 SW 82 AVE. - MIAMI FL 33134
R.A. 6691 TEL: 788 486 9099 FAX: 305 574 0666

29



**MIAMI-DADE COUNTY
HEARING MAP**

Process Number
08-178

Section: 04 Township: 53 Range:41
 Applicant: JOSE M. DAVILA
 Zoning Board: C08
 Commission District: 02
 Drafter ID: ALFREDO
 Scale: NTS
 ----- Zoning



SUBJECT PROPERTY



SKETCH CREATED ON: 09/19/08

REVISION	DATE	BY
		30



MIAMI-DADE COUNTY
AERIAL YEAR 2008

Section: 04 Township: 53 Range: 41
 Applicant: JOSE M. DAVILA
 Zoning Board: C08
 Commission District: 02
 Drafter ID: ALFREDO
 Scale: NTS
 ----- Zoning

Process Number
08-178



SUBJECT PROPERTY



SKETCH CREATED ON 09/19/08

REVISION	DATE	BY

2. ELKIN ERNESTO SOMARRIBA
(Applicant)

09-6-CZ8-2 (08-225)
Area 8/District 2
Hearing Date: 6/24/09

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>
1974	Luis Iglesias	- Curb Service - Ice cream storage - Restaurant to existing grocery store	C04	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 COMMUNITY COUNCIL No. 8**

APPLICANT: Elkin Ernesto Somarriba

PH: Z08-225 (09-6-CZ8-2)

SECTION: 28-53-41

DATE: June 24, 2009

COMMISSION DISTRICT: 2

ITEM NO.: 2

A. INTRODUCTION

o **REQUESTS:**

- (1) UNUSUAL USE to permit outdoor dining.
- (2) Applicant is requesting to permit a restaurant to have sales of alcoholic beverages until 5:00 a.m. (1:00 a.m. closing required).
- (3) Applicant is requesting to permit a building setback 13.67' (20' required) from the front (south) and setback a minimum of 13.50' (15' required) from the side street (west) property lines.
- (4) Applicant is requesting to permit 22 parking spaces (27 required).
- (5) Applicant is requesting to permit certain parking spaces with a back-up of 14' (22' required).

Upon a demonstration that the applicable standards have been satisfied, approval of requests #3 and #4 may be considered under §33-311(A)(16) (Alternative Site Development Option for the BU Zoning District) and approval of requests #2 through #5 may be considered under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

The plans are on file and may be examined in the Department of Planning and Zoning entitled "Rio Verde Cafeteria," as prepared by Owner: Elkin Somarriba, dated stamped received 1/27/09 and consisting of 5 sheets. Plans may be modified at public hearing.

- o **SUMMARY OF REQUESTS:** This application would allow the applicant to permit outdoor dining in conjunction with a restaurant and to permit the sale of alcoholic beverages until 5:00 a.m. Additionally, the applicant seeks to permit said restaurant with reduced setbacks to permit less than the required number of parking spaces and to permit certain parking spaces with a reduced back-up space.
- o **LOCATION:** 3305-07 NW 32 Avenue, Miami-Dade County, Florida.
- o **SIZE:** 100' x 138'

B. ZONING HEARINGS HISTORY:

In August 1974, the subject parcel of land was approved for a variance to permit curb service in connection with an existing grocery store, pursuant to Resolution #4-ZAB-404-74.

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 **Business and Office** use. 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.

Other Land Uses Not Addressed.

Certain uses are not authorized under any LUP map category, including many of the uses listed as "**unusual uses**" in the zoning code. Uses not authorized in any LUP map category may be requested and approved in any LUP category that authorizes uses substantially similar to the requested use. Such approval may be granted only if the requested use is consistent with the objectives and policies of this Plan, and provided that the use would be compatible and would not have an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by maintaining operating hours, outdoor lighting or signage out of character with the neighborhood; by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the natural environment including air, water and living resources; or where the character of the buildings, including height, bulk, scale, floor area ratio or design would detrimentally impact the surrounding area. However, this provision does not authorize such uses in Environmental Protection Areas designated in this Element.

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.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

BU-1A; restaurant

Business & Office

Surrounding Properties

NORTH: BU-1A; grocery store

Business & Office

SOUTH: BU-1A; single-family residence

Business & Office

EAST: RU-2; duplex residence

Low-Medium Density Residential, 6 to 13 dua

WEST: IU-1; Miami-Dade Transit office ,
and parking lot

Industrial & Office

The subject parcel is located at 3305-07 NW 32 Avenue. Residences abut the subject property to the east and south. The subject property abuts commercial and industrial uses to the north, and west.

E. SITE AND BUILDINGS:

Site Plan Review:

(Site plan submitted)

Scale/Utilization of Site:

Unacceptable

Location of Buildings:

Acceptable

Compatibility:

Unacceptable

Landscape Treatment:

Acceptable

Open Space:

Acceptable

Buffering:

Acceptable

Access:

Acceptable

Parking Layout/Circulation:

Unacceptable

Visibility/Visual Screening:

N/A

Service Areas:

Acceptable

Signage:

N/A

Urban Design:

N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

Section 33-311(A)(3) Special Exception, Unusual and New Uses. Hear applications for and grant or deny **special exceptions**; that is, those exceptions permitted by the regulations only upon approval after public hearing, new uses and unusual use which by the regulations are only permitted upon approval after public hearing; provide the applied for

exception or use, including exception for site or plot plan approval, in the opinion of the Community Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the necessity for and reasonableness of such applied for exception or use in relation to the present and future development of the area concerned and the compatibility of the applied for exception or use with such area of and its development.

Section 33-311(A)(16) Alternative Site Development Option for Buildings and Structures in the BU Zoning Districts. This subsection provides for the establishment of an alternative site development option, after public hearing, for buildings and structures permitted by the underlying district regulations, except residential buildings and structures and religious facilities, in the BU-1, BU-1A, BU-2, and BU-3 zoning districts, in accordance with the standards established herein. In considering any application for approval hereunder, the Community Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

(c) **Setbacks** for a principal or accessory building or structure shall be approved after public hearing upon demonstration of the following:

- (1) the character and design of the proposed alternative development will not result in a material diminution of the privacy of adjoining property; and
- (2) the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity, taking into account existing structures and open space; and
- (3) the proposed alternative development will not reduce the amount of open space on the parcel proposed for alternative development by more than 20% of the landscaped open space percentage required by the applicable district regulations; and
- (4) any area of shadow cast by the proposed alternative development upon an adjoining property will be no larger than would be cast by a structure constructed pursuant to the underlying district regulations, or will have no more than a de minimus impact on the use and enjoyment of the adjoining parcel of land; and
- (5) the proposed alternative development will not involve the installation or operation of any mechanical equipment closer to the adjoining parcel of land than any other portion of the proposed alternative development, unless such equipment is located within an enclosed, soundproofed structure and if located on the roof of such an alternative development shall be screened from ground view and from view at the level in which the installations are located, and shall be designed as an integral part of and harmonious with the building design; and

- (6) the proposed alternative development will not involve any outdoor lighting fixture that casts light on an adjoining parcel of land at an intensity greater than permitted by this code; and
- (7) the architectural design, scale, mass, and building materials of any proposed structure(s) or addition(s) are aesthetically harmonious with that of other existing or proposed structure(s) or building(s) on the parcel proposed for alternative development; and
- (8) the wall(s) of any building within a front, side street or double frontage setback area or within a setback area adjacent to a discordant use, required by the underlying district regulations, shall be improved with architectural details and treatments that avoid the appearance of a "blank wall"; and
- (9) the proposed alternative development will not result in the destruction or removal of mature trees within a setback required by the underlying district regulations, with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the same side of the lot, parcel or tract; and
- (10) any windows or doors in any building(s) to be located within an interior side or rear setback required by the underlying district regulations shall be designed and located so that they are not aligned directly across from facing windows or doors on building(s) of a discordant use located on an adjoining parcel of land; and
- (11) total lot coverage shall not be increased by more than ten percent (10%) of the lot coverage permitted by the underlying district regulations; or a total floor area ratio shall not be increased by more than ten percent (10%) of the floor area ratio permitted by the underlying district regulations; and
- (12) the area within an interior side or rear setback required by the underlying district regulations located adjacent to a discordant use will not be used for off-street parking except:
 - (A) in an enclosed garage where the garage door is located so that it is not aligned directly across from facing windows or doors on buildings of a discordant use located on an adjoining parcel of land; or
 - (B) if the off-street parking is buffered from property that abuts the setback area by a solid wall at least six (6) feet in height along the area of pavement and parking, with either:
 - (i) articulation to avoid the appearance of a "blank wall" when viewed from the adjoining property, or
 - (ii) landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement regarding its maintenance in recordable form from the adjoining landowner; and

- (13) any structure within an interior side setback required by the underlying district regulations:
 - (A) is screened from adjoining property by landscape material of sufficient size and composition to obscure at least eighty percent (80%) (if located adjoining or adjacent to a discordant use) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure(s) at time of planting; or
 - (B) is screened from adjoining property by an opaque fence or wall at least, six (6) feet if located adjoining or adjacent to a discordant use, in height that meets the standards set forth in paragraph (g) herein; and
- (14) any structure not attached to a principal building and proposed to be located within a setback required by the underlying district regulations shall be separated from any other structure by at least 10 feet or the minimum distance to comply with fire safety standards, whichever is greater; and
- (15) when a principal or accessory building is proposed to be located within a setback required by the underlying district regulations, any enclosed portion of the upper floor of such building shall not extend beyond the first floor of such building within the setback; and
- (16) safe sight distance triangles shall be maintained as required by this code; and
- (17) the parcel proposed for alternative development shall continue to provide the required number of on-site parking spaces as required by this Code, except that off-site parking spaces may be provided in accordance with Section 33-128 of this Code; and
- (18) the parcel proposed for alternative development shall satisfy all other applicable underlying district regulations or, if applicable, prior zoning actions issued prior to the effective date of this ordinance (May 2, 2003), regulating setbacks, lot area and lot frontage, lot coverage, floor area ratio, landscaped open space and structure height; and
- (19) the proposed development will meet the following:
 - (A) interior side setbacks shall not be reduced by more than fifty percent (50%) of the side setbacks required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater when the adjoining parcel of land is a BU or IU district; interior side setbacks shall not be reduced by more than twenty-five (25%) percent of the interior side setbacks required by the underlying district regulations when the adjoining parcel of land allows a discordant use.
 - (B) side street setbacks shall not be reduced by more than twenty-five (25%) of the underlying district regulations;

- (C) front setbacks (including double-frontage setbacks) shall not be reduced by more than twenty-five (25%) percent of the setbacks required by the underlying district regulations; and
 - (D) rear setbacks shall not be reduced below fifty (50%) percent of the rear setback required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater, when the adjoining parcel of land is a BU or IU district; rear setbacks shall not be reduced below twenty-five (25%) percent of the rear setback required by the underlying district regulations when the adjoining parcel of land allows a discordant use.
 - (E) setbacks between building(s) shall not be reduced below 10 feet, or the minimum distance required to comply with fire safety standards, whichever is greater.
- (j) **An alternative reduction in the number of required parking spaces** shall be approved after public hearing upon demonstration of the following:
- (1) the alternative reduction of the number of required parking spaces does not apply to parking spaces for the disabled, parking spaces for persons transporting small children, nor to bicycle racks or other means of bicycle storage; and either:
 - (2) the total number of required parking spaces is not reduced below ten percent (10%); and
 - (A) the lot, parcel or tract is located within six hundred and sixty (660) feet of an existing transportation corridor such as a Major Roadway identified on the Land Use Plan (LUP) map, within one-quarter (1/4) mile from existing rail transit stations or existing express busway stops; or
 - (B) the hours of operation of multiple commercial uses within the development vary and do not overlap and a recordable agreement is provided which restricts the hours of operation; or
 - (3) the alternative development involves a mixed-use project in which the number of off-street parking spaces is calculated by applying the Urban Land Institute (ULI) Shared Parking Methodology to the required number of parking spaces.
- (k) **Notwithstanding the foregoing**, no proposed alternative development shall be approved upon demonstration that the proposed alternative development:
- (1) will result in a significant diminution of the value of property in the immediate vicinity; or
 - (2) will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or

(3) will result in a materially greater adverse impact on public services and facilities than the impact that would result from development of the same parcel pursuant to the underlying district regulations.

(I) **Proposed alternative development** under this subsection shall provide additional amenities or buffering to mitigate the impacts of the development as approved, where the amenities or buffering expressly required by this subsection are insufficient to mitigate the impacts of the development. The purpose of the amenities or buffering elements shall be to preserve and protect the economic viability of any commercial enterprises proposed within the approved development and the quality of life of residents and other owners of property in the immediate vicinity in a manner comparable to that ensured by the underlying district regulations. Examples of such amenities include but are not limited to: active or passive recreational facilities, landscaped open space over and above that normally required by the code, additional trees or landscaping materials, the inclusion of residential use(s), convenient pedestrian connection(s) to adjacent residential development(s), convenient covered bus stops or pick-up areas for transportation services, sidewalks (including improvements, linkages, or additional width), bicycle paths, buffer areas or berms, street furniture, undergrounding of utility lines, monument signage (where detached signs are allowed) or limited and cohesive wall signage, and decorative street lighting. In determining which amenities or buffering elements are appropriate, the following shall be considered:

(A) the types of needs of the residents or other owners immediate vicinity and the needs of the business owners and employees of the parcel proposed for development that would likely be occasioned by the development, including but not limited to recreational, open space, transportation, aesthetic amenities, and buffering from adverse impacts; and

(B) the proportionality between the impacts on the residents or other owners of property of parcel(s) in the immediate vicinity and the amenities or buffering required. For example, a reduction in setbacks for numerous lots or significantly large commercial buildings may warrant the provision of additional landscaped open space.

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

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

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

Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a public

hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

G. NEIGHBORHOOD SERVICES:

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

H. ANALYSIS:

The subject property is currently zoned BU-1A, Limited Business District and is located at 3305-07 NW 32 Avenue. The Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) designates the subject property for **Business and Office** use. Staff opines that the existing restaurant is **compatible** with the surrounding commercial and residential uses and **consistent** with the LUP map of the CDMP. However, staff opines that apart from the request for approval of the reduced setbacks, the number of additional requests for variances to the zoning regulations indicates an overly intensive use of the subject property. Specifically, staff opines that the request for outdoor dining, along with requests for approval to permit reduced parking and reduced back-out space and extended hours for alcoholic sales are too intensive and would negatively impact traffic on the abutting roadways and may also have a negative aural impact on the residential properties to the east and south. As such, staff opines that the combined effect of the requests is too intensive and is **inconsistent** with **Policy LU-4A** of the interpretative text of the CDMP.

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. Furthermore, the application meets the traffic concurrency criteria because it lies within the urban infill area. The Miami-Dade Fire Department (**MDFRD**) has no objections to this application and their memorandum indicates that the estimated average travel response time is **6:43** minutes.

The applicant is seeking an Unusual Use to permit outdoor dining with an existing restaurant (request #1). When analyzing the aforementioned request under Section 33-311(A)(3), Standards For Special Exceptions, Unusual Uses And New Uses, the standards provide that the request would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been

constructed or planned and budgeted for construction, provoke excessive overcrowding or concentration of people, when considering the necessity for and reasonableness of such applied for exception in relation to the present and future development of the area and the compatibility of the applied for exception with such area of and its development. Memoranda from the Public Works Department, MDR and DERM indicate that the aforementioned request will not result in excessive traffic, cause undue or excessive burden on public facilities. Notwithstanding, when combined with the requests to allow the sale of alcoholic beverages until 5:00 a.m. and the parking variances, staff opines that this development is too intensive for the surrounding area. In particular, in staff's opinion, approval of the request for the outdoor dining area increases the requirement for parking spaces, the lack of which could result in spillage of parking onto the abutting roadways. Additionally, staff opines that the approval of the outdoor dining request in conjunction with the applicant's request to allow the sale of alcoholic beverages until 5:00 a.m. will result in a negative aural impact on the abutting residences to the east and south. As such, staff opines that approval of the request to permit outdoor dining on the subject property would be **incompatible** with the surrounding uses and in particular, the abutting residential uses to the east and south. Notwithstanding the above, and due to the adoption of a new ordinance by the Board of County Commissioners (BCC) allowing the establishment of outdoor dining in zoning districts less restrictive than BU-1, Neighborhood Business District, the applicant has stated his intention to request the withdrawal of this request at the hearing. Based on the aforementioned, staff therefore recommends denial without prejudice or withdrawal without prejudice of request #1 under Section 33-311(A)(3).

When requests #2, #4 and #5 are analyzed under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards, staff is of the opinion that approval of these requests would not maintain the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community, would be **incompatible** with the surrounding land uses and would be detrimental to the community. Staff is of the opinion that approval of the extended hours for the sale of alcoholic beverages until 5:00 a.m. (request #2), would be similar to that allowed for a nightclub, which is not an allowed use in the BU-1A, Limited Business District and which would not maintain the basic intent and purpose of the zoning regulations. Additionally, staff opines that the requested reduction in the number of parking spaces (request #4) and the request to permit reduced back-up distance for parking spaces (request #5), are a consequence of the request for outdoor dining, which is indicated in the submitted plans (request #1), the combined effect of which is too intensive for the 100' x 138' (0.31-acre) site. Further, notwithstanding the fact that the Public Works Department does not object to the application, staff of the Department of Planning and Zoning opines that reduced number of parking spaces and back-up space on the existing 0.31-acre restaurant site will result in spillage of parking onto the abutting streets and have a negative impact on traffic in the area. Staff therefore recommends denial without prejudice of requests #2, #4 and #5 under Section 33-311(A)(4)(b) (NUV).

However, when the applicant's request to permit the existing building setback 13.67' (20' required) from the front (south) and setback a minimum of 13.50' (15' required) from the side street (west) property lines (request #3), is analyzed under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards, staff is of the opinion that the request would maintain the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community would be **compatible** with the surrounding land uses and

would not be detrimental to the community. Further, staff notes that there was a similar approval for variance of setback regulations on a property located at the southwest corner of NW 32 Avenue and NW 31 Street. Said property was approved pursuant to Resolution #CZAB8-37-08, in 2008, to allow among other things a building to setback 7' (15' required) from the side street (north) property line. As such, staff opines that approval of the applicant's request to permit the existing building with reduced setbacks would not be precedent setting and would not affect the appearance of the community. However, staff recommends that as a condition for approval of this request, the applicant deletes the proposed outdoor dining area from the site plan, which may allow the site to meet the parking and back-up requirements for the site. Staff therefore recommends approval with conditions of request #3, under the Section 33-311(A)(4)(b) (NUV) standards.

When requests #2 through #5 are analyzed under the Alternative Non-Use Variance Standard (ANUV) Section 33-311(A)(4)(c), the applicant would have to prove that requests are due to an unnecessary hardship and that, should said requests not be granted, such denial would not permit the reasonable use of the premises. However, since this property can be developed in accordance with the zoning regulations, staff is of the opinion that the aforementioned requests cannot be approved and should be denied without prejudice under the ANUV Standards.

The Alternative Site Development Option (ASDO) Standards under Section 33-311(A)(16) provide for the approval of a zoning application which can demonstrate at a public hearing that the development requested is in compliance with the applicable ASDO Standards and does not contravene the enumerated public interest standards as established. Notwithstanding the foregoing, the ASDO standards require additional mitigation and documentation for approval under Section 33-311(A)(19). Staff has not received this information from the applicant and, as such, requests #3 and #4 cannot be properly analyzed under the ASDO Standards and should be denied without prejudice under same.

As previously mentioned, staff is of the opinion that the existing restaurant is **compatible** with the surrounding commercial and residential uses and **consistent** with the LUP map of the CDMP. However, staff opines that apart from request #3, the application is too intensive and is therefore **inconsistent** with **Policy LU-4A** of the CDMP. Based on the aforementioned, staff therefore recommends approval with conditions of the applicant's request to permit the existing restaurant with reduced front and side street setbacks (request #3) under Section 33-311(A)(4)(b) (NUV) and denial without prejudice of requests #2, #4 and #5 under same, and denial without prejudice of requests #2 through #5 under Section 33-311(A)(4)(c) (ANUV); withdrawal without prejudice of the request for an Unusual Use to permit the outdoor dining (request #1) under Section 33-311(A)(3), Special Exceptions, Unusual Uses And New Uses and denial without prejudice of requests #3 and #4 under Section 33-311(A)(16) (ASDO).

I. RECOMMENDATION:

Approval of with conditions of request #3 under Section 33-311(A)(4)(b) (NUV) and denial without prejudice of requests #2, #4 and #5 under same; withdrawal without prejudice of request #1; denial without prejudice of requests #2 through #5 under Section 33-311(A)(4)(c) (ANUV) and denial without prejudice of requests #3 and #4 under Section 33-311(A)(16) (ASDO).

J. CONDITIONS:

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit and/or Certificate of Use; said plan to include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Rio Verde Cafeteria," as prepared by Owner: Elkin Somarriba, dated stamped received 1/27/09 and consisting of 5 sheets, except as herein amended to show the removal of the outdoor dining area and additional patron area as needed in order to meet the parking and the back-up distance requirements.
3. That the applicant obtain a Certificate of Use from and promptly renew same annually with the Department of Planning and Zoning, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions.

DATE INSPECTED:

DATE TYPED: 05/11/09

DATE REVISED: 05/12/09, 05/28/09, 06/03/09

DATE FINALIZED: 06/03/09

MCL:MTF::NN:AA:CH



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

NDW

Memorandum

Date: December 5, 2008

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

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

Subject: C-08 #Z2008000225
Elkin Somarriba
3305 N.W. 32 Avenue
Request to Modify Hours of Operation and Unusual Use to Permit
Outside Dining
(BU-1A) (0.32 Acres)
28-53-41

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

Potable Water Service and Wastewater Disposal

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

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

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

Pollution Control

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

Tree Preservation

The subject properties contain tree resources. Section 24-49 of Chapter 24, the Code of Miami-Dade County provides for the preservation and protection of tree resources. A Miami-Dade County Tree Removal Permit shall be required prior to the removal or relocation of any tree that is subject to the Tree Preservation and Protection provisions of Chapter 24. Said permit shall meet the requirements of Sections 24-49.2 and 24-49.4 of the Code.

The applicant is required to comply with the above tree permitting requirements. DERM's approval of the subject application is contingent upon inclusion of said tree permitting requirements in the resolution approving this application.

The applicant is advised to contact DERM staff for additional information regarding permitting procedures and requirements prior to site development.

Enforcement History

DERM has found no open or closed enforcement records for the subject property.

The following comments are also offered as they contain Code requirements, which are applicable to certain land uses permitted in the underlying zoning classification.

Hazardous Materials Management

Due to the nature of uses allowed in the existing zoning classification, the applicant may be required to obtain DERM approval for management practices to control the potential discharge and spillage of pollutants associated with some land uses permitted in the requested zoning district. The applicant is advised to contact the Permitting Section of DERM's Pollution Regulation and Enforcement Division, at (305) 372-6600 concerning required management practices.

Operating Permits

Section 24-18 of the Code authorizes DERM to require operating permits from facilities that could be a source of pollution. The applicant is advised that the requested use of the subject property will require operating permits from DERM. The applicant is further advised to contact the Permitting Section of DERM's Pollution Regulation and Enforcement Division, at (305) 372-6600 concerning operating requirements.

Concurrency Review Summary

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

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

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

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

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names:ELKIN ERNESTO SOMARRIBA

This Department has no objections to this application.

This Department has no objections to the request to permit less parking than required.

This Department has no objections to the request to permit less back-out than required.

This is an existing site with an existing use therefore this department has no objections the requests aforementioned.

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



Raul A Pino, P.L.S.

12-FEB-09

Memorandum



Date: 01-DEC-08
To: Marc LaFerrier, Director
 Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
 Miami-Dade Fire Rescue Department
Subject: Z2008000225

Fire Prevention Unit:

Fire Engineering & Water Supply has no objection to this application.

Service Impact/Demand:

Development for the above Z2008000225
 located at 3305 N.W. 32 AVENUE, MIAMI-DADE COUNTY, FLORIDA.
 in Police Grid 1075 is proposed as the following:

_____	dwelling units	_____	square feet
residential		industrial	
_____	square feet	_____	square feet
Office		institutional	
_____	square feet	_____	square feet
Retail		nursing home/hospitals	

Based on this development information, estimated service impact is: 0 alarms-annually.
 The estimated average travel time is: 6:43 minutes

Existing services:

The Fire station responding to an alarm in the proposed development will be:
 Station No. 2 - 6460 NW 27 Avenue
 Rescue, 65' BLS Aerial

Planned Service Expansions:

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

Fire Planning Additional Comments:

TEAM METRO

ENFORCEMENT HISTORY

ELKIN ERNESTO SOMARRIBA

3305-07 N.W. 32 AVENUE, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2008000225

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

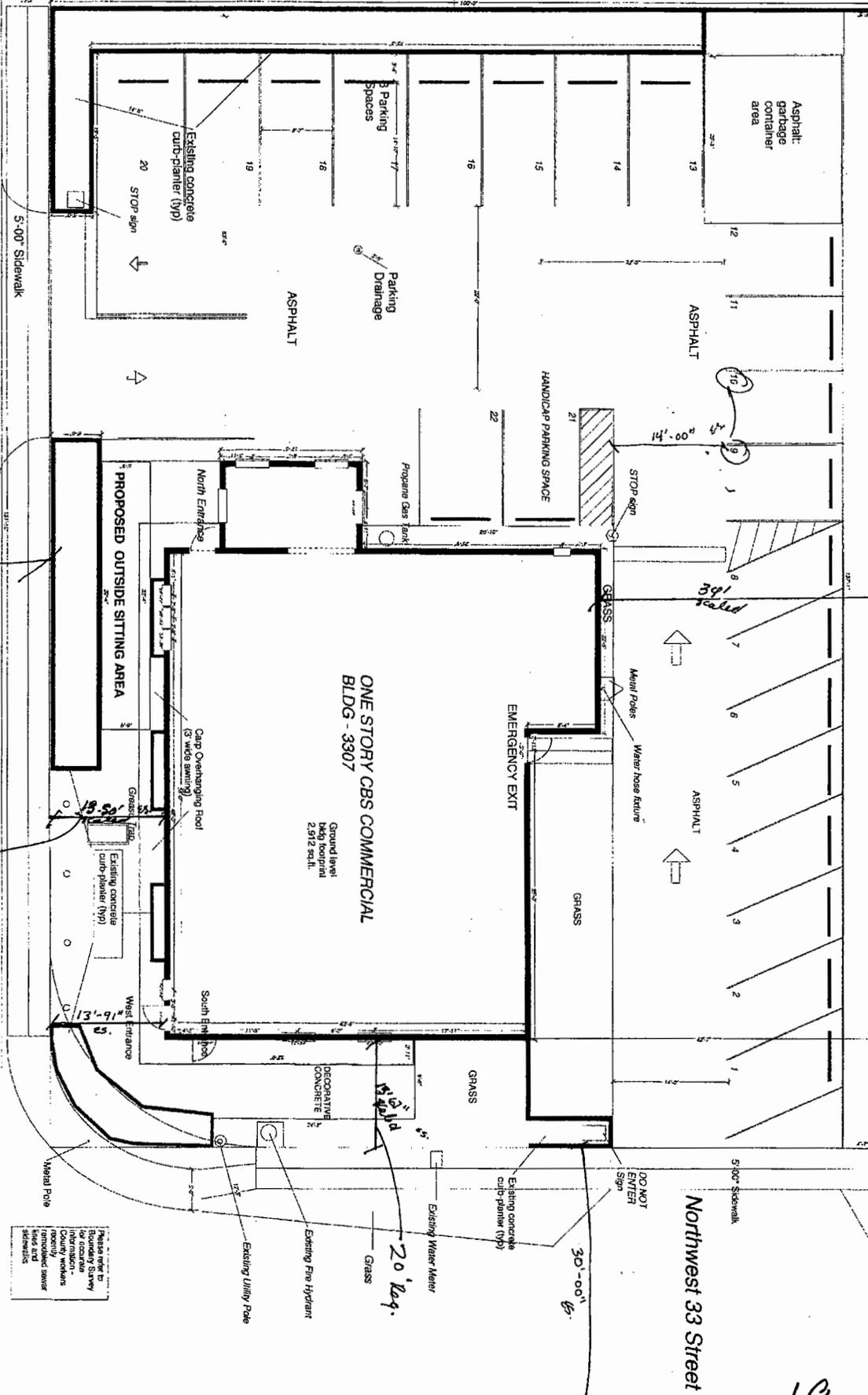
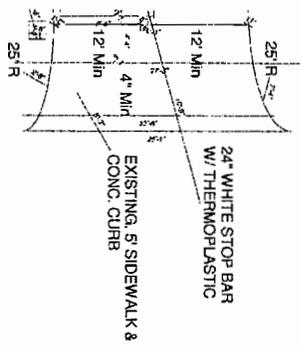
NO CURRENT ZONING VIOLATIONS FOUND. BOTH FOLIO'S ADDRESSED.

ELKIN ERNESTO SOMARRIBA

SNEZANA CORDOBA

BUIA

BUIA



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 MIAMI-DADE PLANNING AND ZONING DEPT.

Northwest 32 Avenue

ENLARGED SITE PLAN

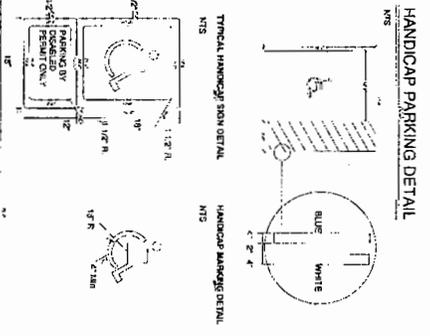
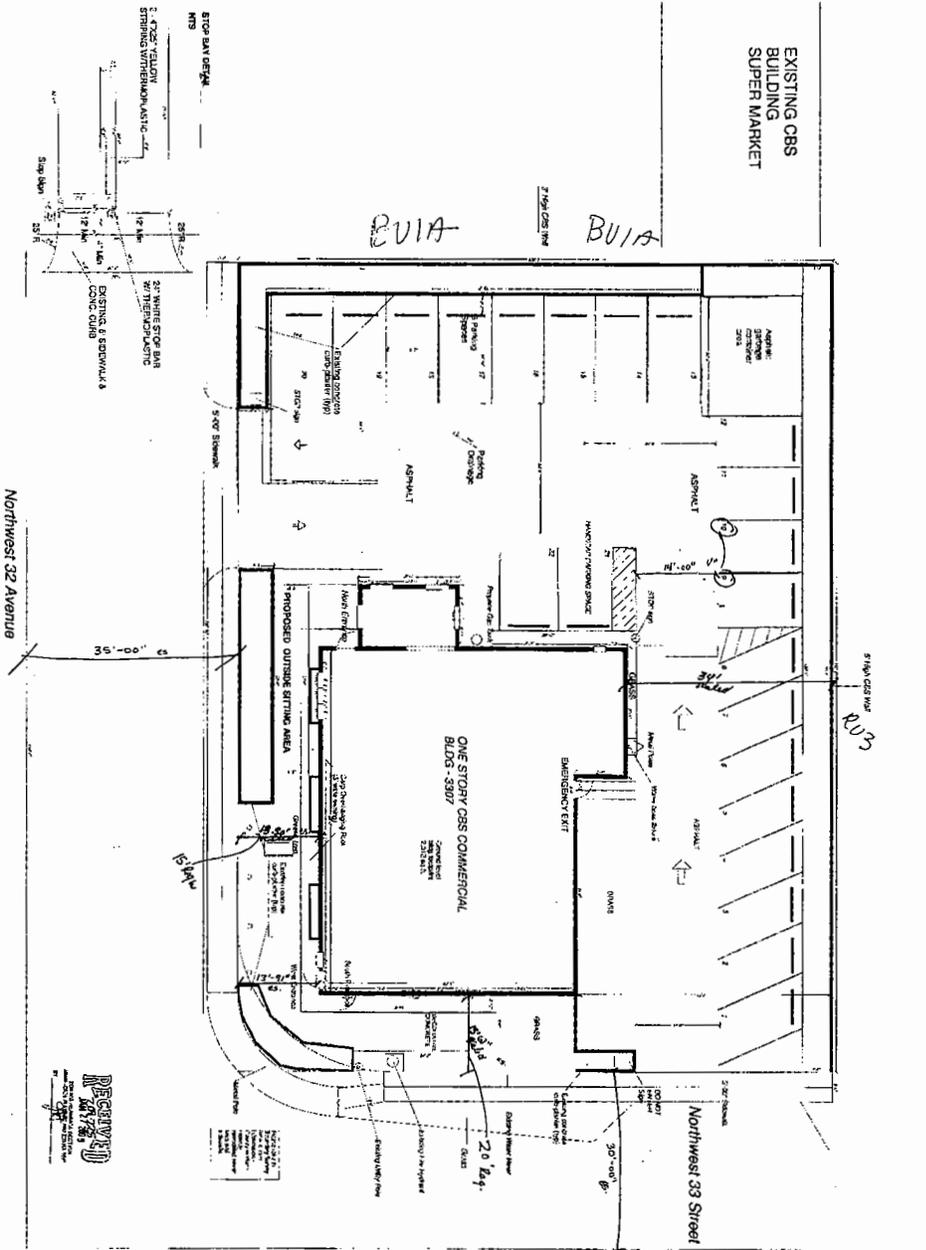
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- 1. Refer to the following documents for location of easements, encroachments, utility lines, and other features:
- 2. Boundary Survey
- 3. Plat
- 4. Plat
- 5. Plat
- 6. Plat
- 7. Plat
- 8. Plat
- 9. Plat
- 10. Plat
- 11. Plat
- 12. Plat
- 13. Plat
- 14. Plat
- 15. Plat
- 16. Plat
- 17. Plat
- 18. Plat
- 19. Plat
- 20. Plat
- 21. Plat
- 22. Plat

SITE PLAN

COVERAGES AREAS
 TOTAL ASPHALT 10,829 SQ. FT.
 TOTAL LINEAR FEET OF CONCRETE CURBS - 306 LF



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 BY PT

LEGAL DESCRIPTION
 LEGAL DESCRIPTION:
 CERT. 0.14, SUBJECT OF THE PRESENT HEARING, SECTION FOUR, ACCORDING TO THE PLAT THEREON, AS RECORDED IN PLAT BOOK 17, MAPS AND SURVEYS, IN THE COUNTY OF MIAMI-DADE COUNTY, FLORIDA.

SITE DATA
 ZONING DISTRICT: C-1
 EXISTING ZONING DISTRICT: C-1
 PROPERTY OWNER: ELKIN SOMARRIBA

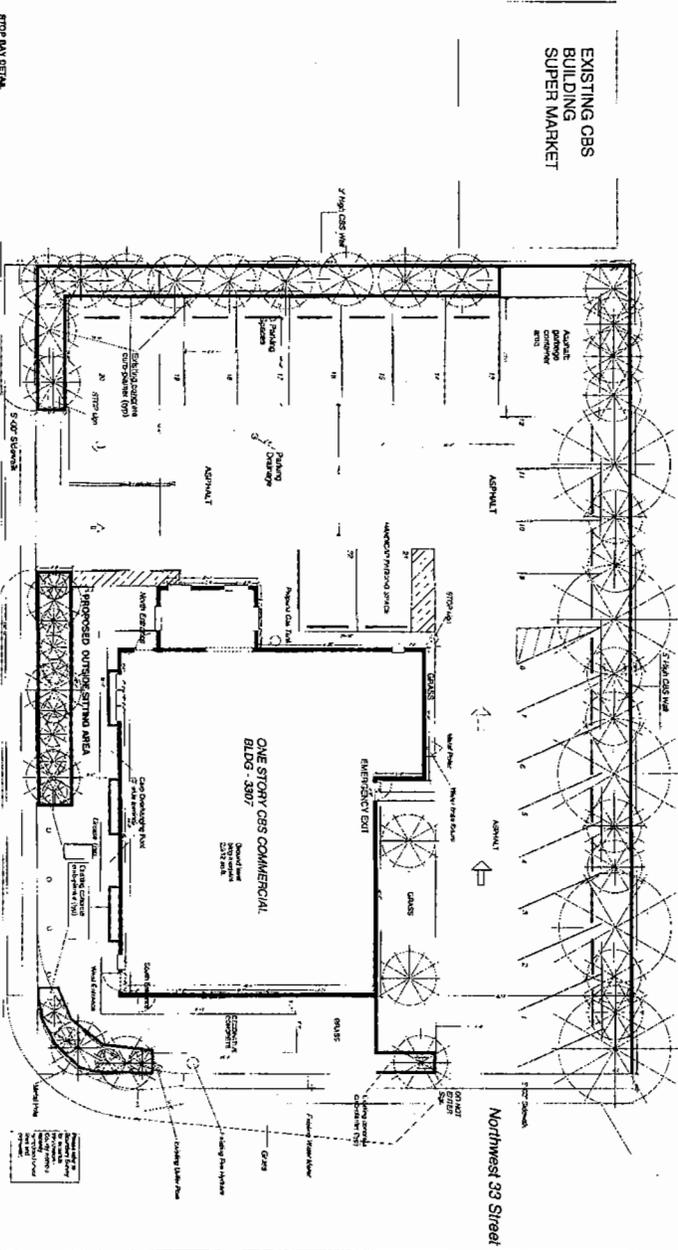
PROPERTY ADDRESS:
 3205-07 N.W. 32 AVE
 MIAMI, FL 33142
 OWNER: ELKIN SOMARRIBA

SITE PLAN 1/8" = 1'

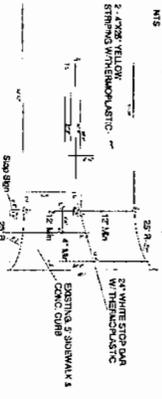
SITE & LANDSCAPE PLAN

COVERED AREAS
 TOTAL ASPHALT 10,890 SQ. FT.
 TOTAL LINEN FEET OF CONCRETE CURBS - 200 LF

RESIDENTIAL LOT



Northwest 32 Avenue

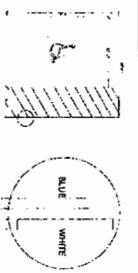


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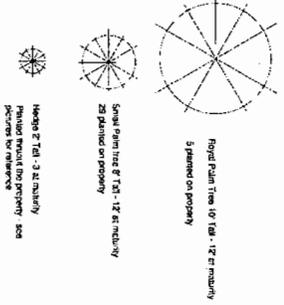
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 BY *[Signature]*

HANDICAP PARKING DETAIL



LANDSCAPE LEGEND



LEGAL DESCRIPTION

LEGAL DESCRIPTION:
 LOT 12 & 14, BLOCK 42, MANHATTAN HEIGHTS
 TRACT, AS RECORDED IN PLAT BOOK 17,
 AT PAGE 21 OF THE PUBLIC RECORDS OF
 MIAMI-DADE COUNTY, FLORIDA.

SITE DATA

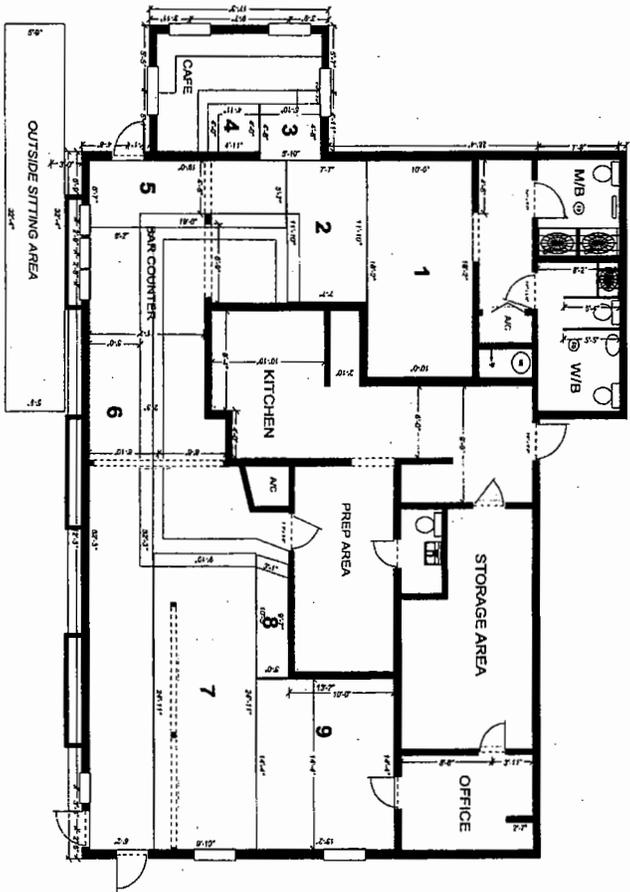
Zone: S-1A
 Lot Area: 12,000 sq. ft.
 Property Address: 3305 NW 32 Ave.
 Planning District: 22 (Industry/Trade)

PROPERTY ADDRESS:

RIO VERDE CATERERIA
 3305-NW 32 AVE
 MIAMI, FL 33142
 OWNER: ELAIN SOMARRIBA

SITE PLAN 1/8" = 1'

PATRON AREA FLOORPLAN



PATRON AREA SQ.FT.

By section	Sq. Ft.
1:	180'-02"
2:	78'-5"
3:	20'-8"
4:	16'-4"
5:	96'-3"
6:	313'-2"
7:	219'-4"
8:	31'-5"
9:	182'-8"
10:	163'-8"
Total Patron Area sq.ft: 1,302'-08"	

(Proposed Outside Sitting Area)

LEGAL DESCRIPTION

SITE PLAN 1/4"=1'

LEGAL DESCRIPTION:

LOT 13 & 14, BLOCK 42, "MELROSE HEIGHTS SECTION FOUR", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 17, AT PAGE 21, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

FLOOR PLAN: 1/2" = 1'

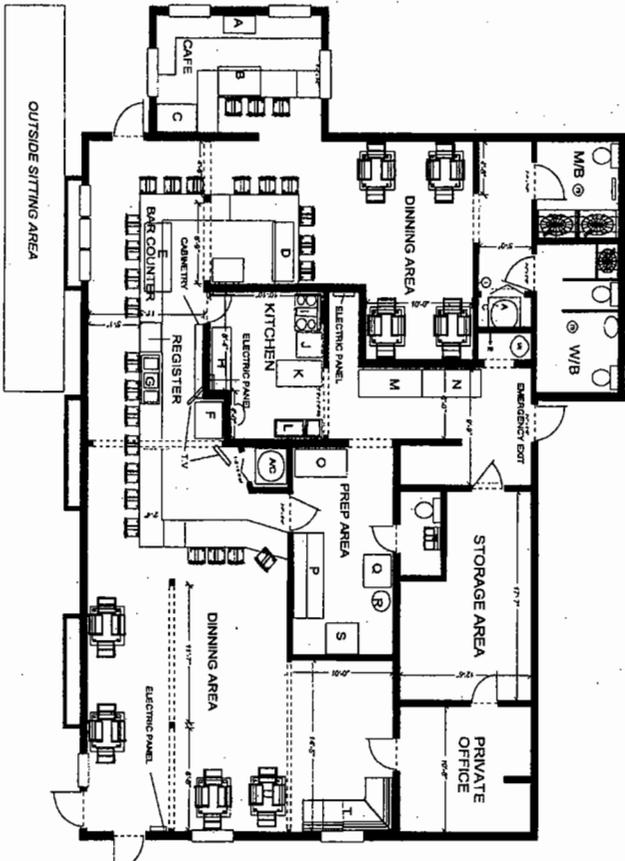
PROPERTY ADDRESS:
 RIO VERDE CAFETERIA
 3305-07 N.W. 32 AVE
 MIAMI, FL 33142
 DRAWN BY:
 OWNER: ELKIN SOMARRIBA

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 BY: *[Signature]*

FURNITURE & EQUIPMENT FLOORPLAN



- EQUIPMENT AND FURNITURE SCHEDULE
- A. COFFEE MAKER
 - B. BEER COOLER
 - C. SODA/JUICE COOLER
 - D. SEAFOOD FREEZER
 - E. BEER COOLER
 - F. SODA/JUICE COOLER
 - G. 3 COMPARTMENT SINK
 - H. STAINLESS STEEL TABLE
 - I. STOVE (Extractor Hood Above)
 - J. FRYER
 - K. STAINLESS STEEL TABLE
 - L. OVERSINK COOLER
 - M. MEAT COOLER
 - N. MEAT COOLER
 - O. POULTRY COOLER
 - P. STAINLESS STEEL TABLE
 - Q. SEAFOOD FREEZER
 - R. HANDWASHING SINK
 - S. PREP FOOD FREEZER
 - T. SEATING FURNITURE
 - U. 4 CHAIR GROUP TABLE

LEGAL DESCRIPTION

SITE PLAN 1/4"=1'
 LEGAL DESCRIPTION:
 LOT 13 & 14, BLOCK 42, "MELROSE HEIGHTS SECTION FOUR", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 17, AT PAGE 21, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

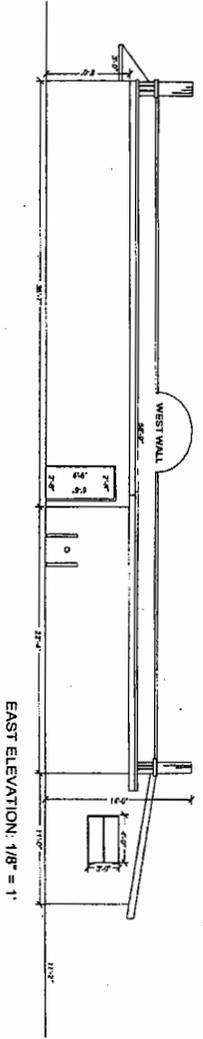
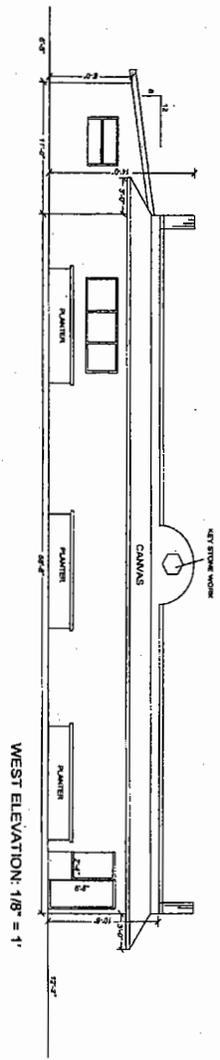
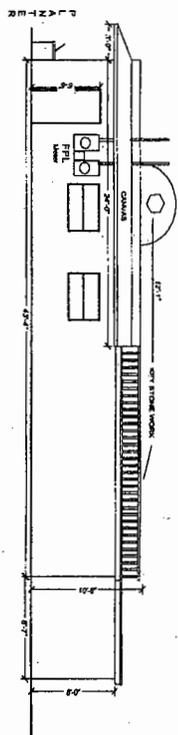
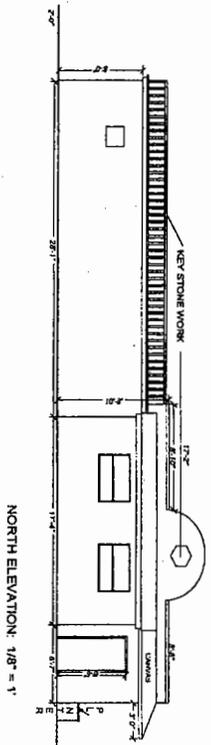
PROPERTY ADDRESS:
 RIO VERDE CAFETERIA
 3305-07 N.W. 32 AVE
 MIAMI, FL 33142
 DRAWN BY:
 OWNER: ELKIN SOMARRIBA

FLOOR PLAN: 1/2" = 1'

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LEGAL DESCRIPTION

SITE PLAN 1/8"=1'
 LEGAL DESCRIPTION:
 LOT 13 & 14, BLOCK 42, "MELROSE HEIGHTS SECTION FOUR", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 17, AT PAGE 21, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

SITE DATA

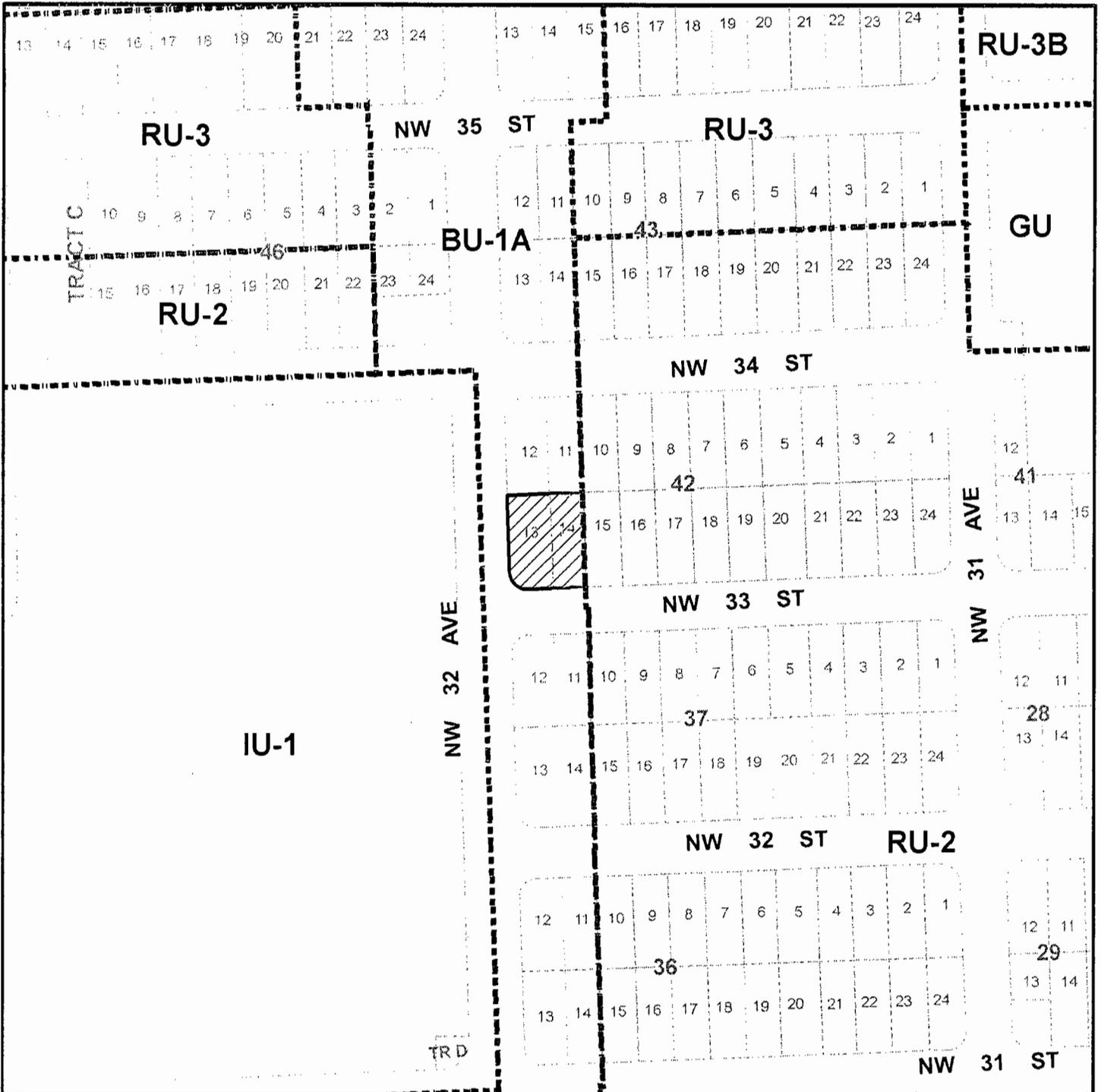
Zoning: BU-1A
 Lot Area: 13,613
 Parking Required: 21
 Parking Provided: 22 including handicap
 Existing Structures: 2,912 sq. ft.

PROPERTY ADDRESS:

RIO VERDE CAFETERIA
 3305-07 N.W. 32 AVE
 MIAMI, FL 33142
 Drawn by:
 OWNER: ELKIN SOMARRIBA

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 MIAMI-DADE PLANNING AND ZONING DEPT.
 BY: *[Signature]*



MIAMI-DADE COUNTY

HEARING MAP

Section: 28 Township: 53 Range: 41
 Applicant: ELKIN ERNESTO SOMARRIBA
 Zoning Board: C08
 Commission District: 2
 Drafter ID: JEFFER
 Scale: NTS
 ----- Zoning

Process Number

08-225



SUBJECT PROPERTY



SKETCH CREATED ON: 12/05/08

REVISION	DATE	BY
		25



MIAMI-DADE COUNTY

AERIAL YEAR 2008

Section: 28 Township: 53 Range: 41
 Applicant: ELKIN ERNESTO SOMARRIBA
 Zoning Board: C08
 Commission District: 2
 Drafter ID: JEFFER
 Scale: NTS
 ----- Zoning

Process Number

08-225



SUBJECT PROPERTY



SKETCH CREATED ON: 12/05/08

REVISION	DATE	BY