



**COMMUNITY ZONING APPEALS BOARD 11
KENDALL VILLAGE CENTER - CIVIC PAVILION
8625 SW 124 Avenue, Miami
Tuesday, June 8, 2010 at 7:00 p.m.**

CURRENT

- | | | | | | |
|----|--------------|--|---------------|----------|---|
| 1. | 10-6-CZ11-1 | <u>KENDALL LAND DEVELOPMENT, LLC.</u> | <u>09-99</u> | 06-55-39 | N |
| 2. | 10-6-CZ11-2 | <u>JAMAL SABBAGH AND LOUBNA SABBAGH</u> | <u>09-172</u> | 28-55-39 | N |
| 3. | 10-6-CZ-11-3 | <u>ANTHONY'S COAL FIRED PIZZA OF KENDALL LLC</u> | <u>10-3</u> | 01-55-39 | N |



Official Zoning Agenda

COMMUNITY ZONING APPEALS BOARD

COMMUNITY ZONING APPEALS BOARD - AREA 11

MEETING OF TUESDAY, JUNE 8, 2010

KENDALL VILLAGE CENTER – CIVIC PAVILION

8625 SW 124 AVENUE, MIAMI, FLORIDA

NOTICE: THE FOLLOWING HEARINGS ARE SCHEDULED FOR 7:00 P.M., AND

ALL PARTIES SHOULD BE PRESENT AT THAT TIME

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

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

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

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

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

SWEARING IN OF WITNESSES

1. **KENDALL LAND DEVELOPMENT, LLC (10-6-CZ11-1/09-099)**

**06-55-39
Area 11/District 11**

(1) MODIFICATION of Paragraphs #2, #3, #9(a) and #9(b) of the Declaration of Restrictions recorded in Official Record Book 20349, Pages 1975-1988, reading as follows:

FROM: "2. Development Schedule. That the property shall be developed substantially in accordance with the Development Schedule indicating the approximate date(s) when construction of the TND and phases thereof, including the mix of residential and commercial uses, will be initiated and completed, attached hereto as Exhibit 'C'.

TO: "2. Development Schedule. That the property shall be developed substantially in accordance with the Development Schedule indicating the approximate date(s) when construction of the TND and phases thereof, including the mix of residential and commercial uses, will be initiated and completed, attached hereto as Revised Exhibit 'C'.

FROM: "3. Residential Units. The proposed development is limited to the number of residential units contained within the attached Exhibit 'C,' provided, however that the total number of rowhouse units shall be reduced by twenty-five (25)."

TO: "3. Residential Units. The proposed development is limited to the number of residential units contained within the attached Revised Exhibit 'C'."

FROM: "9. Expansion of Kendall Drive. The Owner hereby agrees that it shall construct, or cause to be constructed, improvements to expand that certain segment of S.W. 88th Street (North Kendall Drive) lying between actual S.W. 162nd and actual S.W. 167th Avenues from four (4) lanes to six (6) lanes (the 'Expansion'). Such expansion shall take place in accordance with the following:

a) No later than sixty (60) days following the completion of the widening to six (6) lanes of North Kendall Drive through actual S.W. 162nd Avenue, said widening already included in Miami-Dade County's Transportation Improvement Program, the Owner shall submit to the State, County or any other agency with permitting jurisdiction, a complete application(s) for such permit(s) or approval(s) (the 'Expansion Applications[s]') as may be required to accomplish the Expansion. In the event that the right-of-way necessary to accomplish the Expansion has not yet been dedicated, the obligations of this paragraph shall be delayed until such time as the right-of-way has been dedicated or acquired. The Owner acknowledges that the acceptance of this Declaration by the County does not obligate the county to grant any of the Expansion Approvals and any Expansion applications shall be reviewed in accordance with applicable law.

b) Upon the approval of the Expansion Application(s), the Owner shall construct, or cause to be constructed the Expansion of North Kendall Drive. Said Expansion shall be completed and open to traffic not more than one (1) year following completion of the planned widening of North Kendall Drive through actual S.W. 162nd Avenue. However, the time period in this subparagraph may be extended by the Director of the County's Planning and Zoning Department (the 'Director') upon written concurrence of the Director of the Public Works Department, as per approved covenant upon good cause shown."

TO: "9. Expansion of Kendall Drive. The owner hereby agrees that it shall construct, or cause to be constructed, improvements to expand that certain segment of S.W. 88th

Street (North Kendall Drive) lying between actual S.W. 162nd and actual S.W. 167th Avenues from four (4) lanes to six (6) lanes (the 'Expansion'). Such expansion shall take place in accordance with the following:

- a) Prior to the issuance of a building permit for the 629th dwelling unit, the owner shall submit to the state, county or any other agency with permitting jurisdiction, a complete application(s) for such permit(s) or approval(s) (the 'Expansion Applications[s]') as may be required to accomplish the expansion. In the event that the right-of-way necessary to accomplish the expansion has not yet been dedicated, the obligations of this paragraph shall be delayed until such time as the right-of-way has been dedicated or acquired.
 - b) Upon the approval of the expansion application(s), the owner shall construct, or cause to be constructed the expansion of North Kendall Drive. Said expansion shall be completed and open to traffic not more than two (2) years following the approval of the expansion application(s). However, the time period in this subparagraph may be extended by the Director of the County's Planning and Zoning Department (the 'Director') upon written concurrence of the Director of the Public Works Department, upon good cause shown."
- (2) DELETION of Paragraphs 9c and 9d of the Declaration of Restriction recorded in Official Record Book 20349, Pages 1975-1988, reading as follows:
- "c) Within ninety (90) days following the approval of the application by the Community Zoning Appeals Board No. 11 or the Board of County Commissioners and prior to seeking any building permit or plat approval, the owner shall post a bond in such form as may be acceptable to the Director of the Public Works Department to provide financial assurances to secure its obligations to fully fund the expansion of North Kendall Drive, including the acquisition of any necessary right-of-way.
 - d) In the event that the expansion application(s) for the expansion of North Kendall Drive is (are) denied, the owner agrees to timely file an application to rollback the zoning of the property from TND to GU ('Rollback Application'). However, the owner shall not be obligated to file a Rollback Application if the expansion or other improvements are authorized in a manner consistent with the county's authority to allow the approval of the application as an initial development order pursuant to §33G-5(6)(a)1 of the Miami-Dade County Code."

The purpose of Requests #1 and #2 is to allow the applicant to extend the construction dates of the development schedule, extend the timing of the expansion of North Kendall Drive, to delete the condition requiring the posting of a bond to the Department of Public Works as this condition has been satisfied; and delete the condition requiring the submittal of an application to rollback the zoning of the property from TND to GU if the expansion of Kendall Drive were to be denied inasmuch as the TND development has already commenced.

LOCATION: Lying between S.W. 88 Street & S.W. 96 Street and between S.W. 167 Avenue and S.W. 172 Avenue, Miami-Dade County, Florida.

SIZE OF PROPERTY: 160± Acres

Department of Planning and
Zoning Recommendation:

Approval with conditions.

Protests: 0

Waivers: 0

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____

DEFERRED: _____

**2. JAMAL SABBAGH AND LOUBNA SABBAGH (10-6-CZ11-2/09-172) 28-55-39
Area 11/District 09**

- (1) Applicants are requesting to permit a gazebo for a single-family residence setback 9'8" (20' required) from the interior (west side) property line.
- (2) Applicants are requesting to permit a decorative fountain setback 13' (75' required) from the front (south) property line to be located in front of the residence (not permitted).
- (3) Applicants are requesting to permit a shed setback 6' (20' required) from the interior (west side) property line, setback 68'6" (75' required) from the front (south) property line and spaced 1' (10' required) from the residence.

Plans are on file and may be examined in the Department of Planning and Zoning entitled "As-Built," as prepared by Jose Martinez, P. E., dated stamped received 3/4/10 and consisting of 1 sheet. Plans may be modified at public hearing.

LOCATION: 14801 S.W. 161 Street, Miami-Dade County, Florida.

SIZE OF PROPERTY: 15,115 sq. ft.

Department of Planning and
Zoning Recommendation:

Approval with conditions.

Protests: 0

Waivers: 0

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____

DEFERRED: _____

**3. ANTHONY'S COAL FIRED PIZZA (10-6-CZ11-3/10-003)
OF KENDALL LLC**

**01-55-39
Area 11/District 10**

- (1) MODIFICATION of Condition #2 of Resolution No. 4ZAB-377-76, passed and adopted by the Zoning Appeals Board, reading as follows:

FROM: "2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Lounge-Grandma's Receipts,' prepared by M.B. Waterman, and dated September 30, 1975."

TO: "2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Anthony's Coal Fired Pizza,' as prepared by RJS Architects, Inc. dated stamped received 1/20/10 and for a total of 2 sheets."

- (2) MODIFICATION of Paragraph 2 of an Agreement, recorded in Official Record Book 9555, Pages 1854 – 1868, reading as follows:

FROM: "2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Lounge-Grandma's Receipts,' prepared by M.B. Waterman, and dated September 30, 1975."

TO: "2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Anthony's Coal Fired Pizza,' as prepared by RJS Architects, Inc. dated stamped received 1/20/10 for a total of 2 sheets."

The purpose of Requests #1 and #2 is to permit the applicant to submit a new plan showing a reconfiguration of a previously approved bar in conjunction with a restaurant.

- (3) Applicant is requesting to permit a building setback varying from 11.9' to 12.16' (20' required) (12.28' to 13.8' previously approved) from the front (north) property line.

The aforementioned plans are on file and may be examined in the Department of Planning and Zoning. Plans may be modified at public hearing.

LOCATION: 12500 S.W. 88 Street, Miami-Dade County, Florida.

SIZE OF PROPERTY: 9.56 Acres

Department of Planning and
Zoning Recommendation:

Approval with conditions.

Protests: 0

Waivers: 0

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____

DEFERRED: _____

NOTICE

THE FOLLOWING SUMMARY INFORMATION IS PROVIDED AS A COURTESY; IT SHOULD NOT BE TREATED AS LEGAL ADVICE AND IT SHOULD NOT BE RELIED UPON. LEGAL CONSULTATION MAY BE WARRANTED IF AN APPEAL OR OTHER LEGAL CHALLENGE IS BEING CONTEMPLATED.

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

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

1. KENDALL LAND DEVELOPMENT, LLC.
(Applicant)

10-6-CZ11-1 (09-099)
Area 11/District 11
Hearing Date: 06/08/10

Property Owner (if different from applicant) **KENDALL LAND DEVELOPMENT, LLC & SCHOOL BOARD OF MIAMI-DADE COUNTY.**

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> |
|--------------------|-----------------------------|--|---------------------|--------------------------------------|
| 1999 | Cropseyville Corp., N.V. | <ul style="list-style-type: none">- Zone change from GU to TND.- Special Exception to permit a residential development, parking and double frontage lots.- Unusual Use of lake excavation, lift station and outdoor dining.- Use Variance to permit to permit certain uses.- Non-Use Variance of zoning regulations. | C11 | Denied with Prejudice |
| 1999 | Cropseyville Corp., N.V. | <ul style="list-style-type: none">- Zone change from GU to TND.- Special Exception to permit a residential development, parking and double frontage lots.- Unusual Use of lake excavation, lift station and outdoor dining.- Use Variance to permit to permit certain uses.- Non-Use Variance of zoning regulations. | BCC | Appeal Denied, Application Denied |
| 2001 | Cropseyville Corp., N.V. | <ul style="list-style-type: none">- Zone change from GU to TND.- Special Exception to permit residential development.- Unusual Use for lake excavation.- Non-Use Variance of zoning regulations. | C11 | Approved w/conds. |

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

**MIAMI-DADE DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO COMMUNITY COUNCIL No. 11**

APPLICANT: Kendall Land Development L.L.C

PH: Z09-099 (10-6-CZ11-1)

SECTION: 6-55-39

DATE: June 8, 2010

COMMISSION DISTRICT: 11

ITEM NO.: 1

=====

A. INTRODUCTION:

o REQUESTS:

(1) MODIFICATION of Paragraphs #2, #3, #9(a) and #9(b) of the Declaration of Restrictions recorded in Official Record Book 20349, Pages 1975 – 1988, reading as follows:

FROM: "2. Development Schedule. That the property shall be developed substantially in accordance with the Development Schedule indicating the approximate date(s) when construction of the TND and phases thereof, including the mix of residential and commercial uses, will be initiated and completed, attached hereto as Exhibit 'C'.

TO: "2. Development Schedule. That the property shall be developed substantially in accordance with the Development Schedule indicating the approximate date(s) when construction of the TND and phases thereof, including the mix of residential and commercial uses, will be initiated and completed, attached hereto as Revised Exhibit 'C'.

FROM: "3. Residential Units. The proposed development is limited to the number of residential units contained within the attached Exhibit 'C,' provided, however that the total number of rowhouse units shall be reduced by twenty-five (25)."

TO: "3. Residential Units. The proposed development is limited to the number of residential units contained within the attached Revised Exhibit 'C'".

FROM: '9. Expansion of Kendall Drive. The Owner hereby agrees that it shall construct, or cause to be constructed, improvements to expand that certain segment of S.W. 88th Street (North Kendall Drive) lying between actual S.W. 162nd and actual S.W. 167th Avenues from four (4) lanes to six (6) lanes (the 'Expansion'). Such expansion shall take place in accordance with the following:

a) No later than sixty (60) days following the completion of the widening to six (6) lanes of North Kendall Drive through actual S.W. 162nd Avenue, said widening already included in Miami-Dade County's Transportation Improvement Program, the Owner shall submit to the State, County or any other agency with permitting jurisdiction, a complete application(s) for such permit(s) or approval(s) (the 'Expansion Applications[s]') as may

be required to accomplish the Expansion. In the event that the right-of-way necessary to accomplish the Expansion has not yet been dedicated, the obligations of this paragraph shall be delayed until such time as the right-of-way has been dedicated or acquired. The Owner acknowledges that the acceptance of this Declaration by the County does not obligate the County to grant any of the Expansion Approvals and Expansion applications shall be reviewed in accordance with applicable law.

- b) Upon the approval of the Expansion Application(s), the Owner shall construct, or cause to be constructed the Expansion of North Kendall Drive. Said Expansion shall be completed and open to traffic not more than one (1) year following completion of the planned widening of North Kendall Drive through actual S.W. 162nd Avenue. However, the time period in this subparagraph may be extended by the Director of the County's Planning and Zoning Department (the 'Director') upon the written concurrence of the Director of the Public Works Department, upon good cause shown."

TO: '9. Expansion of Kendall Drive. The Owner hereby agrees that it shall construct, or cause to be constructed, improvements to expand that certain segment of S.W. 88th Street (North Kendall Drive) lying between actual S.W. 162nd and actual S.W. 167th Avenues from four (4) lanes to (6) lanes (the 'Expansion'). Such expansion shall take place in accordance with the following:

- a) Prior to the issuance of a building permit for the 314th dwelling unit, the owner shall submit to the state, county or any other agency with permitting jurisdiction, a complete application(s) for such permit(s) or approval(s) (the 'Expansion Applications[s]') as may be required to accomplish the expansion. In the event that the right-of-way necessary to accomplish the expansion has not yet been dedicated, the obligations of this paragraph shall be delayed until such time as the right-of-way has been dedicated or acquired.
- b) Upon the approval of the expansion application(s), the owner shall construct, or cause to be constructed the expansion of North Kendall Drive. Said expansion shall be completed and open to traffic not more than one (1) year following the approval of the expansion application(s). However, the time period in this subparagraph may be extended by the Director of the County's Planning and Zoning Department (the 'Director') upon written concurrence of the Director of the Public Works Department, upon good cause shown."

(2) DELETION of Paragraphs 9c and 9d of the Declaration of Restrictions recorded in Official Record Book 20349, Pages 1975-1988, reading as follows:

"c) Within ninety (90) days following the approval of the application by the Community Zoning Appeals Board No. 11 or the Board of County

Commissioners and prior to seeking any building permit or plat approval, the owner shall post a bond in such form as may be acceptable to the Director of the Public Works Department to provide financial assurances to secure its obligations to fully fund the expansion of North Kendall Drive, including the acquisition of any necessary right-of-way.

“d) In the event that the expansion application(s) for the expansion of North Kendall Drive is (are) denied, the owner agrees to timely file an application to rollback the zoning of the property from TND to GU (‘Rollback Application’). However, the owner shall not be obligated to file a Rollback Application if the expansion or other improvements are authorized in a manner consistent with the county’s authority to allow the approval of the application as an initial development order pursuant to §33G-5(6)(a)1 of the Miami-Dade County Code.”

The purpose of Requests #1 and #2 is to allow the applicant to extend the construction dates of the development schedule, extend the timing of the expansion of North Kendall Drive, to delete the condition requiring the posting of a bond to the Department of Public Works as this condition has been satisfied; and to delete the condition requiring the submittal of an application to rollback the zoning of the property from TND to GU if the expansion of Kendall Drive were to be denied inasmuch as the TND development has already commenced.

o **SUMMARY OF REQUESTS:**

The applicant seeks to modify and delete paragraphs of a Declaration of Restrictions which would extend the construction dates, extend the timing of the expansion of North Kendall Drive, delete the requirement of the posting of a bond to the Department of Public Works (satisfied) and delete the condition requiring the applicant to file an application to rollback the zoning from TND to GU if the expansion of Kendall Drive is denied.

o **LOCATION:** Lying between S.W. 88 Street & S.W. 96 Street and between S.W. 167 Avenue and S.W. 172 Avenue, Miami-Dade County, Florida.

o **SIZE:** 160± acres

B. ZONING HEARINGS HISTORY:

In June 1999, pursuant to Resolution # CZAB11-19-99 the subject property was denied with prejudice by Community Zoning Appeal Board 11 (CZAB) requests for a zone change and various unusual uses, special exceptions, non-use and use variances. In 1999 and 2000 pursuant to Resolutions #Z-34-99 and #Z-34-00 the Board of County Commissioners upheld CZAB 11’s decision. In 2001, pursuant to Resolution #CZAB11-28-01 the Community Zoning Appeals Board 11 granted a zone change from GU to TND, various unusual uses, special exceptions and non-use and use variances.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2015 and 2025 Land Use Plan designates the subject property as being **on the border of and 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 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 2, 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. Traditional Neighborhood Developments (TNDs). Traditional neighborhood developments which incorporate a broad mixture of uses under specific design standards may also be approved in Residential Communities in the manner specifically authorized in this subsection. The purpose of the traditional neighborhood development is to enable the creation of new communities that offer social and architectural quality, characteristic of early American town planning. Many of these early models, developed prior to 1940, offer insight into the design of coherently planned communities. The concept is patterned after those inherent in these earlier developments and provides design clarity through a hierarchy of streets, a focus towards pedestrian activity, low scale community support activities and the use of civic symbols of community buildings and open squares as the focal point of the neighborhood. The objectives of a traditional neighborhood development shall include the following:

- to provide a physical environment and to foster a social environment that allows inhabitants to satisfy such basic psychological needs as security, community identity and self-esteem;
- to provide significant employment within the neighborhood, allowing both small and large scale businesses. This mixing of jobs and housing reduces traffic impacts and adds to the liveliness and security of the neighborhood;
- to provide a full range of housing types, from detached single family houses to apartments above shops, fostering social and cultural integration;
- to provide neighborhood civic buildings, squares and parks to reinforce community identity;
- to reduce dependence on the automobile by encouraging foot and bicycle traffic, by providing consumer services, jobs, recreation, and cultural opportunities within walking and cycling distance, and by general compactness of community layout;
- to create streets that accommodate pedestrians as well as automobiles;
- to provide guidelines for building placement and street design that protect the neighborhood environment while allowing latitude for individual choices.

Within areas designated on the LUP map as Residential Communities, a mixed use Traditional Neighborhood Development permitting business, office, industrial, artisanal,

live-work, home occupations and other uses authorized by this subsection may be approved providing that the following criteria are met:

1. The minimum contiguous land area is 40 acres and is not located within the Estate Density category; and
2. The site is under single-ownership at the time the master development plan or equivalent is approved; and
3. Residential density does not exceed the density depicted on the Land Use Plan Map, except that a maximum density of ten dwelling units per acre may be approved in the Low Density category; and
4. Public open spaces such as squares or parks comprise a minimum of five acres or five percent of the developed area, whichever is greater; and
5. Civic uses, such as meeting halls, schools, day care centers and cultural facilities comprise a minimum of two percent of the developed area; and
6. Business, office, and industrial uses, that are separate from residential mixed uses do not exceed seven percent of the gross land area; and
7. Where the TND borders or is adjacent to land that is designated Estate, Low Density or Low-Medium Density Residential and the land so designated is used for residences or is vacant, the separate business, office and industrial uses identified in item No.6 above, and those business, office and industrial uses mixed with other uses shall not be permitted within 175 feet of the TND boundary and all non-residential components of such uses shall be acoustically and visually screened from said bordering or adjacent land; and when a TND borders land designated Agriculture or Open Land, said business, office or industrial uses shall not be permitted within 330 feet of said TND boundary; and
8. Residential area, and residential uses mixed with shop-front, artisanal home occupation uses comprise the remainder of the developed area; and
9. In calculating gross residential density, uses listed in item No. 6 shall be excluded, however, all other uses may be used to determine the maximum permitted density.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

TND; platted vacant lots

Low Density Residential, 2.5 to 6 du

Surrounding Properties:

NORTH: GU; vacant

Business and Office
Agriculture

| | |
|---|---|
| <u>SOUTH:</u> AU and GU; groves | Agriculture Low Density Residential, 2.5 to 6 du |
| <u>EAST:</u> RU-TH, RU-1, BU-1A residential development, shopping center | Low Density Residential, 2.5 to 6 du Business and Office |
| <u>WEST:</u> AU; groves | Business and Office Agriculture |

E. SITE AND BUILDINGS:

| | |
|------------------------------|----------------------------|
| Site Plan Review: | (No plan submitted) |
| Scale/Utilization of Site: | N/A |
| Location of Buildings: | N/A |
| Compatibility: | N/A |
| Landscape Treatment: | N/A |
| Open Space: | N/A |
| Buffering: | N/A |
| Access: | N/A |
| Parking Layout/Circulation: | N/A |
| Visibility/Visual Screening: | N/A |

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

G. NEIGHBORHOOD SERVICES:

| | |
|--------------|----------------------|
| DERM | No objection* |
| Public Works | No objection* |
| Parks | No comment |
| MDT | No comment |
| Fire Rescue | No objection |
| Police | No comment |
| Schools | No applicable |
| WASD | No comment |
| Aviation | No comment |

*Subject to conditions indicated in their memoranda.

H. ANALYSIS:

The applicant is seeking to extend the construction dates of the development schedule, extend the timing of the expansion of North Kendall Drive, delete a condition requiring the posting of a bond to the Department of Public Works (Request #1) and to delete a condition requiring the submittal of an application to rollback the zoning of the property from TND to GU if the expansion of Kendall Drive were to be denied (Request #2). A Declaration of Restrictions was proffered in connection with the adoption of Resolution #CZAB11-28-01, which rezoned the subject property to TND and approved the TND conceptual plan entitled "Kendall Commons." The Declaration of Restrictions, among other things, provided an approximate development schedule, requires certain improvements to North Kendall Drive and ties the development of the subject property to the approved conceptual plan.

The Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) designates the subject property 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 density of 10.0 dwelling units per gross acre. **Staff notes that this application does not involve a change to the approved plan or to the approved development density or intensity and is only seeking to extend construction dates, the timing of the expansion of North Kendall Drive and to delete conditions requiring the posting of a bond and the submittal of a Rollback Application.** Therefore, staff opines that the application is **consistent** with the LUP map of the CDMP.

The Department of Environmental Resources Management (**DERM**) has **no objections** to this application and has indicated that this application meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County. The **Public Works Department** has **no objections** to this application. The Miami-Dade Fire Rescue Department (**MDFR**) has **no objections** to this application. The MDFR memorandum indicates that the estimated average travel time is **6:32** minutes.

When requests #1 and #2 are analyzed under the General Modification Standards, Section 33-311(A)(7), in staff's opinion, the proposed modifications and deletions will not adversely impact the surrounding area and will be **compatible** with same. The applicant has indicated that the development commenced in accordance with the terms of the Declaration of Restrictions but due to market conditions beyond the applicant's control the development has been delayed. Hence, the requests being sought by the applicant are to refine the development schedule to more accurately reflect the timing for the construction of the units on the subject property. Additionally, the applicant contends that the delay in the construction of the units has also delayed the anticipated impact on the affected roadways including Kendall Drive. As such, the applicant is requesting to modify the timing for the improvements to Kendall Drive to more closely coincide with the timing of construction and occupancy of the units. Paragraph #3 requires that the applicant limit the number of units for the project as shown in Exhibit C and that the number of rowhouses be reduced by twenty-five (25) units. The applicant has also provided a revised Exhibit C which indicates a total number of 1257 units and indicates that the number of villas (rowhouses) has been reduced by 25 units. In addition, the applicant has provided documentation showing, that a bond has been posted for the construction of the Kendall Drive expansion as required by the Declaration of Restrictions (Paragraph 9(c)) and has indicated that the bond will remain in place. Furthermore, Paragraph 9(d) is moot because the County has made a determination

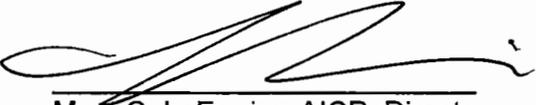
that the project would meet concurrency without the improvements to Kendall Drive and traffic concurrency has already been reserved for the project. Hence, a rollback of the zoning on the site would no longer be required pursuant to Paragraph 9(d). Staff notes that modifying Paragraphs #2, #3 and #9(a) and #9(b) and deleting Paragraphs #9(c) and #9(d) of the previously recorded Declaration of Restrictions does not increase the already approved entitlements and, as such, would have a minimal impact to the surrounding area, would not generate excessive traffic, nor tend to create or to provoke a nuisance, be incompatible with the area, nor be contrary to the public interest. When considering the necessity for and the reasonableness of the proposal in relation to the surrounding area and the compatibility of said use with the area and its development, staff is of the opinion that the requested modifications and deletions will not have an unfavorable effect on same and will not be contrary to the public interest. The subject property abuts vacant land to the north, groves to the south and west, and residential and commercial development to the east. Staff notes that there have been no significant changes in the area and that the anticipated impacts have not changed. The proposed modifications and deletions will not, in staff's opinion, unduly burden or affect transportation facilities as evidenced by the memoranda from and Public Works. Therefore, staff is recommending approval with conditions of requests #1 and #2 under Section 33-311(A)(7) (Generalized Modification Standards).

I. **RECOMMENDATION:** Approval with conditions.

J. **CONDITIONS:**

1. That the applicant comply with all of the applicable conditions, requirements, recommendations, requests and other provisions of the various Departments as contained in the Departmental memoranda which are part of the record of this application and incorporated herein by reference.
2. That a revised Declaration of Restrictions be submitted to the Department within 30 days after final public hearing approval of this application, unless a time extension is granted by the Director of the Department of Planning and Zoning, for good cause shown.

DATE TYPED: 4/2/10
DATE REVISED: 4/7/10, 4/12/10, 4/23/10, 4/28/10
DATE FINALIZED: 5/22/10
MCL:GR:NN:JV:NC:CI


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

NDN
GR

Memorandum



Date: August 4, 2009
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-11 #Z2009000099
Kendall Land Development, LLC
Between S.W. 88th Street and S.W. 96th and Between S.W. 167th Avenue
and S.W. 172nd Avenue
Modification of a Previous Declaration of Restriction to Extend the Start
and Completion Development Date of Construction and to Extend the
Expansion Date of Kendall Drive
(TND) (151 Acres)
06-55-39

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

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

Enforcement History

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

Concurrency Review Summary

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

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

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

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

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: KENDALL LAND DEVELOPMENT, LLC

This Department has no objections to this application.

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



Raul A Pino, P.L.S.

02-MAR-10

Memorandum



Date: 27-JUL-09
To: Marc LaFerrier, Director
Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department
Subject: Z2009000099

Fire Prevention Unit:

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

Service Impact/Demand

Development for the above Z2009000099 located at LYING BETWEEN S.W. 88 STREET & SW 96 STREET & BETWEEN SW 167 AVE & S.W. 172 AVE, MIAMI-DADE COUNTY, FLORIDA. in Police Grid 1815 is proposed as the following:

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

Based on this development information, estimated service impact is: N/A alarms-annually. The estimated average travel time is: 6:32 minutes

Existing services

The Fire station responding to an alarm in the proposed development will be:
Station 56 - West Sunset - 16250 SW 72 Street
Rescue, ALS Engine Haz Mat Support

Planned Service Expansions:

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

Fire Planning Additional Comments

Not applicable to service impact analysis.

For information regarding the aforementioned comments, please contact the Miami-Dade Fire Rescue Department Planning Section at 786-331-4540.

DATE: 23-MAR-10
REVISION 1

**BUILDING AND NEIGHBORHOOD
COMPLIANCE DEPARTMENT**

**ENFORCEMENT HISTORY OF VIOLATIONS OF CHAPTER 19 AND
CHAPTER 33 OF THE MIAMI-DADE COUNTY CODE**

KENDALL LAND DEVELOPMENT,
LLC..ET AL

LYING BETWEEN S.W. 88 STREET
& SW 96 STREET & BETWEEN SW
167 AVE & S.W. 172 AVE, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2009000099

HEARING NUMBER

HISTORY:

BUILDING & NEIGHBORHOOD COMPLIANCE DEPARTMENT
NEIGHBORHOOD COMPLIANCE
DIVISION

ENFORCEMENT HISTORY

NAME: ADDRESS:

KENDALL LAND DEVELOPMENT, LLC..ET AL LYING BETWEEN S.W. 88 STREET & SW 96
STREET & BETWEEN SW 167 AVE & S.W. 172 AVE, MIAMI-DADE COUNTY, FLORIDA

DATE:
3/22/2010

CURRENT ENFORCEMENT HISTORY:

Folio 30-5906-001-9390

Open Cases:

No open cases.

Closed Cases:

No previous cases.

Sam Walthour, MSM, Assistant

**OUTSTANDING FINES, PENALTIES, COST OR LIENS
INCURRED PURSUANT TO CHAPTER 8CC:**

REPORTER NAME:

DISCLOSURE OF INTEREST*

(UPDATED)

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

CORPORATION NAME: KENDALL LAND DEVELOPMENT, LLC

NAME AND ADDRESS Percentage of Stock

SEE EXHIBIT "A" ATTACHED

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

TRUST/ESTATE NAME: _____

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

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

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

| <u>NAME AND ADDRESS</u> | <u>Percentage of Ownership</u> |
|-------------------------|--------------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

209-009
JUL 7 2009
XIA

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

NAME OF PURCHASER: n/a

| NAME AND ADDRESS (if applicable) | Percentage of Interest |
|----------------------------------|------------------------|
| | |
| | |
| | |
| | |

Date of contract: _____

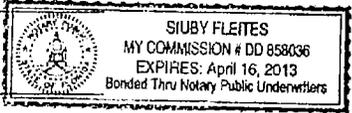
If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership or trust:

NOTICE: For changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required. The above is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Signature: [Handwritten Signature] (Applicant)

Sworn to and subscribed before me this 17th day of July, 2009. Affiant is personally known to me or has produced _____ as identification.

[Handwritten Signature]
(Notary Public)



My commission expires _____

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

RECEIVED
209-099
JUL 21 2009
ADMINISTRATIVE SERVICES DIVISION
[Handwritten Initials]

EXHIBIT "A"

DISCLOSURE OF ALL PARTIES IN INTEREST

KENDALL LAND DEVELOPMENT, LLC

1200 Ponce De Leon Boulevard
Coral Gables, FL 33134
100%

↓

50%

Boschetti Capital Partners, LLC
1200 Ponce De Leon Boulevard
Coral Gables, FL 33134

↓

Jose R. Boschetti 60%
Luis R. Boschetti 40%

50%

Prestige Builders Capital Investments, LLC
14160 Palmetto Frontage Road, #21
Miami Lakes, FL 33016

↓

Martin Caparros, Jr. 70%
Alexander Vega 10%
Otto Rodriguez 10%
Julio Robaina 10%

8712095 v1

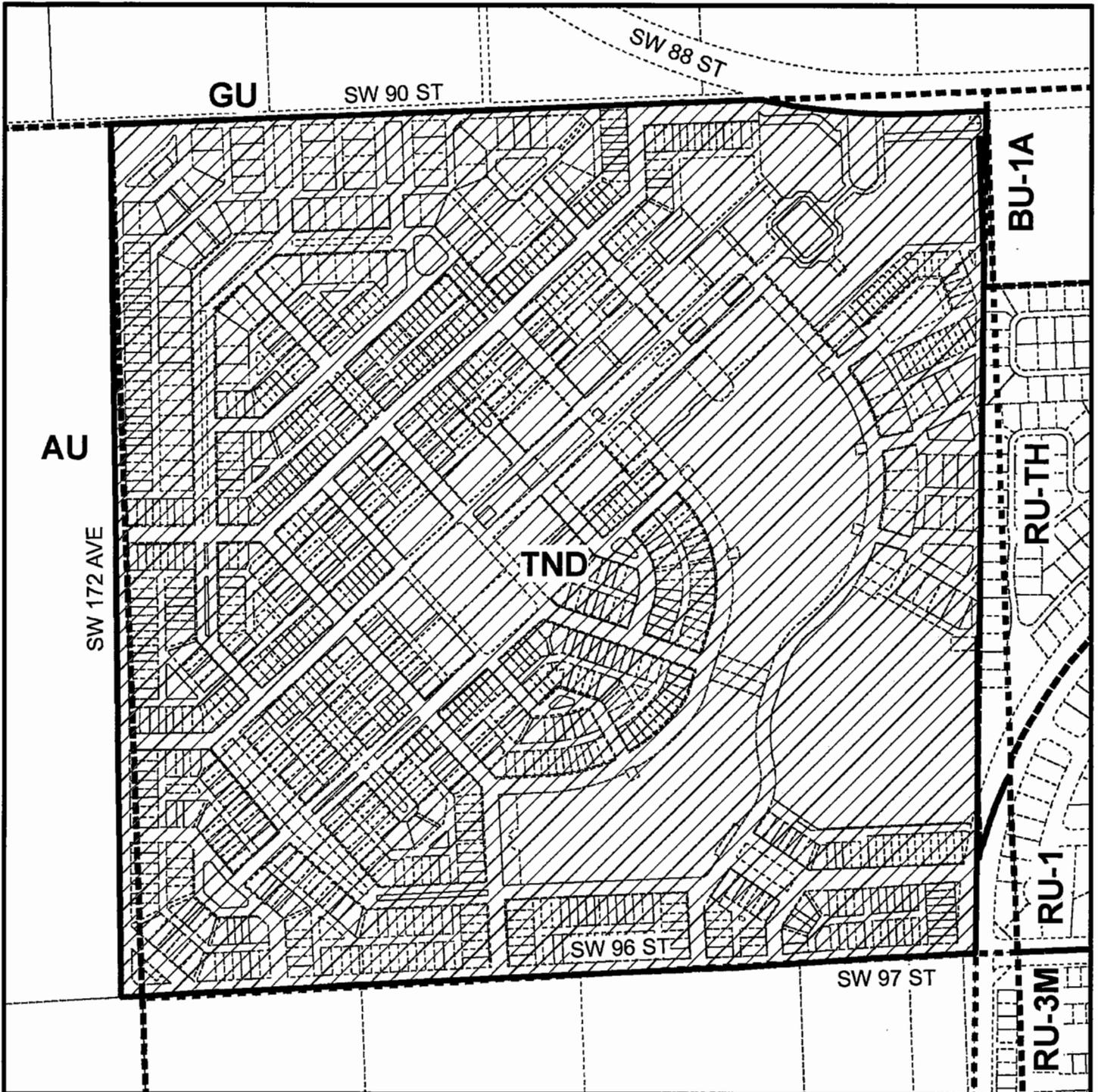
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RX

EXHIBIT "A"

**SUBJECT PROPERTY LEGAL DESCRIPTION
KENDALL LAND DEVELOPMENT, LLC**

"Kendall Commons" as recorded in Plat Book 166, Page 73, of the Public Records of Miami-Dade County, Florida,

8687925 v1



MIAMI-DADE COUNTY
HEARING MAP

Process Number
Z2009000099

Legend

-  Subject Property Case
-  Zoning

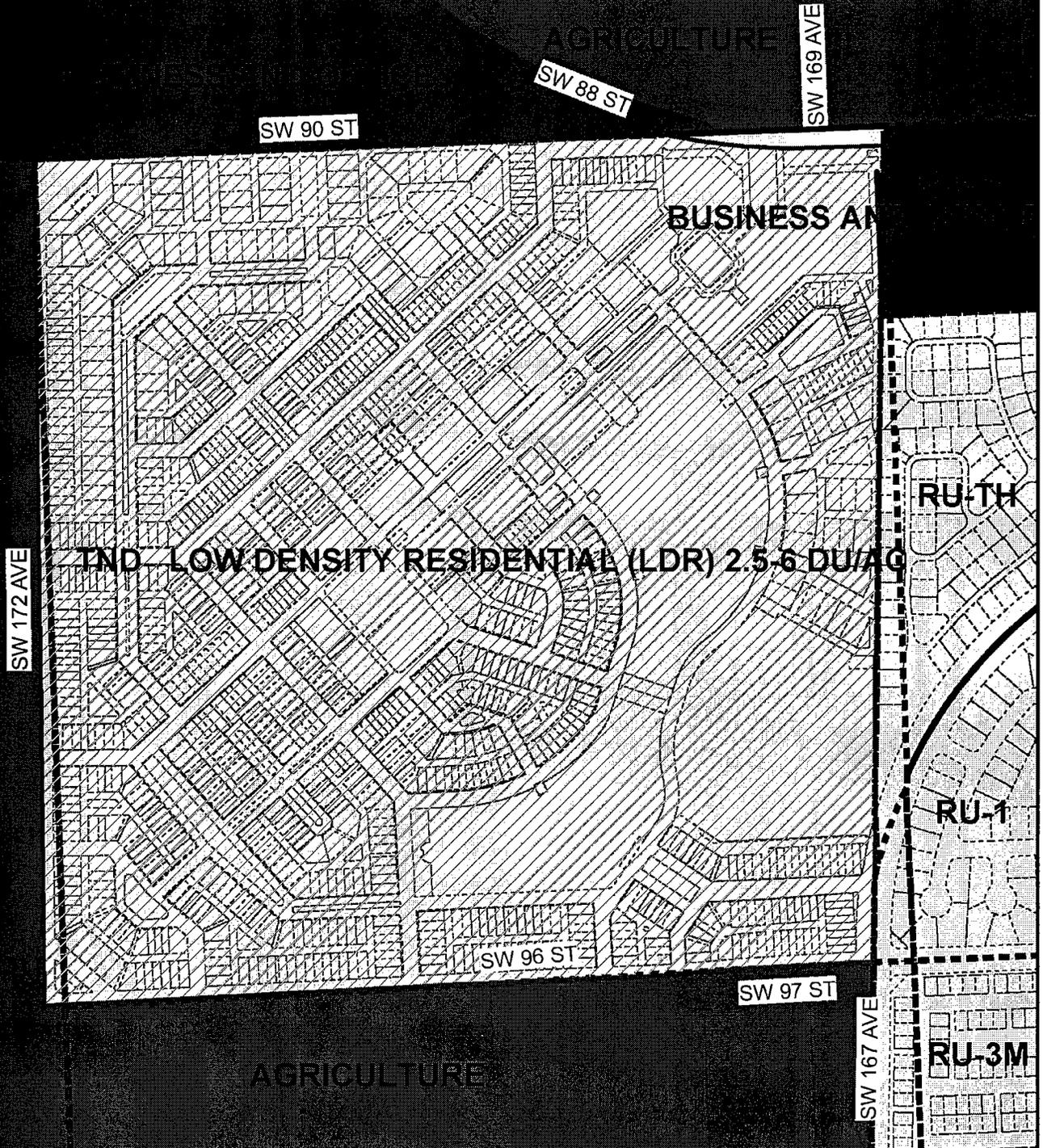


Section: 06 Township: 55 Range: 39
 Applicant: KENDALL LAND DEVELOPMENT, LLC.
 Zoning Board: C11
 Commission District: 11
 Drafter ID: ALFREDO FERNANDEZ-CUETO
 Scale: NTS



SKETCH CREATED ON: Wednesday, March 24, 2010

| REVISION | DATE | BY |
|---------------------------|----------|-----------|
| Applicant's name Revision | 04/23/10 | AFT 19 |



MIAMI-DADE COUNTY
CDMP MAP

Process Number
Z2009000099

Legend

-  Subject Property Case
-  Zoning

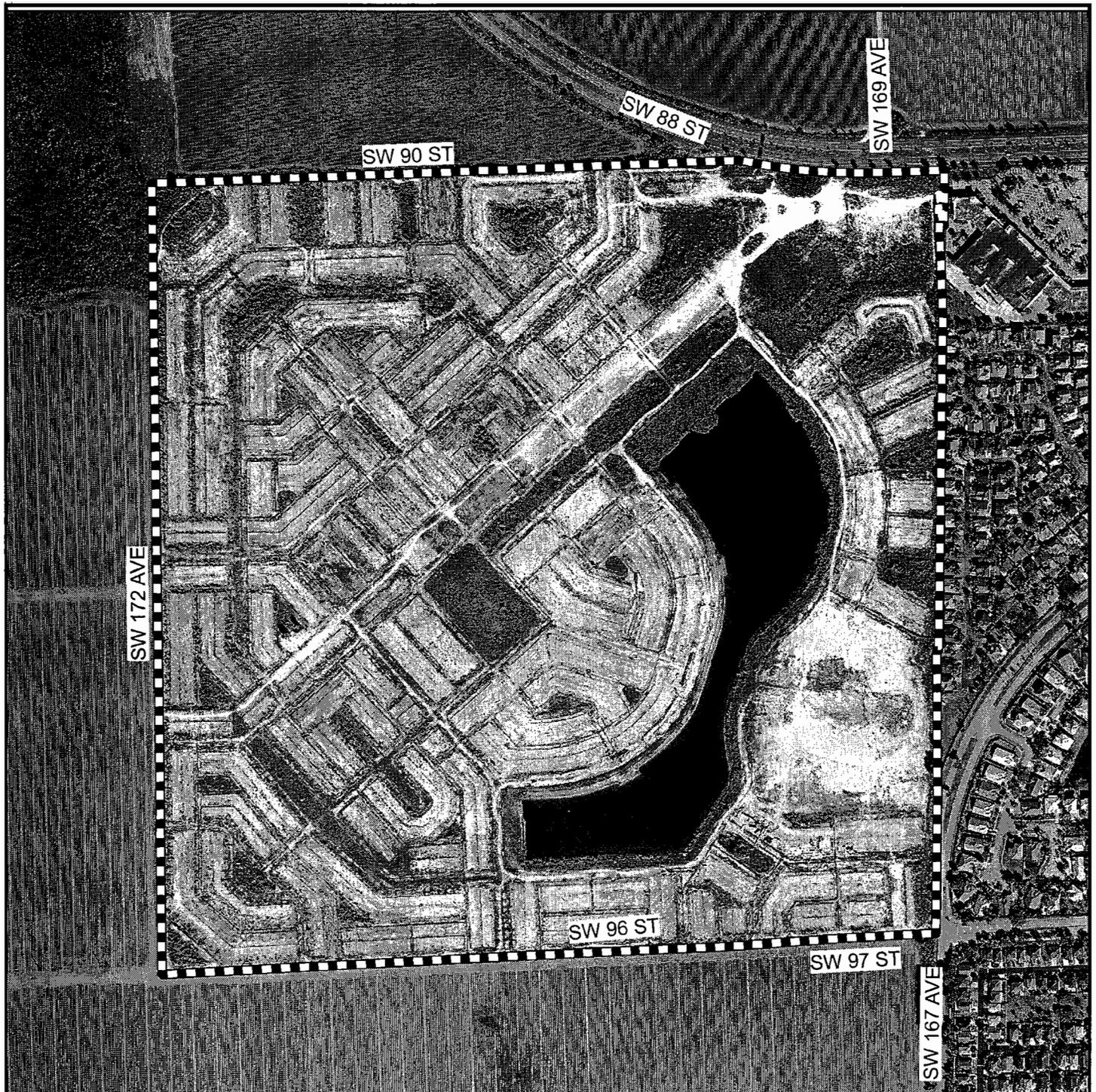


Section: 06 Township: 55 Range: 39
 Applicant: KENDALL LAND DEVELOPMENT, LLC.
 Zoning Board: C11
 Commission District: 11
 Drafter ID: ALFREDO FERNANDEZ-CUETO
 Scale: NTS



SKETCH CREATED ON: Wednesday, March 24, 2010

| REVISION | DATE | BY |
|-------------------------|----------|-----|
| Applicant's name change | 04/23/10 | AFT |



MIAMI-DADE COUNTY
AERIAL YEAR 2009

Process Number
Z2009000099

Legend



Subject Property



Section: 06 Township: 55 Range: 39
 Applicant: KENDALL LAND DEVELOPMENT, LLC.
 Zoning Board: C11
 Commission District: 11
 Drafter ID: ALFREDO FERNANDEZ-CUETO
 Scale: NTS



SKETCH CREATED ON: Wednesday, March 24, 2010

| REVISION | DATE | BY |
|-------------------------|----------|-----|
| Applicant's name change | 04/23/10 | AFT |

2. JAMAL SABBAGH AND LOUBNA SABBAGH
(Applicant)

10-6-CZ11-2 (09-172)
Area 11/District 09
Hearing Date: 06/08/10

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> |
|--------------------|------------------------------------|--|---------------------|------------------------|
| 1960 | Albert W. Reeves | - Zone change from GU to RU-1 and EU-1. | BCC | Approved |
| 1991 | Alalberto Bello and Mariano Alonso | - Zone change from EU-1 to EU-M. - Various frontage and area. | BCC | Approved |
| 1992 | Adalberto Bello and Mariano Alonso | - Zone change from EU-1 to EU-M. - Lot frontage and area. | 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. 11**

APPLICANTS: Jamal and Loubna Sabbagh

PH: Z09-172 (10-6-CZ11-2)

SECTION: 28-55-39

DATE: June 8, 2010

COMMISSION DISTRICT: 9

ITEM NO.: 2

A. INTRODUCTION:

o **REQUESTS:**

- (1) Applicants are requesting to permit a gazebo for a single-family residence setback 9'8" (20' required) from the interior (west side) property line.
- (2) Applicants are requesting to permit a decorative fountain setback 13' (75' required) from the front (south) property line to be located in front of the residence (not permitted).
- (3) Applicants are requesting to permit a shed setback 6' (20' required) from the interior (west side) property line, setback 68'6" (75' required) from the front (south) property line and spaced 1' (10' required) from the residence.

Plans are on file and may be examined in the Department of Planning and Zoning entitled "As-Built," as prepared by Jose Martinez, P. E., dated stamped received 3/4/10 and consisting of 1 sheet. Plans may be modified at public hearing.

- o **SUMMARY OF REQUESTS:** Approval of this application would allow the applicants the maintenance and continued use of the existing gazebo and fountain with encroachments into the front and interior side setback areas. Additionally, approval would also allow the applicants to permit a proposed shed encroaching into the interior side and front setbacks as well as being spaced less than allowed by the zoning regulations to the principal residence.

- o **LOCATION:** 14801 S.W. 161 Street, Miami-Dade County, Florida.

- o **SIZE:** 15,115 sq. ft.

B. ZONING HEARINGS HISTORY:

The subject property is a part of a tract of land that was rezoned from EU-1, Single-Family One Acre District, to EU-M, Single Family Modified Estate District, in December 1992, pursuant to Resolution #Z-155-92. Said resolution also permitted six (6) parcels of the proposed tract, of which the subject property was one, with reduced frontage as well as permitting eight (8) other parcels in the tract with reduced lot area.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

The Adopted 2015 and 2025 Land Use Plan designates the subject property being 0.87 miles east of and within the Urban Development Boundary for **Estate Density Residential** use. This density range is typically characterized by detached estates

which utilize only a small portion of the total parcel. Clustering, and a variety of housing types may, however, be authorized. The residential densities allowed in this category shall range from a minimum of 1.0 to a maximum of 2.5 dwelling units per gross acre.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

EU-M; single-family residence

Estate Density Residential, 1 to 2.5 dua

Surrounding Properties:

NORTH: EU-M; single-family residence

Estate Density Residential, 1 to 2.5 dua

SOUTH: GU; vacant land

Estate Density Residential, 1 to 2.5 dua

EAST: EU-1; single-family residence

Estate Density Residential, 1 to 2.5 dua

WEST: EU-M; single-family residence

Estate Density Residential, 1 to 2.5 dua

E. SITE AND BUILDINGS:

Site Plan Review:

(Site plan submitted.)

Scale/Utilization of Site:

Acceptable*

Location of Buildings:

Acceptable*

Compatibility:

Acceptable*

Landscape Treatment:

N/A

Open Space:

Acceptable

Buffering:

Acceptable

Access:

Acceptable

Parking Layout/Circulation:

N/A

*Subject to conditions.

F. PERTINENT REQUIREMENTS/STANDARDS:

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.

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:

Approval of the application would allow the applicants the maintenance and continued use of the existing gazebo and fountain with encroachments into the front and interior side setback areas. Additionally, approval would also allow the applicants to permit a proposed shed encroaching into the interior side and front setbacks as well as being spaced less than allowed by the zoning regulations to the principal residence. The subject property is designated for **Estate Density Residential** use on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). Because the proposal will not add additional dwelling units to the property, the EU-M, Single-Family Modified Estate District zoned subject property is **consistent** with the LUP Map designation 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** and the **Miami-Dade Fire Rescue Department (MDFRD)** also have **no objections** to this application and MDFRD indicates in their memorandum that the estimated average response travel time is **8:06** minutes.

When analyzed under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standard, staff is of the opinion that the approval of requests #1 through #3 would be **compatible** with the surrounding area, would not affect the stability and appearance of the community, and would not be detrimental to the neighborhood. The submitted plans indicate the subject property with a pool centrally located in the rear yard area surrounded by three (3) gazebo umbrellas to the east and north of the pool. Additionally, said plans indicate a 12' x 22' gazebo, the subject of request #1, located in the northwest corner of the rear yard that encroaches 10' 4" into the interior side (west) setback area. The aforementioned plans also indicate the location of a proposed shed structure, the subject of request #3, to be located to the west of the principal residence which will encroach 14' into the interior side (west) setback area and 6' 6" into the front (south) setback and will be spaced 1' (10' required) from the principal residence. The plans also indicate a 6' tall wood fence that surrounds the entire interior side and rear yard areas, inclusive of the aforementioned accessory structures. As such, staff opines that approval of requests #1 and #3, which will allow the applicants to permit the existing gazebo and the proposed shed respectively, will not have a negative visual impact on the abutting property to the west, as they will be mitigated by the aforementioned 6' high wood fence, nor will it be detrimental to the neighborhood. Further, staff's research of previous zoning approvals in the surrounding area identified a property located two (2) blocks northwest of the subject property on SW 159 Street that was approved to permit

an existing accessory structure (a shed) setback 2' (7.5' required) from the rear (south) property line and setback 1' 11" (20' required) from the interior side (west) property line in October 1991, pursuant to Resolution #4-ZAB-301-91. As such, staff opines that approval of the aforementioned requests will not set a precedent for approvals of intensive setback requests in this area.

Staff notes that the decorative fountain referred to in request #2, as indicated in the plans and illustrated in the photographs submitted with the application, is located in the front yard and is a part of a well landscaped area that enhances the curb appeal of the residence. Staff opines that the approximately 6' high decorative structure located between both entrance gates and in the arch of the curved driveway, will not have a negative visual impact on the surrounding properties, or provide a visual distraction to traffic or pedestrians travelling along SW 161 Street or SW 148 Avenue. Staff's research of the surrounding area did not identify properties with similar approvals for front setback encroachments or for structures in front of the residence as indicated in request #2. However, staff opines the aforementioned fountain that is the subject of this request, will, as previously mentioned, enhance the curb appeal of the residence, will not have a negative visual impact on the surrounding residences and should be approved. Staff, therefore, recommends approval with conditions of requests #1 through #3 under Section 33-311(A)(4)(b) (NUV).

Based on the aforementioned, staff opines that approval of the existing single-family residence with the existing and proposed accessory structures with setback encroachments and spaced less than required from the principal residence, is **consistent** with the Estate Density designation of the LUP map of the CDMP and will be **compatible** with the surrounding predominant residential developments. Staff, therefore, recommends approval with conditions of request #1 through #3.

I. RECOMMENDATION:

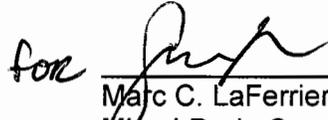
Approval with conditions.

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 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 "As-Built," as prepared by Jose Martinez, P. E., dated stamped received 3/4/10 and consisting of 1 sheet. 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 a building permit for the residence from the Building Department within 90 days after final public hearing approval of this application.

DATE TYPED: 03/31/10
DATE REVISED: 03/31/10, 04/21/10
DATE FINALIZED: 05/09/10
MCL:GR:NN:CI:CH

for 

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

Memorandum

Date: December 29, 2009
To: Marc C. LaFerrier, AICP, Director
Department of Planning and Zoning

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



Subject: C-11 #Z2009000172
Jammal Sabbagh and Loubna Sabbagh
14801 S.W. 161st Street
Request to Permit a Gazebo and Shed Setback Less than Required from
Property Lines
(EU-M) (.34 Acres)
28-55-39

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

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 the Code requirements.

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

Wastewater Disposal

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

Tree Preservation

According to the site plan submitted with this zoning application, the proposal to permit an existing gazebo and shed 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.

Enforcement History

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

Concurrency Review Summary

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

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

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

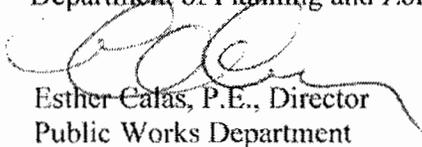
If you have any questions concerning the comments, or wish to discuss this matter further, please contact Christine Velazquez, Interim Manager at (305) 372-6764.

Memorandum



Date: November 26, 2008

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

From:  Esther Calas, P.E., Director
Public Works Department

Subject: Zoning Hearing Improvements

In order to enhance the efficiency of the zoning review process for public hearings, your Department requested that Public Works Department (PWD) provide standard "bypass" comments for some residential applications. These applications will be limited to single family residences, townhouses and duplexes, where the applicant seeks zoning hearing relief for a customary residential use, on previously platted lots. The following applications for public hearings could "bypass" the PWD review:

- Applications requesting setback variances
- Applications requesting variance on lot frontage
- Applications requesting variance on lot area
- Applications requesting greater lot coverage than permitted by Code
- Applications requesting additions to an existing structure

Pursuant to Sec. 33-24 of the Miami-Dade County Code, for those applications where a structure encroaches onto an easement, the applicant must secure from the easement owner a written statement that the proposed use will not interfere with owner's reasonable use of the easement.

Please contact Mr. Raul Pino, P.L.S., Chief, Land Development Division, at (305) 375-2112, if you have any questions.

cc: Antonio Cotarelo, P.E., Assistant Director
Public Works Department

Raul Pino, P.L.S., Chief
Land Development Division

Leandro Rodriguez

Memorandum



Date: 14-JAN-10
To: Marc LaFerrier, Director
 Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
 Miami-Dade Fire Rescue Department
Subject: Z2009000172

Fire Prevention Unit:

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

Service Impact/Demand

Development for the above Z2009000172
 located at 14801 S.W. 161 STREET, MIAMI-DADE COUNTY, FLORIDA.
 in Police Grid 2111 is proposed as the following:

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

Based on this development information, estimated service impact is: N/A alarms-annually.
 The estimated average travel time is: 8:06 minutes

Existing services

The Fire station responding to an alarm in the proposed development will be:
 Station 43 - Richmond - 13390 SW 152 Street
 Rescue, ALS 50' Sqr (TRT)

Planned Service Expansions:

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

Fire Planning Additional Comments

Not applicable to service impact analysis.

For information regarding the aforementioned comments, please contact the Miami-Dade Fire Rescue
 Department Planning Section at 786-331-4540.

BUILDING AND NEIGHBORHOOD
COMPLIANCE DEPARTMENT

ENFORCEMENT HISTORY OF VIOLATIONS OF CHAPTER 19 AND
CHAPTER 33 OF THE MIAMI-DADE COUNTY CODE

JAMAL SABBAGH AND LOUBNA
SABBAGH

14801 S.W. 161 STREET, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2009000172

HEARING NUMBER

HISTORY:

Current case history;
Case 200902015019 was opened based on enforcement history request and inspected on 12-28-09. No violations were observed and case was closed.

Previous case history;
Case 200902003178 was opened for a complaint of illegal objects in the right of way & rocks, and inspected on 3-18-09. A warning notice was issued for a violation of Ch 2-103.16. A re-inspection was conducted on 3-27-09 where the property was found to be in compliance and the case was closed.

Case 200902003172 was opened for a complaint of a shed/gazebo in the required setbacks and was inspected on 3-18-09. A warning notice was issued for a violation of Ch 33-50. The re-inspection is pending the outcome of this hearing.

Case 200802011462 was opened based on a complaint of Chickee Huts/gazebos without a permit. A warning notice was issued but after further research it was established that the gazebos required a building permit. The case was referred to the Building Department for enforcement.

**OUTSTANDING FINES, PENALTIES, COST OR LIENS
INCURRED PURSUANT TO CHAPTER 8CC:**

MAR 04 2010
209172

RECEIVED

ENLARGE SITE PLAN

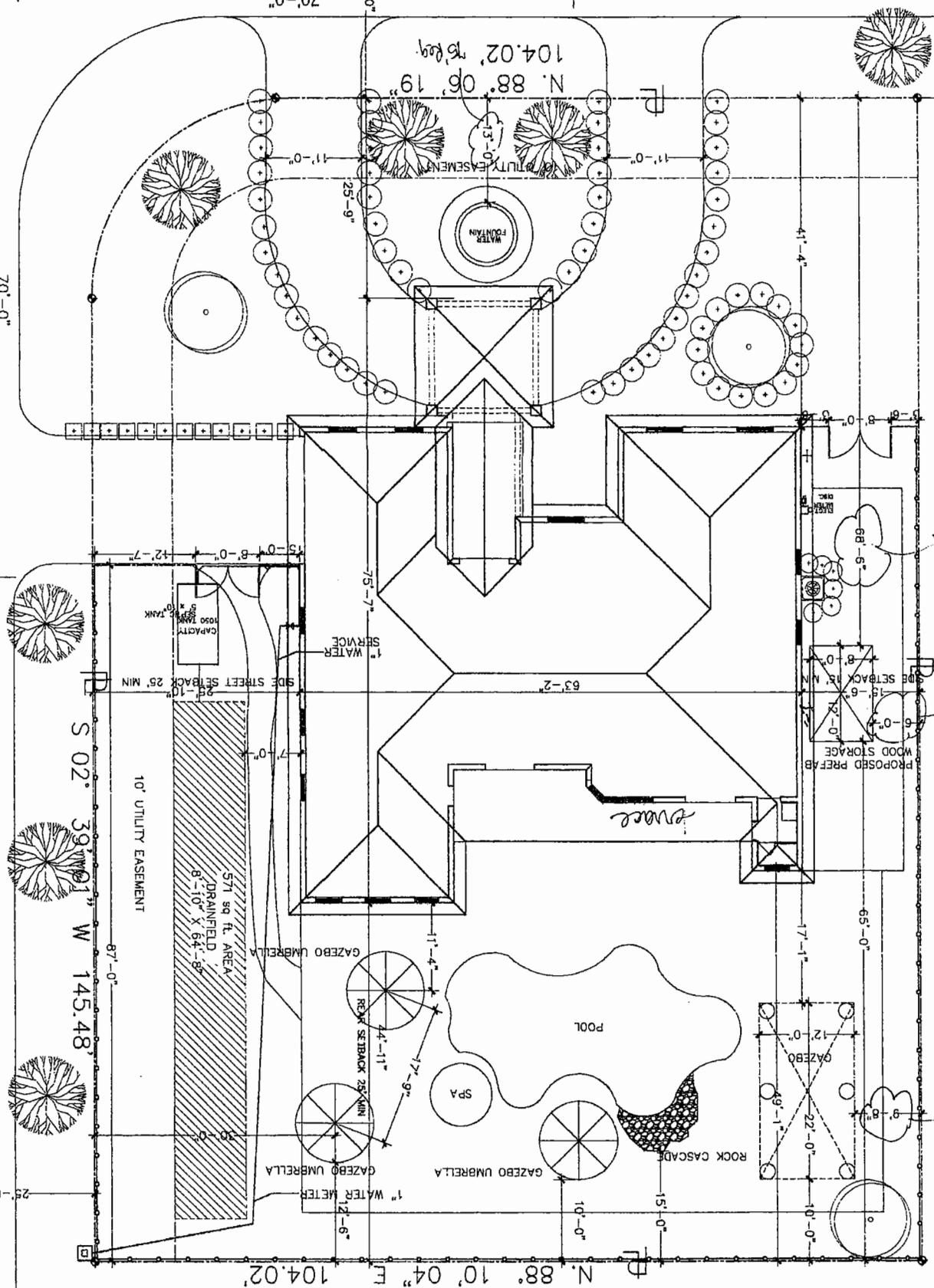


S.W. 161th STREET

70'-0" CLEARANCE SIGHT SAFETY AT INTERSECTION

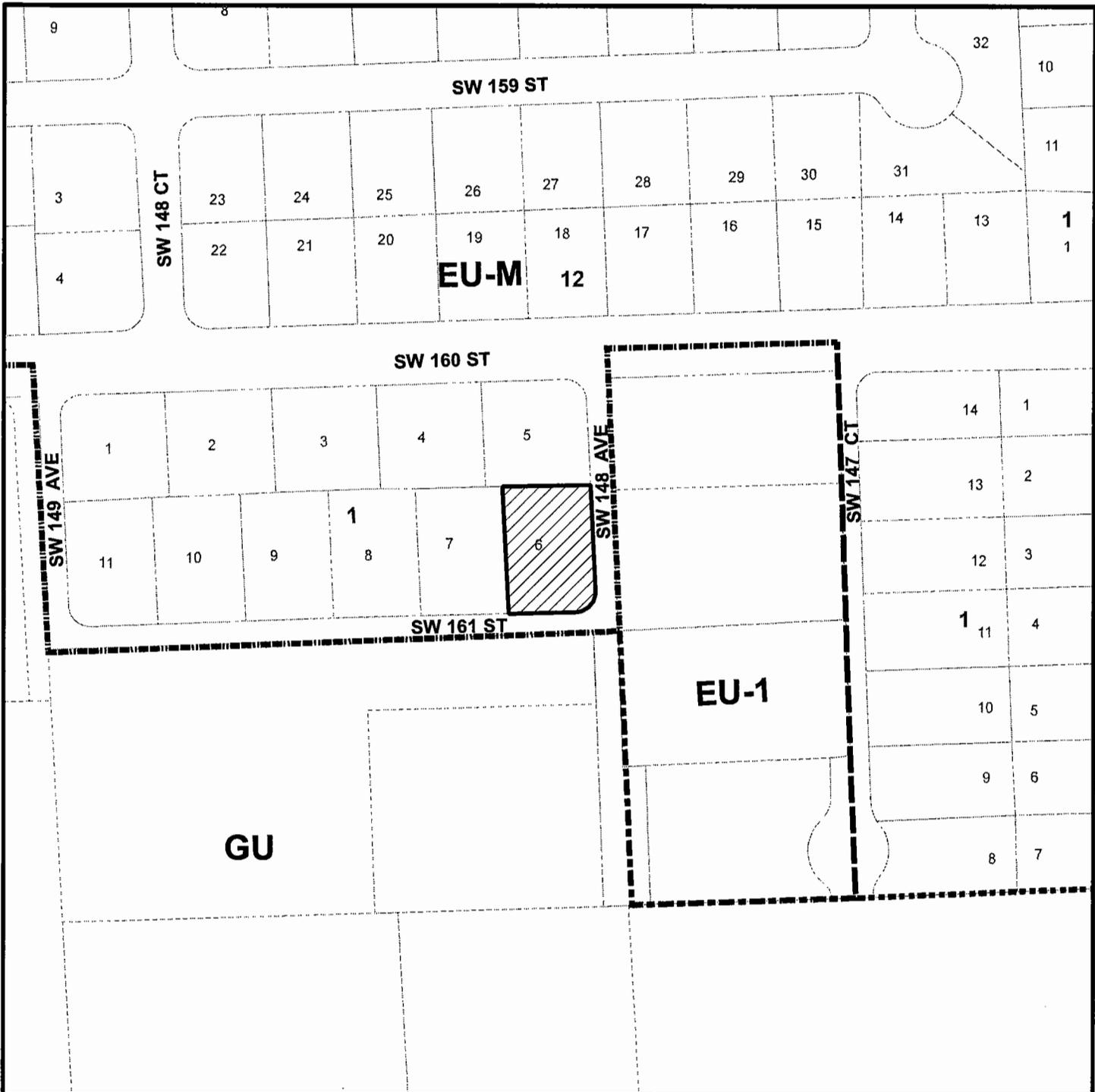
70'-0" CLEARANCE SIGHT SAFETY AT INTERSECTION

S.W. 148th AVENUE



S 02° 39' 01" W 145.48'

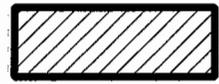
N 02° 39' 01" W 145.60'



**MIAMI-DADE COUNTY
HEARING MAP**

Process Number
09-172

Section: 28 Township: 55 Range: 39
 Applicant: JAMAL SABBAGH AND LOUBNA SABBAGH
 Zoning Board: C11
 Commission District: 09
 Drafter ID: KEELING
 Scale: NTS
 ----- Zoning



SUBJECT PROPERTY



SKETCH CREATED ON: 12/24/09

| REVISION | DATE | BY |
|----------|------|----|
| | | 14 |



MIAMI-DADE COUNTY

AERIAL YEAR 2009

Section: 28 Township: 55 Range: 39

Applicant: JAMAL SABBAGH AND LOUBNA SABBAGH

Zoning Board: C11

Commission District: 09

Drafter ID: KEELING

Scale: NTS

----- Zoning

Process Number

09-172



SUBJECT PROPERTY



SKETCH CREATED ON: 12/24/09

| REVISION | DATE | BY |
|----------|------|----|
| | | |

3. ANTHONY'S COAL FIRED PIZZA OF KENDALL LLC 10-6-CZ11-3 (10-003)
 (Applicant) Area 11/District 10

Hearing Date: 06/08/10

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> |
|-------------|--|---|--------------|-------------------------------------|
| 1966 | Clifford L. Suchman, Trustee | - Multiple zones change to RU-1, RU-3, RU-4L, RU-5A and BU-1A. | BCC | Approved in part. |
| 1966 | Clifford L. Suchman, Trustee | - Multiple zones change to RU-1, RU-3, RU-4L, RU-5A and BU-1A. - Unusual Use to permit theatre. - Use Variance to permit a Class C sign. | ZAB | Denied |
| 1966 | Clifford L. Suchman, Trustee | - Unusual Use to permit theatre. - Use Variance to permit a Class C sign. | BCC | Appeal Denied Application Denied |
| 1973 | Directors, Dade-County Building & Zoning & Planning Depts. | - Changes of multiple-zones to RU-1, RU-3M, RU-4L & BU-1. | BCC | Approved on a modified basis |
| 1974 | Elliot Ruben | - Unusual Use amusement center. | BCC | Approved w/conds. |
| 1975 | Brown Land Corporation | - Zone change from BU-1 to BU-1A. - Use Variance to permit BU-1A uses. | BCC | Approved w/conds. |
| 1976 | Grandmas's Receipts | - Modification of condition #2 of resolution - Non-Use Variance of set back. - Non-Use Variance of zoning regulations. - Special Exception to permit a lounge. | ZAB | Approved w/conds. |
| 1977 | Kendall Plaza | - Unusual Use permit promotional shows P.U.P. | ZAB | Approved w/conds. |
| 1977 | Kendall Plaza | - Use Variance package store. - Variance space requirement less than 1,500' from same use. | ZAB | Approved |

| | | | | |
|------|----------------------------|--|-----|--|
| 1979 | Kendall West Hardware Inc. | - Unusual Use outdoor display. - Special Exception 2 storage sheds. | BCC | Appeal Approved, Application Approved |
| 1979 | Kendall West Hardware Inc. | - Unusual Use outdoor display. - Special Exception 2 storage sheds. | ZAB | Denied Without Prejudice |
| 1986 | Family Steak Houses | - Non-Use Variance of sign regulations. | ZAB | Approved w/conds. |
| 1988 | A. David Kosoy | - Non-Use Variance of sign regulations. | ZAB | Approved |
| 1992 | Ferro 7 Associates | - Special Exception to permit automobile & light truck. - Non-Use Variance of sign regulations. | ZAB | Approved |
| 1993 | A. David Kosoy | - Non-Use Variance of sign regulations. | ZAB | Approved |
| 1996 | A. David Kosoy, TR | - Modification of resolution. - Non-Use Variance of sign regulations. | ZAB | 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. 11**

APPLICANT: Anthony's Coal Fired Pizza of Kendall L.L.C. **PH:** Z10-003 (10-6-CZ11-3)

SECTION: 1-55-39 **DATE:** June 8, 2010

COMMISSION DISTRICT: 10 **ITEM NO.:** 3

=====

A. INTRODUCTION

o **REQUESTS:**

- (1) **MODIFICATION** of Condition #2 Resolution 4ZAB-377-76, passed and adopted by the Zoning Appeals Board, only as it applies to the subject property, reading as follows:

FROM: "2 That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Lounge – Grandma's Receipts,' prepared by M.B. Waterman, and dated September 30, 1975."

TO: "2 That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Anthony's Coal Fried Pizza,' as prepared by RJS Architects, Inc. dated stamped received 1/20/10, for a total of 2 sheets."

- (2) **MODIFICATION** Paragraph 2 of an Agreement, recorded in Official Record Book 9555, Pages 1854 – 1868, reading as follows:

FROM: "2 That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Lounge – Grandma's Receipts,' prepared by M.B. Waterman, and dated September 30, 1975."

TO: "2 That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'Anthony's Coal Fried Pizza,' as prepared by RJS Architects, Inc. dated stamped received 1/20/10, for a total of 2 sheets."

The purpose of Requests #1 and #2 is to permit the applicant to submit a new plan showing a reconfiguration of a previously approved bar in conjunction with a restaurant.

- (3) Applicant is requesting to permit a building setback varying from 11.9' to 12.16' (20' required) (12.28' to 13.8' previously approved) from the front (north) property line.

- o **SUMMARY OF REQUESTS:** Approval of this application would allow the applicant to modify a condition of a previously approved Resolution and a Declaration of Restrictions. Such approvals would permit the applicant to submit revised plans

showing a previously approved bar in conjunction with a restaurant encroaching into the front (north) setback area.

- o **LOCATION:** 12500 SW 88 Street, Miami-Dade County, Florida.
- o **SIZE:** 9.56 acres

B. ZONING HEARINGS HISTORY:

In 1973, pursuant to Resolution #Z-242-73, the northwest corner of the subject property was rezoned to BU-2, Special Business District, and the remaining portion was rezoned to BU-1, Neighborhood Business District. The latter portion of the subject property was subsequently approved for a district boundary change from BU-1 to BU-1A, Limited Business District, in April 1975, pursuant to Resolution #Z-1-4-75. In September 1976, the subject property was approved for a Special Exception to allow a liquor, beer and wine lounge in conjunction with an existing restaurant, pursuant to Resolution #4-ZAB-377-76. Said resolution also allowed the lounge variances to the code to have music and dancing as well as a 568 (311 sq. ft. permitted) sq. ft. wall sign. Subsequently, in November 1976, pursuant to Resolution #4-ZAB-454-76, the aforementioned lounge was approved for a variance from the zoning regulations to extend the opening hours to 4:50 am. In 1996, pursuant to Resolution #5-ZAB-18-96, two (2) existing buildings within the shopping center were approved for setback variances varying from 6.92' to 6.99' and 12.28' to 13.8' from the front (north) property line. The aforementioned request was a result of a Department of Transportation (DOT) taking along SW 88 Street.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

The Adopted 2015 and 2025 Land Use Plan designates the northern, approximately 627' of 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.

The Adopted 2015 and 2025 Land Use Plan designates the remaining approximately 41' of the southern portion of the subject property as being within the Urban Development Boundary for **Medium Density Residential**. This category allows densities from 13 to 25 dwelling units per gross acre. The type of housing structures typically permitted in this category include townhouses and low-rise and medium-rise apartments.

Existing lawful residential and non-residential uses and zoning are not specifically depicted on the LUP map. They are however reflected in the average Plan density depicted. All such lawful uses and zoning are deemed to be consistent with this Plan as provided in the section of this chapter titled "Concepts and Limitations of the Land Use Plan Map." The limitations referenced in this paragraph pertain to existing zoning and uses. All approval of new zoning must be consistent with the provisions of the specific category in which the subject parcel exists, including the provisions for density averaging and definition of gross density.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

BU-1A/BU-2; shopping center

Business & Office and
 Medium Density Residential, 13 to 25 dua

Surrounding Properties

NORTH: GU; Water and Sewer facility

Institutions Utilities and Communications

SOUTH: RU-4L; mini-storage facility

Medium Density Residential, 13 to 25 dua

EAST: RU-4L; condominium apartments

Business & Office and
 Medium Density Residential, 13 to 25 dua

WEST: EU-1; FP&L easement

Business & Office and
 Medium Density Residential, 13 to 25 dua

E. SITE AND BUILDINGS:

Site Plan Review:

(Site plan submitted)

Scale/Utilization of Site:

Acceptable*

Location of Buildings:

Acceptable*

Compatibility:

Acceptable

Landscape Treatment:

Acceptable

Open Space:

Acceptable

Buffering:

Acceptable

Access:

Acceptable

Parking Layout/Circulation:

Acceptable

Visibility/Visual Screening:

N/A

Service Areas:

Acceptable

* Subject to conditions.

F. PERTINENT REQUIREMENTS/STANDARDS:

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.

33-311(A)(7) Generalized Modification Standards. The Board shall hear applications to **modify** or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution, and to **modify** or eliminate any condition restrictive covenants, or parts thereof, accepted at public hearing, except as otherwise provided in Section 33-314(c)(3); provided, that the appropriate Board finds after public hearing that the modification or elimination, in the opinion of the Community Zoning Appeals Board, would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or would not tend to provoke a nuisance, or would not be incompatible with the area concerned, when considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned.

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 BU-2, Special Business District, and is located at 12500 SW 88 Street (N. Kendall Drive). The 9.56 acre parcel currently consists of a variety of retail and restaurant uses. The Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) designates the northern approximately 627' of the subject property for **Business and Office** use and the remaining southern (rear) approximately 41' for **Medium Density Residential** use. The proposed restaurant and bar is located on the BU-1A portion of the subject property at the location that was occupied by a liquor, beer and wine lounge in conjunction with a restaurant. The existing BU-1A zone allows uses such as package stores, pubs and liquor package stores as well as restaurants. However, the interpretative text of the CDMP recognizes that some existing

lawful uses and zoning are not specifically depicted on the LUP map. All such lawful uses and zoning are deemed to be consistent with this Plan as provided in the section of this chapter titled "Concepts and Limitations of the Land Use Plan Map." Staff opines that the submitted plan is similar to the previously approved plans for a liquor, beer and wine lounge in conjunction with a restaurant. As such, staff opines that the submitted plans along with the proposed use on this parcel are **compatible** with the surrounding commercial and residential uses and **consistent** with the LUP map of the CDMP and with 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 does not generate any new additional daily peak hour trips and it meets the traffic concurrency criteria. The Miami-Dade Fire Department (**MDFRD**) has no objections to this application and their memorandum indicates that the estimated average travel response time is **5:33** minutes.

When requests #1 and #2, to permit the modification of a condition of previously approved resolution and covenant, are analyzed under Section 33-311(A)(7) Generalized Modification Standards, in order to permit the applicant to submit new plans depicting the reconfiguration of a previously approved liquor, beer and wing lounge in conjunction with a restaurant, and request #3, to permit the aforementioned building with reduced setbacks is analyzed under the Non-Use Variance Standard, Section 33-311(A)(4)(b), staff opines that approval of these requests would be **compatible** with the surrounding commercial and residential uses. Additionally, as previously mentioned, the modification of the previously approved site plan depicts a use that is similar to the previously approved liquor, bar and wine lounge at this location. Staff notes that based on memoranda from DERM, the Public Works Department and MDFRD, approval of the requests would not generate or result in excessive noise or traffic or cause undue or excessive burden on public facilities. Further, staff's research of properties in the surrounding area indicates that similar approvals for setback variances were granted on properties within this 9.56 acre shopping center parcel in which the proposed restaurant is to be located. For example, in 1996, pursuant to Resolution #5-ZAB-18-96, two (2) existing buildings within the shopping center were approved for setback variances varying from 6.92' to 6.99' and 12.28' to 13.8' from the front (north) property line. As such, staff opines that approval of the modification of conditions in the resolution and the covenant to allow for the submittal of revised new plans (requests #1 and #2) with the building encroaching at a maximum of 8.1' into the 20' (front) setback area (request #3), is not precedent setting and will not have a negative visual impact on the abutting property to the north, nor will it have a negative visual impact on traffic or pedestrians along SW 88 Street. Staff opines that the location of the restaurant/bar within a 9.56 acre large shopping center, located at the intersection of two well travelled section line roads, SW 88 Street and SW 127 Avenue, is unobtrusive to the closest property, a water utility facility which is located more than 135' across SW 88 Street to the north. Therefore, staff recommends approval with conditions of requests #1 and #2 under Section 33-311(A)(7) Generalized Modification Standards and approval with conditions of request #3 under Section 33-311(A)(4)(b) NUV.

As previously mentioned, staff is of the opinion that modification of a condition of a previously approved resolution and a covenant to allow the submittal of revised plans for a bar in conjunction with a restaurant which encroaches into the front setback area, is **compatible** with the surrounding commercial and residential uses and **consistent** with the LUP map of

the CDMP and with the interpretative text of the CDMP. Based on the aforementioned, staff therefore recommends approval with conditions of requests #1 and #2 under Section 33-311(A)(7) Generalized Modification Standards and approval with conditions of request #3 under Section 33-311(A)(4)(b) NUV.

I. RECOMMENDATION:

Approval with conditions.

J. CONDITIONS:

1. That all the conditions of Resolution #4-ZAB-377-76 remain in full force and effect except as herein modified.
2. That the applicant obtain a Certificate of Use (CU) from and promptly renew the 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.
3. That the applicant provide the required amount of street trees at the time of permitting.
4. That the canopy fronting on SW 88 Street be removed prior to permitting.

DATE TYPED: 04/15/10
DATE REVISED: 04/19/10, 04/22/10, 05/25/10
DATE FINALIZED: 05/25/10
MCL:GR:NN:AA:CH

Fer


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

Memorandum

Date: March 17, 2010

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

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



Subject: C-11 #Z2010000003
Anthony's Coal Fired Pizza of Kendall, LLC
12500 S.W. 88th Street
Special Exception to Permit the Sales and Consumption of Alcoholic
Beverages on Premises and Modification of Previous Approved Plans
(BU-1A) (.10 Acres)
01-55-39

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

Wellfield Protection

The subject property is located within the Basic Wellfield Protection Area of the Southwest Wellfield. The site is situated within the 30 days travel time contour of the said Wellfield. Therefore, development on the subject property shall be in accordance with regulations established in Section 24-43 of the Code.

Since the subject request would permit non-residential land uses, the owner of the property has submitted a properly executed covenant in accordance with Section 24-43(5) of the Code which provides that hazardous materials shall not be used, generated, handled, discharged, disposed of or stored on the subject property. Therefore, DERM may approve the application and it 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.

Wetlands

The subject properties do not contain 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 sales and consumption of alcoholic beverages on premises and the modification of previous approved plans will not impact tree resources. Therefore, the Tree Program 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 Chapter 24.

Enforcement History

DERM has reviewed their files and has found two (2) closed enforcement records for the subject properties:

Folio # 30-5901-008-0040-Tropico Restaurant dba Latinos Restaurant.

DERM has file # GDO-207. There is record of a closed enforcement case for failure to secure Grease Trap Discharge Operating Permit. A Uniform Civil Violation Notice (UCVN # 968004) was issued on February 27, 2006 and the case was subsequently closed with the issuance of the permit on June 19, 2006.

Folio # 30-5901-008-0010-Oscar Hernandez, P.A.

DERM has file # IW5-8484. There is record of a closed enforcement case for failure to secure Industrial Waste (IW-5) Operating Permit. A Uniform Civil Violation Notice (UCVN # 148822) was issued on January 11, 1996 and the case was subsequently closed with the issuance of the permit on January 29, 1996.

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 Christine Velazquez at (305) 372-6764.

REVISION 1
PH# Z2010000003
CZAB - C11

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: ANTHONY'S COAL FIRED PIZZA OF KENDALL LLC

This Department has no objections to this application.

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



Raul A Pino, P.L.S.

18-FEB-10

Memorandum



Date: 03-FEB-10
To: Marc LaFerrier, Director
Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department
Subject: Z2010000003

Fire Prevention Unit:

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

Service Impact/Demand

Development for the above Z2010000003
located at 12500 S.W. 88 St
in Police Grid 1824 is proposed as the following:

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

Based on this development information, estimated service impact is: N/A alarms-annually.
The estimated average travel time is: 5:33 minutes

Existing services

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

Planned Service Expansions:

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

Fire Planning Additional Comments

Not applicable to service impact analysis.

For information regarding the aforementioned comments, please contact the Miami-Dade Fire Rescue
Department Planning Section at 786-331-4540.

DATE: 18-FEB-10

**BUILDING AND NEIGHBORHOOD
COMPLIANCE DEPARTMENT**

**ENFORCEMENT HISTORY OF VIOLATIONS OF CHAPTER 19 AND
CHAPTER 33 OF THE MIAMI-DADE COUNTY CODE**

ANTHONY'S COAL FIRED PIZZA
OF KENDALL LLC

12500 S.W. 88 St

APPLICANT

ADDRESS

Z2010000003

HEARING NUMBER

HISTORY:

BUILDING & NEIGHBORHOOD COMPLIANCE DEPARTMENT
NEIGHBORHOOD COMPLIANCE
DIVISION

ENFORCEMENT HISTORY

NAME: ADDRESS:
ANTHONY'S COAL FIRED PIZZA OF KENDALL, LLC
12500 SW 88 ST
FOLIO'S 30-5901-009-0010, 30-5901-008-0010, 0020, 0030, and 0040
DATE: 2/17/10

CURRENT ENFORCEMENT HISTORY:

Case 201002001319 was opened based on enforcement history request and inspected on 2/10/10 for all folios involved. No violations were observed and the case was closed.

Open Cases:

No open cases.

Closed Cases:

Case 200802000749 folio 30-5901-008-0040 was opened based on an anonymous complaint of a Century 21 sign obstructing view on property. A warning notice was issued on 2-5-08. A re-inspection conducted on 2-11-08 revealed that the violation was corrected and case was closed.

Case 200302001089 folio 30-5901-008-0040 was opened based on anonymous complaint of signs on property and inspected on 2-5-03. A re-inspection conducted on 4-24-04 revealed that the violation was corrected and case was closed.

Sam Walthour, MSM, Assistant Director

**OUTSTANDING FINES, PENALTIES, COST OR LIENS
INCURRED PURSUANT TO CHAPTER 8CC:**

REPORTER NAME:

DISCLOSURE OF INTEREST*

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

CORPORATION NAME: Anthony's Coal Fired Pizza of Kendall, LLC

| <u>NAME AND ADDRESS</u> | <u>Percentage of Stock</u> |
|--------------------------|----------------------------|
| <u>Anthony Bruno</u> | <u>30%</u> |
| <u>Michael Mozzicato</u> | <u>14%</u> |
| <u>Deborah Mozzicato</u> | <u>14%</u> |
| <u>Patrick Marzano</u> | <u>14%</u> |
| <u>Nicholas Castaldo</u> | <u>14%</u> |
| <u>Samuel Weiss</u> | <u>7%</u> |
| <u>Daniel Marino</u> | <u>7%</u> |

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

TRUST/ESTATE NAME _____

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

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

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

| <u>NAME AND ADDRESS</u> | <u>Percentage of Ownership</u> |
|-------------------------|--------------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

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

NAME OF PURCHASER: _____

| <u>NAME, ADDRESS AND OFFICE</u> (if applicable) | <u>Percentage of Interest</u> |
|---|-------------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Date of contract: _____

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

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

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

Signature: *Anthony Bruno*
Anthony Bruno

Sworn to and subscribed before me this 13 day of January, 2010. Affiant is personally known to me or has produced _____ as identification.

Marie Williams
(Notary Public)



My commission expires: 1-20-2013

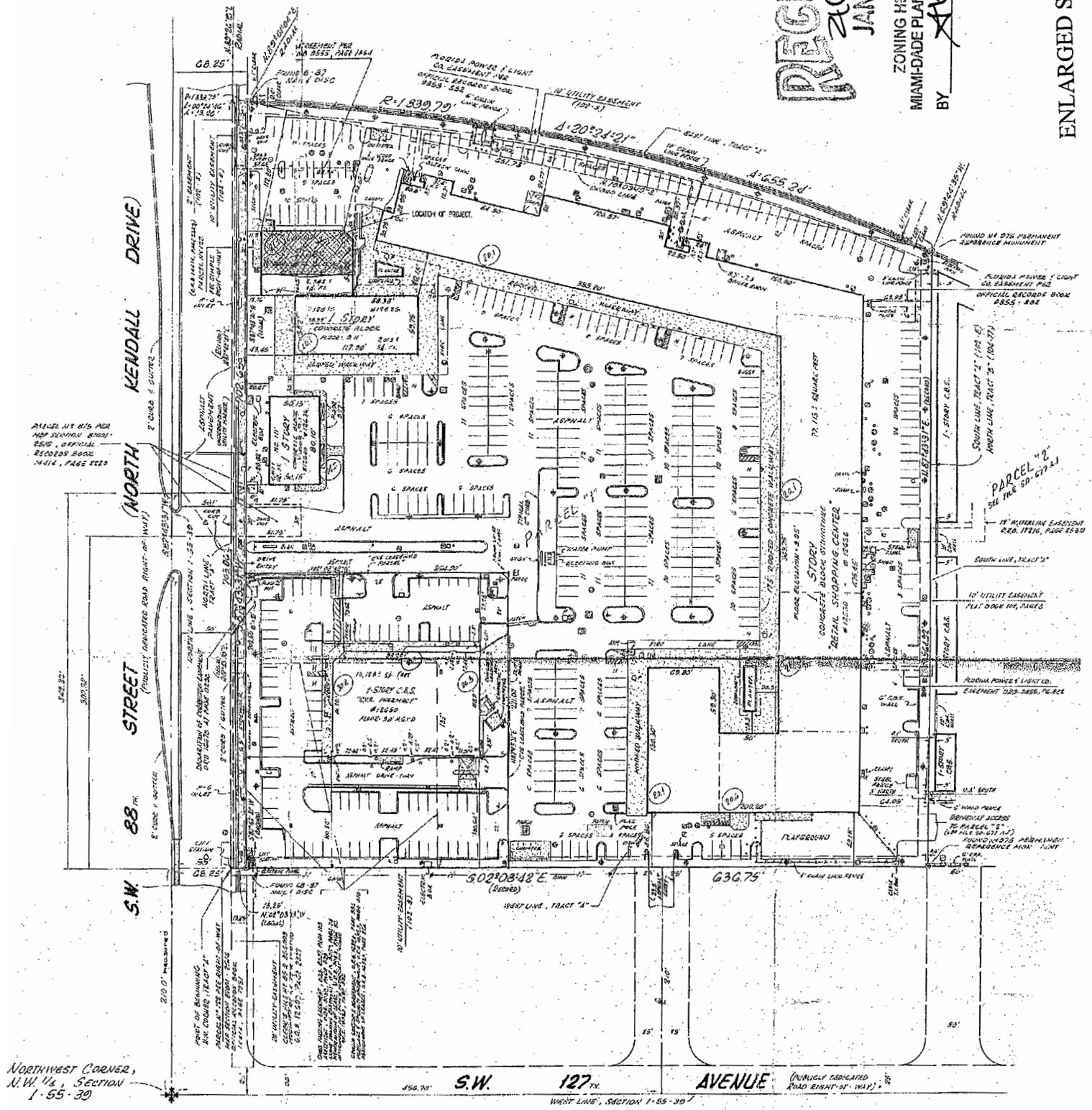
Seal

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

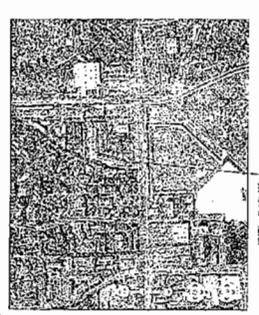
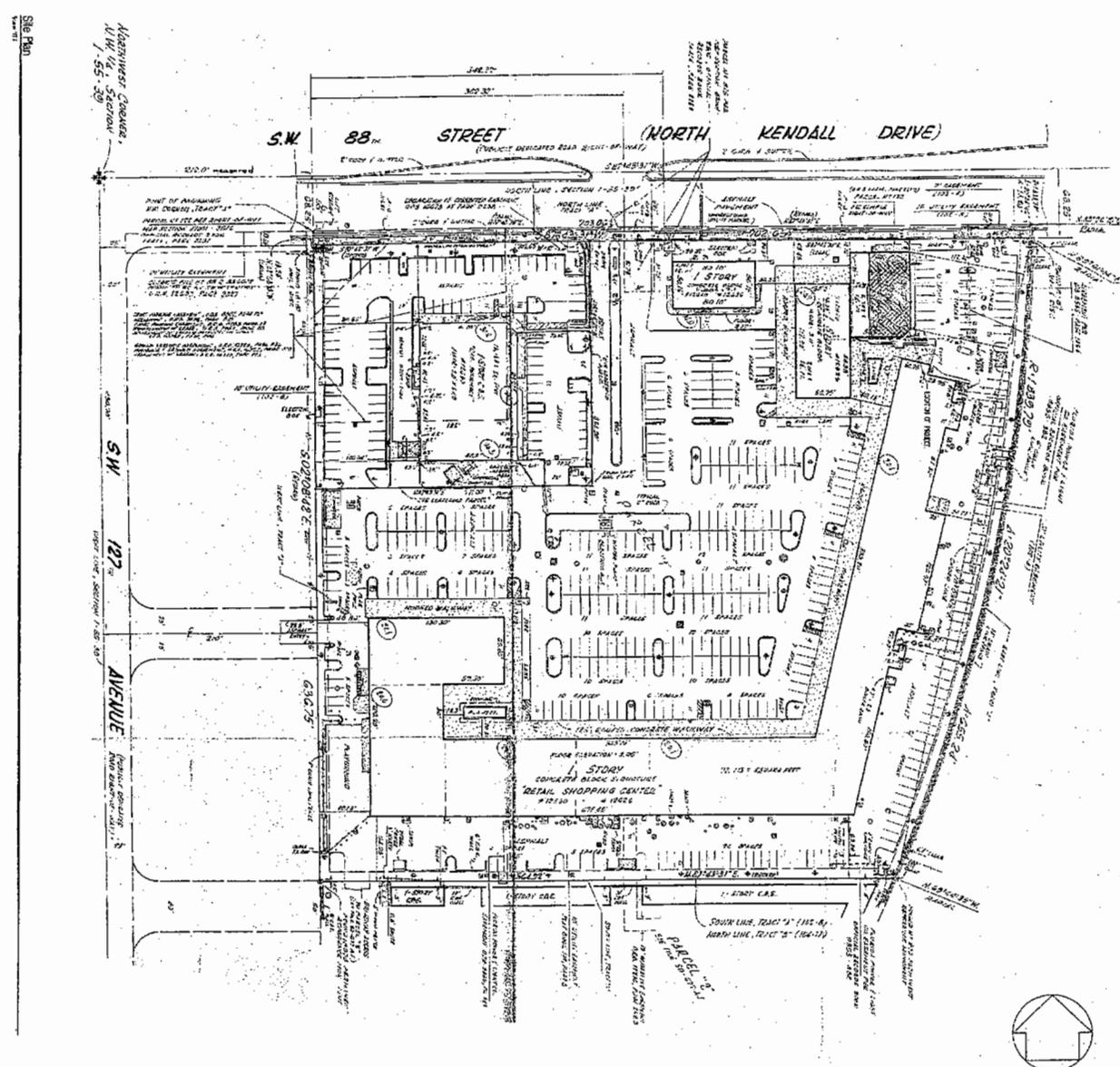
RECEIVED
20-003
JAN 20 2010

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY *STJ*

ENLARGED SITE PLAN



Northwest Corner,
N.W. 1/4, Section
1-55-39



Location Map

| DESCRIPTION | REQUIRED | PROVIDED |
|---------------------------------|------------------------------|------------------------------|
| Site Data | | |
| ZONING | SR-11 | COMMERCIAL |
| LAND USE | RETAIL | RETAIL |
| NET AREA | 114,871 SQ. FT. (2.64 ACRES) | 114,871 SQ. FT. (2.64 ACRES) |
| NET BUILDING AREA | 103,500 SQ. FT. (2.36 ACRES) | 103,500 SQ. FT. (2.36 ACRES) |
| NET PARKING AREA | 5,371 SQ. FT. | 5,371 SQ. FT. |
| NET DRIVEWAY AREA | 5,000 SQ. FT. | 5,000 SQ. FT. |
| NET TOTAL AREA | 124,241 SQ. FT. (2.84 ACRES) | 124,241 SQ. FT. (2.84 ACRES) |
| NET IMPERVIOUS AREA | 103,500 SQ. FT. | 103,500 SQ. FT. |
| NET PERMEABLE AREA | 20,741 SQ. FT. | 20,741 SQ. FT. |
| NET IMPERVIOUS COEFFICIENT | 0.83 | 0.83 |
| NET PERMEABLE COEFFICIENT | 0.17 | 0.17 |
| NET IMPERVIOUS PERCENTAGE | 83% | 83% |
| NET PERMEABLE PERCENTAGE | 17% | 17% |
| NET IMPERVIOUS PERCENTAGE (MAX) | 83% | 83% |
| NET PERMEABLE PERCENTAGE (MAX) | 17% | 17% |

PULL SITE PLAN PARKING CALCULATIONS AND PARKING SPACE DETAILS ON SHEET A130.1

RECEIVED
 210-003
 JAN 20 2010

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

PROVISIONS:

- 1.1.4.2001 CBPM COMPLIANTS
- 1.1.4.2002 PLANNING DEPARTMENT COMMENTS
- 1.1.4.2003 PLANNING DEPARTMENT COMMENTS

RJS ARCHITECTS, INC.
 44-2507-203
 11019 Northwest 13th Street
 Coral Springs, Florida 33071
 954-352-1015

ANTHONY'S
 An Interior Build-Out for
COAL FIRED PIZZA
 12400 SW 88th Street
 Kendall, Florida 33156

CONTRACTOR: RJS ARCHITECTS, INC.

DATE: 1/11/10

SCALE: AS SHOWN

PROJECT: ANTHONY'S COAL FIRED PIZZA

SHEET: A 100.1

TOTAL SHEETS: 15

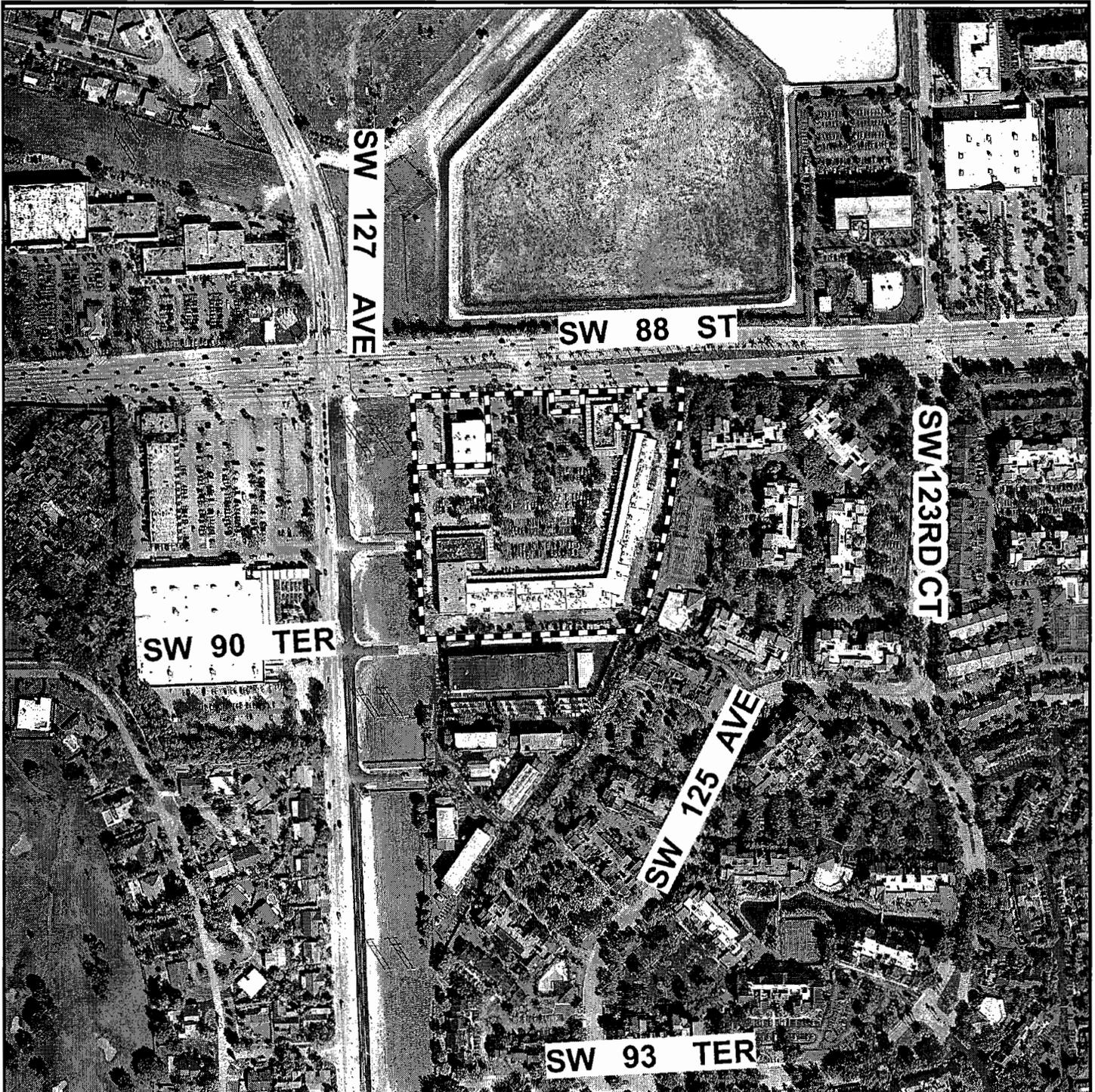
DATE: 1/11/10

SCALE: AS SHOWN

PROJECT: ANTHONY'S COAL FIRED PIZZA

SHEET: A 100.1

TOTAL SHEETS: 15



MIAMI-DADE COUNTY
AERIAL YEAR 2009

Process Number

Z2010000003



Section: 01 Township: 55 Range: 39
 Applicant: ANTHONY'S COAL FIRED PIZZA OF KEN
 Zoning Board: C11
 Commission District: 10
 Drafter ID: JEFFER GURDIAN
 Scale: NTS

Legend

 Subject Property



SKETCH CREATED ON: Friday, February 5, 2010

| REVISION | DATE | BY |
|----------|------|----|
| | | |