

# FINAL AGENDA

5-7-2013 Version # 2



COMMUNITY ZONING APPEALS BOARD 11  
KENDALL VILLAGE CENTER - CIVIC PAVILION  
8625 SW 124 Avenue, Miami  
Tuesday, June 11, 2013 at 7:30 p.m.

## CURRENT

- |    |              |                                  |       |          |   |
|----|--------------|----------------------------------|-------|----------|---|
| 1. | 13-6-CZ11-1  | <u>TAMIAMI PLAZA CENTER, INC</u> | 13-5  | 22-55-39 | N |
| 2. | 13-6-CZ-11-2 | <u>RED BERRY ESTATES, LLC</u>    | 13-14 | 36-54-39 | N |



# Official Zoning Agenda

## COMMUNITY ZONING APPEALS BOARD

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COMMUNITY ZONING APPEALS BOARD - AREA 11

MEETING OF TUESDAY, JUNE 11, 2013

KENDALL VILLAGE CENTER – CIVIC PAVILION

8625 SW 124 AVENUE, MIAMI, FLORIDA

NOTICE: THE FOLLOWING HEARINGS ARE SCHEDULED FOR 7:30 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

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**1. TAMIAMI PLAZA CENTER, INC (13-6-CZ11-1/13-005)**

**22-55-39  
Area 11/District 11**

DISTRICT BOUNDARY CHANGE from IU-C to BU-1A.

LOCATION: The Southwest corner of SW 136<sup>th</sup> Street & SW 139<sup>th</sup> Court,  
Miami-Dade County, Florida.

SIZE OF PROPERTY: 1.82 Acres

Department of Regulatory and  
Economic Resources  
Recommendation:

Approval, subject to the acceptance of the  
proffered covenant.

Protests: 0

Waivers: 0

APPROVED: \_\_\_\_\_

DENIED WITH PREJUDICE: \_\_\_\_\_

DENIED WITHOUT PREJUDICE: \_\_\_\_\_

DEFERRED: \_\_\_\_\_

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**2. RED BERRY ESTATES, LLC (13-6-CZ11-2/13-014)**

**36-54-39  
Area 11/District 10**

DISTRICT BOUNDARY CHANGE from GU to EU-M.

LOCATION: 7455 SW 125<sup>th</sup> Avenue, Miami-Dade County, Florida.

SIZE OF PROPERTY: 5 Acres

Department of Regulatory and  
Economic Resources  
Recommendation:

Approval, subject to the acceptance of the  
proffered covenant.

Protests: 1

Waivers: 0

APPROVED: \_\_\_\_\_

DENIED WITH PREJUDICE: \_\_\_\_\_

DENIED WITHOUT PREJUDICE: \_\_\_\_\_

DEFERRED: \_\_\_\_\_

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**NOTICE**

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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.

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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 Regulatory and Economic Resources (RER), within 14 days after RER 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. (RER's posting will be made on a bulletin board located in the office of RER.) 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](http://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.

**Miami-Dade County Department of Regulatory and Economic Resources  
Staff Report to Community Council No. 11**

PH: Z13-005 (13-06-CZ11-1)

June 11, 2013  
Item No. 1

<b>Recommendation Summary</b>	
<b>Commission District</b>	11
<b>Applicant</b>	Tamiami Plaza Center, Inc.
<b>Summary of Requests</b>	The applicant is requesting a district boundary change from IU-C to BU-1A.
<b>Location</b>	Southwest corner of SW 136 Street & SW 139 Court, Miami-Dade County, Florida.
<b>Property Size</b>	1.82 acres
<b>Existing Zoning</b>	IU-C
<b>Existing Land Use</b>	Vacant
<b>2015-2025 CDMP Land Use Designation</b>	Industrial and Office (see attached Zoning Recommendation Addendum)
<b>Comprehensive Plan Consistency</b>	Consistent with interpretative text, goals, objectives and policies of the CDMP
<b>Applicable Zoning Code Section(s)</b>	Section 33-311 <b>District Boundary Change</b> (see attached Zoning Recommendation Addendum)
<b>Recommendation</b>	<b>Approval, subject to the acceptance of the proffered covenant.</b>

**REQUEST:**

DISTRICT BOUNDARY CHANGE from IU-C to BU-1A zone.

**PROJECT HISTORY & DESCRIPTION:**

In 1976, pursuant to Resolution No. Z-313-76 the subject property was part of a larger tract of land that was rezoned from GU, Interim District to IU-C, Unlimited Industrial Manufacturing District. The current application seeks to change the zoning on the subject property from IU-C, Unlimited Industrial Manufacturing District, to BU-1A, Limited Business District.

<b><u>NEIGHBORHOOD CHARACTERISTICS</u></b>		
	<b>Zoning and Existing Use</b>	<b>Land Use Designation</b>
<b>Subject Property</b>	IU-C; vacant land	Industrial and Office
<b>North</b>	GP; airport	Terminals
<b>South</b>	IU-C; vacant land	Industrial and Office
<b>East</b>	IU-C; office building	Industrial and Office
<b>West</b>	IU-C; hospital	Industrial and Office

**NEIGHBORHOOD COMPATIBILITY:**

The subject property is a corner lot located on the southwest corner of SW 136 Street and SW 139 Court and within an Industrial Zoning District. The surrounding area is primarily characterized by industrial uses such as warehouses, offices, a hospital, some retail uses, vacant land, and Tamiami Airport to the north.

**SUMMARY OF THE IMPACTS:**

The approval of the rezoning from IU-C (Conditional Industrial District) to BU-1A (Limited Business District) will reduce the availability of Industrial designated properties on this area. However, the proposed BU-1A zoning will provide accessible commercial uses to the workers in the surrounding industrial districts.

**COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:**

The subject property is designated as *Industrial and Office* on the Comprehensive Development Master Plan (CDMP) Adopted 2015-2025 Land Use Plan (LUP) map. The CDMP Land Use Element interpretative text under the Industrial and Office land use category allows manufacturing operations, maintenance and repair facilities, warehouses, mini-warehouses, office buildings, wholesale showrooms, distribution centers and similar uses. Additionally, *very limited commercial uses to serve the firms and workers in the Industrial and Office area are allowed, dispersed as small business districts and centers throughout the industrial areas.*

The subject parcel is approximately 1.82 acres in size and is located at the intersection of SW 136 Street and SW 139 Court. The applicant has proffered a covenant which restricts the types of commercial uses that would be allowed on the proposed shopping center site to uses that in staff's opinion which would be supportive of the firms and workers within the surrounding industrial area (see proffered covenant). Some of the types of uses included in said covenant include bakeries; banks, including drive-in teller service; beauty parlors/barber shops; computer sales; day nurseries, kindergarten and after school care centers; dry cleaning establishments, using nonflammable solvents; hardware stores (maximum 4,000 sq. ft.); printing, copying and postal packing services; and restaurants.

As such, staff is of the opinion that the proposed rezoning of the property to BU-1A, Limited Business District, to permit a retail and service convenience facility, with the proffered covenant, is compatible with the surrounding area. Further, approval of the proposed retail and service use with the proffered covenant would be **consistent** with the CDMP LUP map Industrial and Office designation of the subject property and with the uses described in the interpretative text of the Industrial and Office category description.

**ZONING ANALYSIS:**

When the applicant's request to rezone the 1.82 acre parcel to BU-1A, is analyzed under Section 33-311, District Boundary Change, staff opines that the approval of this request, with the proffered covenant previously discussed, would be **compatible** with the surrounding industrial uses. The applicant seeks to develop the site with a retail and service convenience facility, which would provide the previously stated uses in addition to offices, including medical offices, and medical clinics in closer proximity to serve the needs of the firms and workers of the surrounding industrial developments. Staff opines that the requested medical clinics and office uses, including medical offices, are uses that would be **compatible** with the uses allowed in the industrial and business zoning districts and are generally allowed in those districts. Additionally, staff opines that the medical clinic use would serve an essential medical need for the surrounding industrial developments and is also a use generally permitted in both the business and industrial districts.

Staff notes that the subject property is located south of SW 136 Street, a section line road, and is surrounded by Tamiami Airport to the north, a hospital to the west, office building to the east and vacant land to the south. Further, staff notes that the parcels located to the east, west and south are also zoned IU-C. The airport is zoned Government Property (GP).

Staff opines that the proposed retail and service convenience facility will not result in excessive traffic as evidenced by the memorandum from the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources (RER) which states that the application will generate 145 PM daily peak hour vehicle trips, does not exceed the acceptable level of service (LOS) of the surrounding roadways and meets the traffic concurrency criteria for an initial development order. The Division of Environmental Resources Management of the Department of Regulatory and Economic Resources memorandum indicates that approval of this application meets all applicable LOS standards for an initial development order, as specified in the CDMP for potable water service, wastewater disposal, and flood protection. Additionally the memorandum from the Miami-Dade Fire Rescue Department does not indicate that the proposed facility will have a negative impact on fire rescue services in the area.

Based on the aforementioned department memoranda, staff opines that approval of the subject request will serve a public benefit, will not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, based on memoranda from the Departments concerned with reviewing this application.

Consequently, staff is of the opinion that approval of the district boundary change from IU-C to BU-1A will be **compatible** with the surrounding industrial developments given that it will provide essential goods and services for the area firms and workers with the proffered covenant, and would be **consistent** with the Industrial and Office designation of the site on the LUP map of the CDMP. **Staff therefore, recommends approval of the application under Section 33-311, District Boundary Change, subject to the Board's acceptance of the proffered covenant.**

**ACCESS, CIRCULATION AND PARKING:** Not applicable.

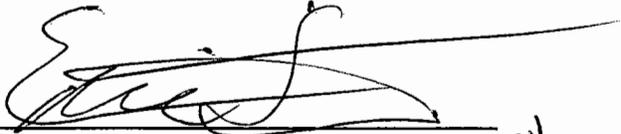
**NEIGHBORHOOD SERVICES PROVIDER REVIEW:** See attached.

**OTHER:** Not applicable.

**RECOMMENDATION:** Approval, subject to the Board's acceptance of the proffered covenant.

**CONDITIONS FOR APPROVAL:** None.

ES:MW:NN:CH:JC



Eric Silva, AICP, Assistant Director  
Development Services Division  
Miami-Dade County  
Department of Regulatory and Economic Resources

*NDN*

# ZONING RECOMMENDATION ADDENDUM

Tamiami Plaza Center, Inc.  
Z13-005

<b>NEIGHBORHOOD SERVICES PROVIDER COMMENTS*</b>	
Regulatory and Economic Resources (Environmental Resources Management Division)	No objection
Public Works and Waste Management	No objection
Parks, Recreation and Open Space	No objection
Fire Rescue	No objection
Police	No objection
Schools	No comment
*Subject to conditions in their memorandum.	

## COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES, POLICIES AND INTERPRETATIVE TEXT

<p><b>Industrial and Office</b> (Pg. I-39)</p>	<p><i>Manufacturing operations, maintenance and repair facilities, warehouses, mini-warehouses, office buildings, wholesale showrooms, distribution centers and similar uses are permitted in areas designated as "Industrial and Office" on the LUP map. Also included are construction and utility-equipment maintenance yards, utility plants, public facilities, hospitals and medical buildings. The full range of telecommunication facilities, including switching and transmission facilities, satellite telecommunication facilities, microwave towers, radar stations and cell towers is also allowed. <b>Very limited commercial uses to serve the firms and workers in the industrial and office area are allowed, dispersed as small business districts and centers throughout the industrial areas.</b> Hotels and motels are also authorized. Free-standing retail and personal service uses and shopping centers larger than 10 acres in size are prohibited in these areas because they would deplete the industrial land supply and they are better located in commercially designated areas and in closer proximity to residential areas. Free-standing retail and personal service uses and shopping centers that are approved in Industrial and Office areas should front on major access roads, particularly near major intersections. In addition, uncommon commercial uses such as amusement uses, and others with unusual siting requirements may also be considered at appropriate locations. Also included are construction and utility-equipment maintenance yards, utility plants, public facilities, hospitals and medical buildings.</i></p> <p><i>If the land is the subject of an application for rezoning, zoning approval or a plan amendment and is located in an MSA with less than a 15-year supply of industrial land, in order to receive approval for a non-industrial use, the applicant must demonstrate that such use will not have a significant adverse impact on future industrial development.</i></p>
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## PERTINENT ZONING REQUIREMENTS/STANDARDS

<p><b>Section 33-311 District Boundary Change</b></p>	<p>(A) <i>The Community Zoning Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the County.</i></p>
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## ZONING RECOMMENDATION ADDENDUM

Tamiami Plaza Center, Inc.  
Z13-005

(F) **Section 33-311** provides that the Board shall take into consideration, among other factors the extent to which:

- (1) *The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;*
- (2) *The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;*
- (3) *The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;*
- (4) *The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;*
- (5) *The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.*

**1. TAMIAMI PLAZA CENTER, INC**  
**(Applicant)**

**13-6-CZ11-1 (13-005)**  
**Area 11/District 11**  
**Hearing Date: 06/11/13**

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:**

<b><u>Year</u></b>	<b><u>Applicant</u></b>	<b><u>Request</u></b>	<b><u>Board</u></b>	<b><u>Decision</u></b>
1976	City National Bank Miami	- Zone change from GU to IU-C.	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.

**Date:** February 5, 2013

**To:** Jack Osterholt, Director  
Department of Regulatory and Economic Resources

**From:** Jose Gonzalez, P.E.  
Department of Regulatory and Economic Resources 

**Subject:** C-11 #Z2013000005  
Tamiami Plaza Center, Inc.  
Southwest Corner of SW 136<sup>th</sup> Street and SW 139<sup>th</sup> Court, Miami,  
Florida  
Zone Change from IU-C to BU-1A  
(IU-C) (1.82 Acres)  
22-55-39

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The subject application has been reviewed for compliance with the requirements of Chapter 24 of the Miami-Dade County Code (the Code) and meets the minimum requirements of the Code. Accordingly, the application 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.

Stormwater Management

Based on the Survey submitted DERM has no objection to this application. Any modification to the existing survey will require a new review by the Water Control Section of DERM.

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

The subject properties contain prohibited trees as defined in Section 24-49.9 of the Code. Pursuant to Section 24-49.9 of the Code, all prohibited trees are exempt from permitting and must be removed from the sites prior to development. Notwithstanding the foregoing, the applicant is advised that Section 24-49 of the Code requires the preservation of tree resources. A Miami-Dade County Tree Removal/Relocation Permit is required prior to the removal and/or relocation of additional trees on the subject properties that are not a prohibited species. The applicant is advised to contact the Tree Program for permitting procedures and requirements prior to development of site and landscaping plans.

#### Enforcement History

There are no open or closed enforcement records for violations of Chapter 24 of the Code for the subject property.

#### Concurrency Review Summary

A concurrency review has been conducted 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 written approval as required by Chapter 24 of 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.

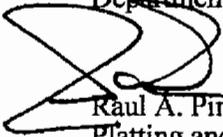
cc: Eric Silva, Department of Regulatory and Economic Resources

# Memorandum



**Date:** February 27, 2013

**To:** Eric Silva, Assistant Director  
Department of Regulatory and Economic Resources

**From:**  Raul A. Pino, PLS  
Platting and Traffic Review Section  
Department of Regulatory and Economic Resources

**Subject:** Z2013000005  
Name: Tamiami Plaza Center  
Location: Southwest Corner of SW 136 Street & SW 139 Court  
Section 22 Township 55 South Range 39 East

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The Department of Regulatory and Economic Resources Platting and Traffic Review Section has reviewed the subject application and has no objections.

This land complies with Chapter 28 of the Miami-Dade County Code. The property is platted as Lots 1 & 2, Block 2 of Plat Book 109, Page 18.

Additional improvements may be required at time of permitting.

This application **does** meet the traffic concurrency criteria for an Initial Development Order. It will generate **145 PM** daily peak hour vehicle trips. The traffic distribution of these trips to the adjacent roadways reveals that the addition of these new trips **does not** exceed the acceptable level of service of the following roadways:

Sta.#		LOS present	LOS w/project
9814	SW 137 Ave. s/o SW 120 St.	C	C
9816	SW 137 Ave. s/o SW 136 St.	C	C
9859	SW 157 Ave. s/o SW 152 St.	C	C
9854	SW 152 St. w/o SW 137 Ave.	D	D
9857	SW 157 Ave. s/o Kendall Dr.	C	C

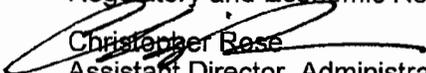
The request herein, constitutes an Initial Development Order only, and one or more traffic concurrency determinations will subsequently be required before development will be permitted.

# Memorandum



**Date:** February 21, 2013

**To:** Jack Osterholt, Director  
Regulatory and Economic Resources Department

**From:**   
Assistant Director, Administration  
Public Works and Waste Management Department

**Subject:** # 13-005  
Tamiami Plaza Center

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Attached please find a copy of this Department's review of the above-referenced item. Final comments will be offered as needed. If you should have any questions, please do not hesitate to contact Stacey McDuffie of the Fiscal, Planning and Performance Management Division at 305-514-6661.

Attachment

PUBLIC WORKS AND WASTE MANAGEMENT DEPARTMENT

#13-005  
Tamiami Plaza Center

**Application:** *Tamiami Plaza Center* is requesting a district boundary change from Industrial District, Conditional (IU-C) to Limited Business District (BU-1A) to allow for the development of a small retail and service convenience facility on the property.

**Size:** The subject property is approximately 1.82 acres.

**Location:** The subject property is generally located on the southwest corner of SW 136 Street and SW 139 Court in Miami-Dade County, Florida.

**Analysis:**

1. Solid Waste Disposal

The Miami-Dade County Solid Waste Management System consists of both County facilities and private facilities under contract as follows: three Class I landfills (two owned by Waste Management Inc., of Florida) a Class III landfill, a Resources Recovery Facility waste to energy plant and associated ash monofill, and three regional transfer facilities. The Public Works and Waste Management Department (PWWM) does not assess or adjust estimated capacity requirements based on the impacts of individual developments. Instead, the Department maintains sufficient disposal capacity to accommodate five years of waste flows committed to the system through long-term interlocal agreements or contracts with municipalities and private waste haulers and anticipated non-committed waste flows. The latest Concurrency Status Determination issued on September 28, 2012, which is valid for one year, shows sufficient disposal system capacity to exceed the County's adopted level of service (five years of capacity). This determination, which is on file with the Sustainability, Planning and Economic Enhancement Department (formerly the Department of Planning and Zoning) is contingent upon the continued ability of the County to obtain and renew disposal facility operating permits from the Florida Department of Environmental Protection, as needed.

2. Garbage and Trash Collection Services

The property as mentioned in the application falls within the PWWM solid waste collection service area. The district boundary change of the property will likely be considered development for a "commercial establishment". Chapter 15 of the Miami-Dade Code, entitled Solid Waste Management, requires the following of commercial developments located in unincorporated Miami-Dade County:

"every commercial and multi-family residential establishment shall utilize the solid waste collection services of either the proper governmental agency able to provide such services, or that of a licensed solid waste hauler authorized to perform such services by the Director of the Department." Therefore, the landlord or property owner is required to contact a private hauler to provide waste and recycling collection service. The collected material will subsequently be disposed of at PWWM facilities.

3. Recycling: Commercial Establishments

The following language from **Section 15-2.3a** requires commercial establishments "to provide for a recycling program, which shall be serviced by a permitted hauler or the appropriate governmental agency. The recycling program for commercial establishments must include a minimum of three (3) materials chosen from the following:

- |                            |  |
|----------------------------|--|
| 1) High grade office paper | 6) Steel (cans, scrap)                     |
| 2) Mixed paper             | 7) other metals/scrap production materials |

- |                                  |  |
|----------------------------------|--|
| 3) Corrugated cardboard          | 8) Plastics (PETE, HDPE-natural, HDPE-colored) |
| 4) Glass (flint, emerald, amber) | 9) Textiles                                    |
| 5) Aluminum (cans, scrap)        | 10) Wood                                       |

**Section 15-2.3 states** the failure of a commercial establishment to provide a recycling program or a modified recycling program pursuant to Section 15-2.4 hereof shall constitute a violation of this section for which the property owner and the owner(s) and operator(s) of the commercial establishment shall be jointly and severally liable.

#### 4. Waste Storage/Setout Considerations

**Section 15-4** of the Code requires that plans for storage and collection of solid waste be adequate before a building permit may be issued. Site plans must address location, accessibility, number and adequacy of solid waste collection and storage facilities. The site plan legend must contain the following statement: "Facilities for the collection and storage of solid waste are shown in accordance with Section 15-4 of the Miami-Dade County Code."

#### 5. Site Circulation Considerations

It is required that development plans associated with this project incorporate at least one of the following traffic circulation criteria to minimize the reversing of waste vehicles and hence, provide for the safe circulation of service vehicles:

- a. Cul-de-sac with a minimum 49 foot turning radius (no "dead-ends")
- b. "T" shaped turnaround 60 feet long by 10 feet wide
- c. Paved throughway of adequate width (minimum 15 feet)

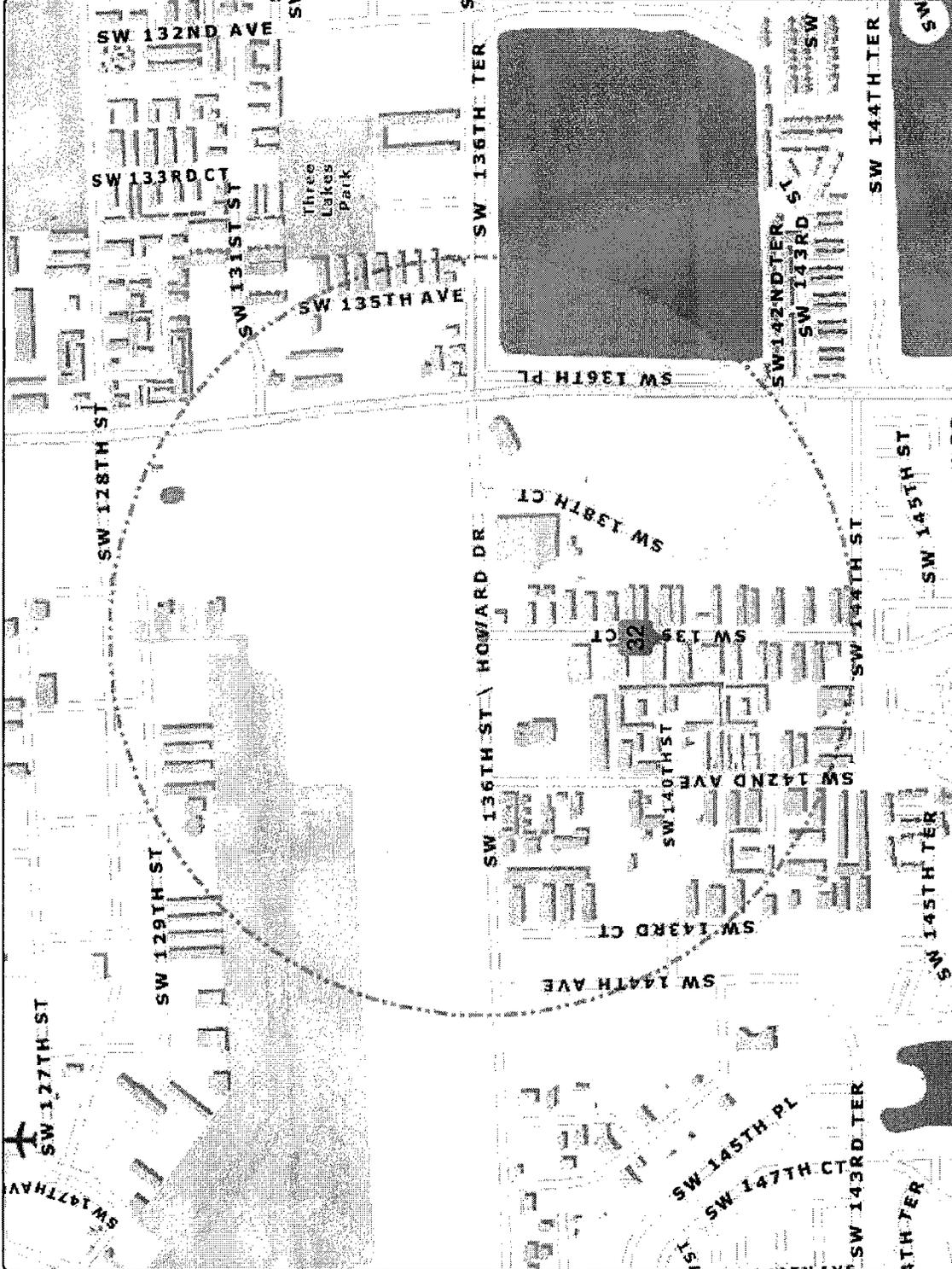
In addition, any and all alleyways designed with utilities, including waste collection, provided at the rear of the property should be planned in accordance with standard street specifications with sufficient width and turning radii to permit large vehicle access. Additionally, there should be no "dead-end" alleyways developed. Also, a sufficient waste set-out zone should be preserved (between the edge of the pavement and any possible obstructions such as parked cars, fencing, etc.) that would interrupt or preclude waste collection. **The PWWM has no objections to the proposed application.**

# TAMIAMI PLAZA CENTER, INC

Z2013000005 2012 SELECTED CRIMES (JAN 1 - JAN 21) 0.5 MI

Miami-Dade Police Department

Map Legend	
	CDW Incidents (1)
	32 - Assault (1)



This map was prepared using Miami-Dade County's (MDC) Geographic Information System (GIS). As is the case with all public records information, the nature of the data and the collection processes limit the ability of any aggregator to independently validate data and content. Every effort has been made to ensure that the information presented is accurate, however, the results cannot be guaranteed. In order to ensure the accuracy of the information supplied by MDC, the requestor should consult the official government record. Based on these limitations, MDC is unable to guarantee the accuracy of the information represented. Employees or agents disclaim all warranties, expressed or implied, as to any matter whatsoever and shall not be responsible for any loss or damage that may directly or indirectly arise as the result of use of information contained in the County's GIS.

# Memorandum



**Date:** January 29, 2013

**To:** Jack Osterholt, Deputy Mayor  
Director, Regulatory and Economic Resources Department

**From:** Maria I. Nardi, Chief *M.I.N.*  
Planning and Research Division  
Parks, Recreation and Open Spaces Department

**Subject:** Z2013000005: TAMIAMI PLAZA CENTER, INC

---

**Application Name:** TAMIAMI PLAZA CENTER, INC

**Project Location:** The site is located at Southwest corner of SW 136 ST & SW 139 CT, Miami-Dade County.

**Proposed Development:** The applicant is requesting a zone change from IU-C to BU-1A for a retail and service use.

**Impact and demand:** This application does not generate any residential population applicable to CDMP Open Space Spatial Standards. We have no pertinent comments for this application concerning impact or demand on existing County parks, proposed or budgeted service expansion, nor do we perform a concurrency review. The Department has no objection to this application.

If you need additional information or clarification on this matter, please contact John Bowers at (305) 755-5447.

MN:jb

Cc: John M. Bowers, Parks Property Management Supervisor

# Memorandum



**Date:** 29-JAN-13  
**To:** Jack Osterholt, Director  
Department of Regulatory and Economic Resources  
**From:** William W. Bryson, Fire Chief.  
Miami-Dade Fire Rescue Department  
**Subject:** Z2013000005

## Fire Prevention Unit:

No objection to proposed Zoning change. Development plans pending Fire review for site access.

## Service Impact/Demand

Development for the above Z2013000005  
located at Southwest CORNER of SW 136 ST & SW139 CT, MIAMI-DADE COUNTY, FLORIDA.  
in Police Grid 2018 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: 6:24 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 65' Aerial, (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 at this stage.

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

DATE: 31-MAY-13

**BUILDING AND NEIGHBORHOOD  
COMPLIANCE DEPARTMENT**

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

TAMIAMI PLAZA CENTER, INC

Southwest CORNER of SW 136 ST &  
SW139 CT, MIAMI-DADE COUNTY,  
FLORIDA.

---

**APPLICANT**

---

**ADDRESS**

---

Z2013000005

---

**HEARING NUMBER**

**HISTORY:**

NC: THERE ARE NO CURRENT OPEN OR CLOSED NEIGHBORHOOD COMPLIANCE CASE  
FOR FOLIO NUMBERS: 30-5922-001-0210 OR 30-5922-001-0220.

BLDG: THERE ARE NO CURRENT OPEN OR CLOSED BUILDING SUPPORT CASES FOR  
FOLIO NUMBERS: 30-5922-001-0210 OR 30-5900-001-0220.

TAMIAMI PLAZA CENTER, INC

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

**REPORTER NAME:**



NAME, ADDRESS AND OFFICE (if applicable)

Percentage of Interest

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of contract: \_\_\_\_\_

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

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

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

Signature: *[Handwritten Signature]*  
(Applicant) Ernesto R. Greco, as President of Tamiami Plaza Center, Inc.

Sworn to and subscribed before me this 7 day of Jan, 2013. Affiant is personally know to me or has produced N/A as identification.

*[Handwritten Signature]*  
(Notary Public)

NOTARY PUBLIC-STATE OF FLORIDA  
Carmen M. Nunez  
Commission # DD977874  
Expires: APR. 24, 2014  
BONDED THRU ATLANTIC BONDING CO., INC.

My commission expires: 4-24-14

Seal

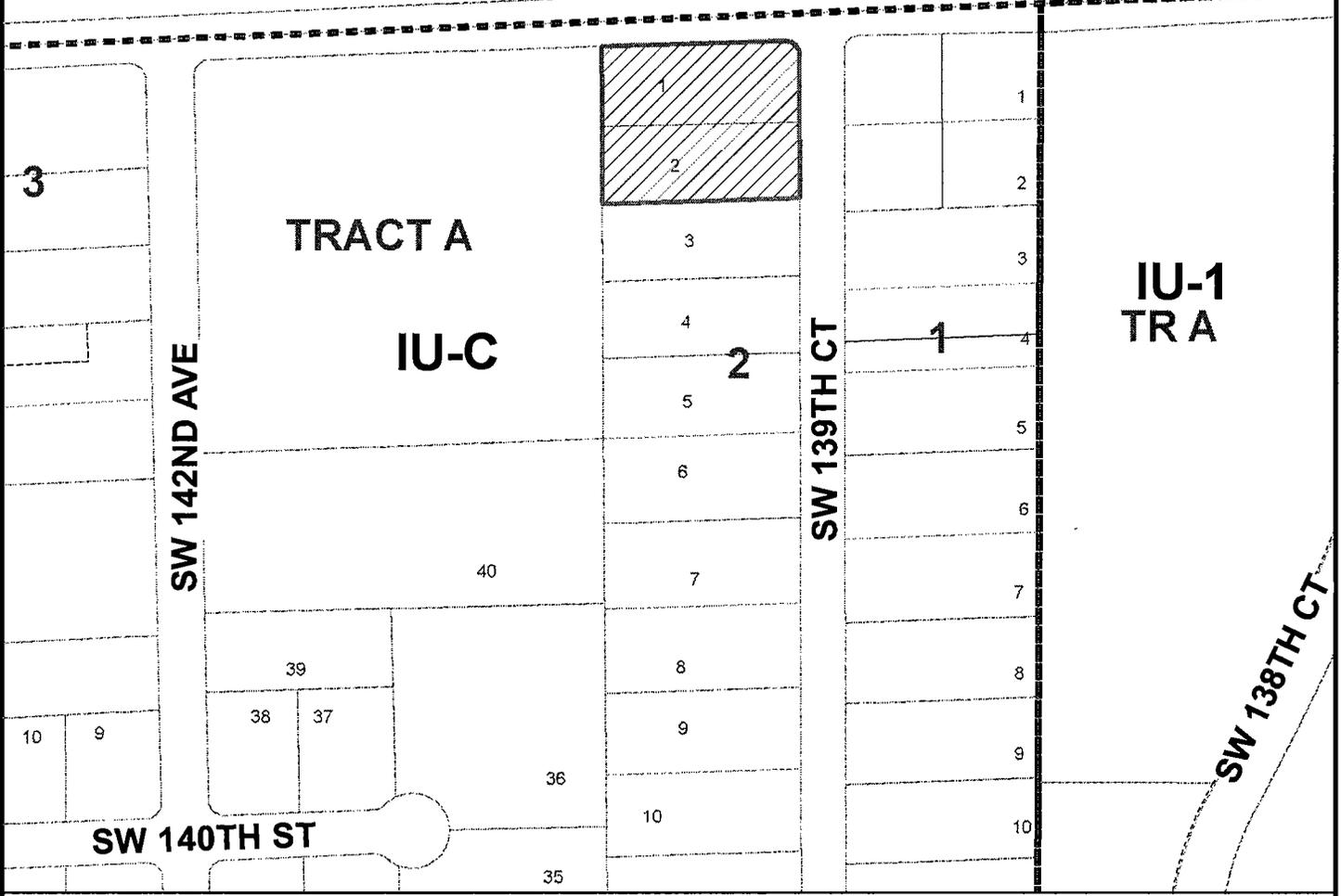
\*Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) any entity where ownership 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**  
*213-005*  
JAN 09 2013

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

GP

SW 136TH ST



MIAMI-DADE COUNTY  
HEARING MAP

Process Number  
**Z2013000005**



Section: 22 Township: 55 Range: 39  
Applicant: TAMAMI PLAZA CENTER, INC  
Zoning Board: C11  
Commission District: 11  
Drafter ID: JEFFER GURDIAN  
Scale: NTS

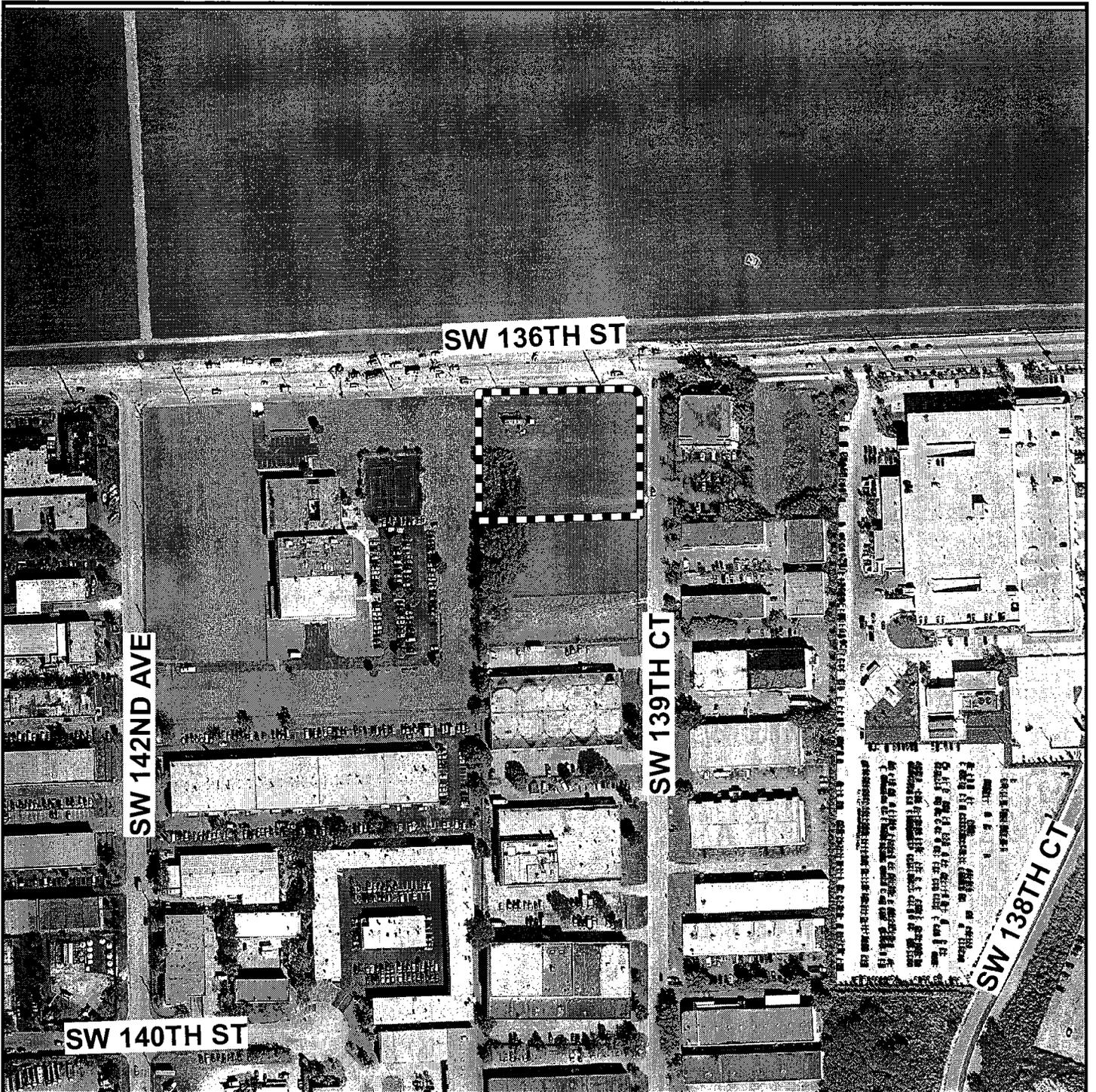
Legend

 Subject Property Case



SKETCH CREATED ON: Thursday, January 31, 2013

REVISION	DATE	BY
		20



**MIAMI-DADE COUNTY**  
**AERIAL YEAR 2012**

Process Number

**Z2013000005**



Section: 22 Township: 55 Range: 39  
 Applicant: TAMIAMI PLAZA CENTER, INC  
 Zoning Board: C11  
 Commission District: 11  
 Drafter ID: JEFFER GURDIAN  
 Scale: NTS

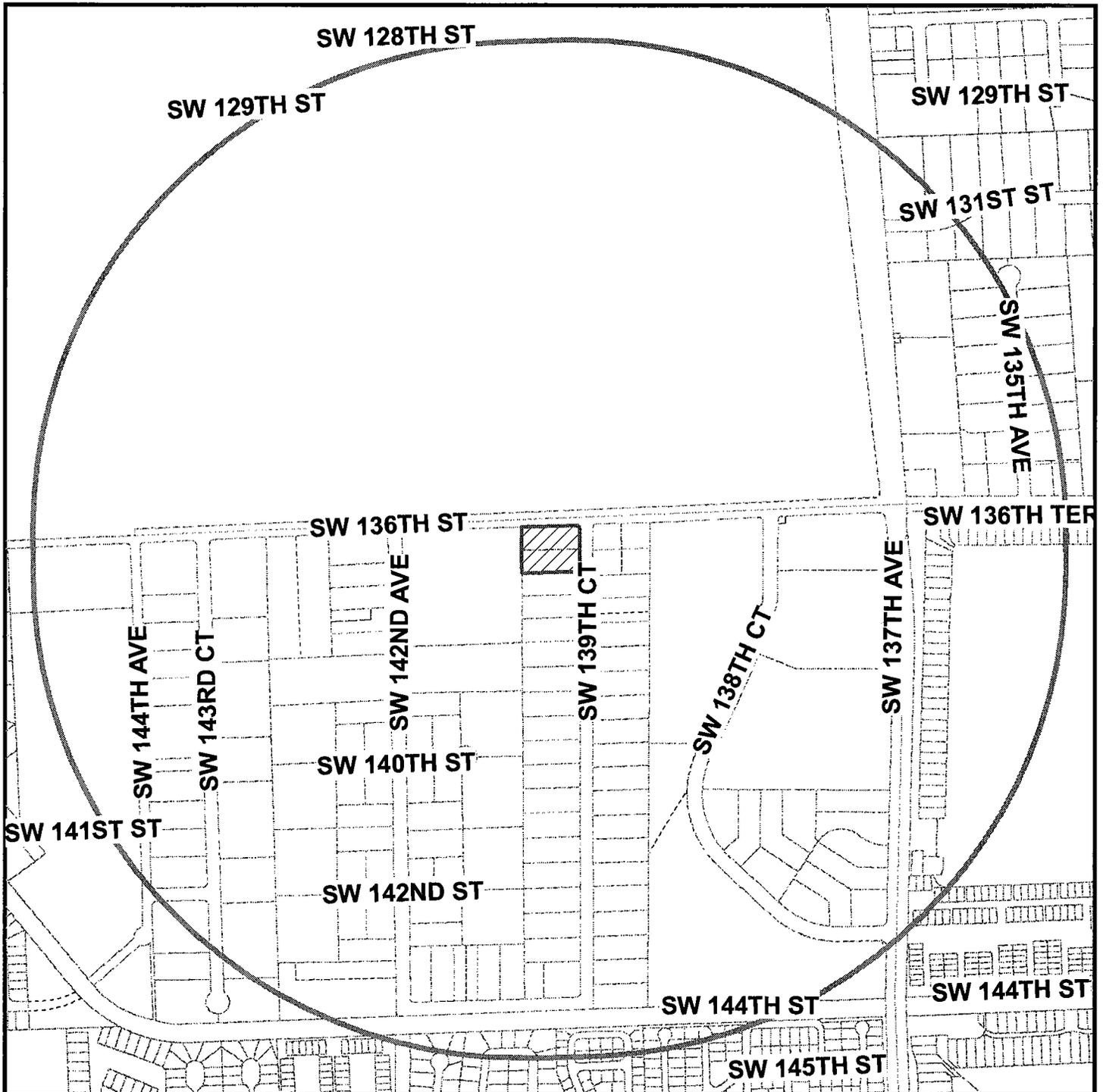
Legend

 Subject Property



SKETCH CREATED ON: Thursday, January 31, 2013

REVISION	DATE	BY
		21



**MIAMI-DADE COUNTY**  
**RADIUS MAP**

Process Number  
**Z2013000005**

RADIUS: 2640



Section: 22 Township: 55 Range: 39  
 Applicant: TAMIAMI PLAZA CENTER, INC  
 Zoning Board: C11  
 Commission District: 11  
 Drafter ID: JEFFER GURDIAN  
 Scale: NTS

**Legend**

 Subject Property

 Buffer

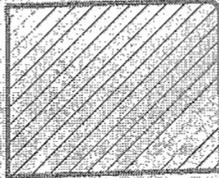


SKETCH CREATED ON: Thursday, January 31, 2013

REVISION	DATE	BY
		22

TERMINALS

SW 136TH ST



SW 142ND AVE

INDUSTRIAL AND OFFICE

SW 139TH CT

SW 138TH CT

SW 140TH ST

MIAMI-DADE COUNTY

CDMP MAP

Process Number

Z2013000005



Section: 22 Township: 55 Range: 39  
Applicant: TAMIAMI PLAZA CENTER, INC  
Zoning Board: C11  
Commission District: 11  
Drafter ID: JEFFER GURDIAN  
Scale: NTS

Legend

 Subject Property Case



SKETCH CREATED ON: Thursday, January 31, 2013

REVISION	DATE	BY

REVISED

**DRAFT**

Tamiami Plaza Center, Inc. (13-005)  
CZAB 11 6/11/13

This instrument was prepared by:  
Name: Juan J. Mayol, Jr., Esq.  
Address: Holland & Knight, LLP  
701 Brickell Avenue, Suite 3000  
Miami, FL 33131

(Space reserved for Clerk)

---

**DECLARATION OF RESTRICTIONS**

*WHEREAS*, the undersigned owner, **TAMIAMI PLAZA CENTER, INC.**, a Florida corporation (the "Owner"), holds the fee simple title to that certain 1.82± acre parcel of land in Miami-Dade County, Florida (the "County"), located at the southwest corner of SW 136 Street and SW 139 Court (the "Property"), which is legally described in Exhibit "A" to this Declaration;

*WHEREAS*, the Owner has submitted to the County Public Hearing No. Z2013000005 (the "Application") seeking a district boundary change from IU-C to BU-1A.

*IN ORDER TO ASSURE* the County that the representations made by the Owner during consideration of the Application will be abided by, the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions (the "Declaration") covering and running with the Property:

1. Use Restrictions. Notwithstanding the approval of the Application, and all applicable Code requirements, the Owner agrees to restrict the Property to the following permitted uses:

- Apparel stores
- Automobile new parts and equipment, sales only
- Automobile service stations - (which may include facilities available for sale of other retail products and services related to the servicing of automobiles)

- Automobile self service gas stations
- Automobile storage within a building
- Automobile tires, batteries, and accessories (new) retail only, installation permitted
- Automobile washing
- Bakeries
- Banks, including drive-in tellers
- Beauty parlors / Barber shops
- Computers and accessories sales
- Confectionery, ice cream, and dairy stores
- Day nursery, kindergarten and after school care
- Dog and pet hospitals in air-conditioned buildings
- Dry cleaning establishments, using nonflammable solvents.
- Drugstores / Pharmacies (4,000 sq. ft. maximum floor area)
- Electrical appliance and fixtures stores, including related repair shops
- Employment agencies
- Florist shops
- Grocery stores (4,000 sq. ft. maximum floor area)
- Hardware stores (4,000 sq. ft. maximum floor area)
- Health and exercise clubs and/or gymnasiums
- Medical clinics
- Medical offices
- Offices
- Office supplies and Equipment stores, Furniture stores, new merchandise only (4,000 sq. ft. maximum floor area)
- Pet grooming
- Post office stations and branches operated by postal service employees or agents that directly serve the public
- Printing, copying and postal packing stores
- Restaurants

- Restaurants with an accessory cocktail lounge-bar use, subject to compliance with Article X, Alcoholic Beverages, of the Code of Miami-Dade County, Florida
- Tailor shops

2. Administrative Site Plan Review. Prior to the issuance of a building permit for the construction of any improvements on the Property, the Owner shall submit for approval an application for administrative site plan review (ASPR) to the Zoning Hearings Section.

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

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

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

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

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

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

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

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

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

Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida, at the cost of the Owner following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Department of Regulatory and Economic Resources or the executive officer of the successor of said department, or in the absence of such director or executive officer by her/his assistant in charge of the office in her/his absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

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

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

[SIGNATURE PAGE(S) FOLLOW]

Signed, sealed and acknowledged on this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

WITNESSES

**TAMIAMI PLAZA CENTER, INC.**  
a Florida corporation

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Ernesto R. Greco, President

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

ACKNOWLEDGED BEFORE ME, this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by Ernesto R. Greco, President of Tamiami Plaza Center, Inc., a Florida corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
Printed Name

My Commission Expires: \_\_\_\_\_

#23004321\_v4

**Miami-Dade County Department of Regulatory and Economic Resources  
Staff Report to Community Council No. 11**

PH: Z13-014 (13-6-CZ11-2)

June 11, 2013

Item No. 2

<b>Recommendation Summary</b>	
<b>Commission District</b>	10
<b>Applicant</b>	Red Berry Estates, LLC
<b>Summary of Requests</b>	The applicant is seeking to allow a district boundary change from GU to EU-M.
<b>Location</b>	7455 SW 125 Avenue, Miami-Dade County, Florida.
<b>Property Size</b>	5 acres
<b>Existing Zoning</b>	GU, Interim District
<b>Existing Land Use</b>	Recreational facility
<b>2015-2025 CDMP Land Use Designation</b>	Estate Density, 1 to 2.5 dua, (see attached Zoning Recommendation Addendum)
<b>Comprehensive Plan Consistency</b>	Consistent with the LUP map of the CDMP
<b>Applicable Zoning Code Section(s)</b>	Section 33-311, District Boundary Change (see attached Zoning Recommendation Addendum)
<b>Recommendation</b>	<b>Approval, subject to the acceptance of the proffered covenant</b>

**REQUEST:**

DISTRICT BOUNDARY CHANGE from GU to EU-M.

**PROJECT DESCRIPTION:**

The applicant seeks to rezone the 5-acre parcel from GU, Interim District to EU-M, Single Family Modified Estate District.

<b>NEIGHBORHOOD CHARACTERISTICS</b>		
	<b>Zoning and Existing Use</b>	<b>Land Use Designation</b>
<b>Subject Property</b>	GU; recreational facility	Estate Density Residential (1 to 2.5 dua)
<b>North</b>	GU: religious facilities, private school	Estate Density Residential (1 to 2.5 dua)
<b>South</b>	EU-M: single-family residences	Estate Density Residential (1 to 2.5 dua)
<b>East</b>	EU-M: single-family residences	Estate Density Residential (1 to 2.5 dua)
<b>West</b>	EU-M; single-family residences	Estate Density Residential (1 to 2.5 dua)

**NEIGHBORHOOD COMPATIBILITY:**

Staff notes that the abutting properties to the south, east and west are also zoned EU-M and developed with single-family residences. The properties to the north are zoned GU and are developed with religious and educational institutional uses.

### **SUMMARY OF THE IMPACTS:**

The approval of this application will allow the applicant to provide additional housing in this section of the County. However, the proposed rezoning could have an impact on traffic on the abutting roadways, schools and emergency services in the area.

### **COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:**

The subject property is located within the Urban Development Boundary (UDB) and is designated as **Estate Density Residential** on the Adopted 2015-2025 Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map. *This density range is characterized by detached estate residences that typically occupy a small portion of the parcel and can be developed at a maximum of 2.5 dwelling units per acre.* This would allow the applicant to develop the 5 acre parcel with a maximum of 12 residential units which is the maximum allowed under the density threshold of the CDMP Estate Density designation on the LUP map. Staff notes that the EU-M zoning district allows residences at 15,000 sq. ft., which would allow the applicant to develop the 5-gross acre parcel at 2.9 dwelling units per acre for a maximum of 14 residential units. The applicant indicated the intent to purchase Severable Use Rights (SUR's) for the development of the parcel. With the utilization of Severable Use Rights (SUR's), EU-M zoning would permit a minimum lot area 12,500 sq. ft., a minimum frontage of 100' and a minimum depth of 125' thereby allowing the applicant to develop the site with a maximum of 17 residential units. The submitted site plans indicate that the purpose of the rezoning is to allow the applicant to develop the site with 12 single-family residences on lots ranging from a minimum of 13,836 sq. ft. to 14,640 sq. ft. through the purchase of SUR's. In addition, staff notes that the applicant has proffered a covenant to limit the development of the parcel to 12 residential units, the maximum allowed under the density threshold of the CDMP Estate Density designation on the LUP map.

The CDMP Land Use Element **Objective LU-4**, states that *Miami-Dade County shall, by the year 2015, reduce the number of land uses, which are inconsistent with the uses designated on the LUP map and interpretive text, or with the character of the surrounding community.* The subject property abuts properties to the south, east and west that are also zoned EU-M, some of which were also approved with the purchase of SUR's. As such, subject to the Board's acceptance of the proffered covenant, staff opines that the rezoning of the subject property to EU-M would be **compatible** with the surrounding area and **consistent** with the density threshold of the Estate Density Residential designation of the parcel on the CDMP Land Use Plan map and the CDMP's Land Use Element the interpretative text, **Objective LU-4**.

### **ZONING ANALYSIS:**

When the applicant's request to rezone the 5-acre parcel to EU-M, Single-Family Modified Estate District, is analyzed under Section 33-311, District Boundary Change, staff opines that the approval of the application would not have an unfavorable impact on the environment, the natural resources, or the economy of the County. Staff notes that the approval of the applicant's request to rezone the property will be **consistent** with the Estate Density Residential designation of the parcel on the CDMP Land Use Plan map. Further, staff opines that approval of this request will not have a negative impact on the surrounding roadways or transportation facilities based on the recommendations and/or information contained in the memorandum from the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources. Their memorandum also indicates that the proposed development will generate

less traffic than the existing recreational facility. Additionally, staff notes that the memorandum from the Division of Environmental and Regulatory Management of said Department indicates that the proposed rezoning meets the Level of Service (LOS) standards for an initial development order and therefore will not have an unfavorable impact on the natural resources of Miami-Dade County.

The subject parcel is located approximately 654' south SW 72 Street an east/west section line road and approximately 694' east of SW 127 Avenue a north/south section line road, both of which provide access to the Florida Turnpike that is approximately 3,000' east of the subject property. Additionally, staff notes that the subject property is surrounded on three (3) sides, the east, south and west, by properties that are developed with single-family residences that are developed under the EU-M zoning district regulations. Staff notes that some of the surrounding properties developed under the EU-M zoning district regulations were also developed with the purchase of SUR's. For example, the property to the east of the subject property was approved pursuant to Resolution #CZAB11-45-99, to approve the rezoning of the property to EU-M and to permit lots varying in size from 13,129 sq. ft. to 14,377 sq. ft. Therefore, staff opines that approval of the applicant's request for district boundary change to EU-M will be **compatible** with the surrounding area. **Staff therefore, recommends approval of the application under Section 33-311, District Boundary Change, subject to the Board's acceptance of the covenant.**

**ACCESS, CIRCULATION AND PARKING:** N/A

**NEIGHBORHOOD SERVICES PROVIDER REVIEW:** See attached.

**OTHER:** Not applicable.

**RECOMMENDATION:**

**Approval, subject to the Boards acceptance of the covenant.**

**CONDITIONS FOR APPROVAL:** None.

ES:MW:NN:JC:CH

  
Eric Silva, AICP, Assistant Director  
Development Services Division  
Miami-Dade County Department of  
Regulatory and Economic Resources

NDW

## ZONING RECOMMENDATION ADDENDUM

Red Berry Estates, LLC  
Z13-014

<b>NEIGHBORHOOD SERVICES PROVIDER COMMENTS</b>	
Division of Environmental and Regulatory Management (RER)	No objection*
Platting and Traffic Review Section (RER)	No objection*
Parks, Recreation and Open Spaces	No objection
Fire Rescue	No objection
Police	No objection
Schools	No objection
*Subject to conditions in their memorandum.	

### COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES, POLICIES AND INTERPRETATIVE TEXT

<b>Estate Density Residential</b> (Pg. I-31)	<i>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 units per gross acre.</i>
<b>Severable Use Rights</b> (Pg. I-30)	<b>Severable Use Rights</b> (SURs) or Transfer of Development Rights (TDR's) may be transferred to parcels within the Urban Development Boundary. When Severable Use Rights or Transfer of Development Rights are utilized on residentially designated parcels, development will be allowed to exceed the maximum limits designated for the site or affected portions of it; however, this provision does not authorize the granting of a zoning district that, without use of SURs or TDR's, would exceed the Plan density limit.
<b>Objective LU-4</b> (Pg. I-11)	Miami-Dade County shall, by the year 2015, reduce the number of land uses, which are inconsistent with the uses designated on the LUP map and interpretive text, or with the character of the surrounding community.
<b>Policy LU-9C</b> (Pg. I-19)	Miami-Dade County shall continue to encourage and promote the transfer of Severable Use Rights (SUR) from lands, which are allocated SURs in Chapter 33B, Code of Miami-Dade County, to land located within the Urban Development Boundary (UDB) as designated on the LUP map.

### PERTINENT ZONING REQUIREMENTS/STANDARDS

<b>Section 33-311 District Boundary Change</b>	<p>(A) <i>The Community Zoning Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the County.</i></p> <p>(F) <b>Section 33-311</b> provides that the Board shall take into consideration, among other factors the extent to which:</p> <p>(1) <i>The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;</i></p>
--	---

## ZONING RECOMMENDATION ADDENDUM

*Red Berry Estates, LLC  
Z13-014*

	<p>(2) <i>The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;</i></p> <p>(3) <i>The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;</i></p> <p>(4) <i>The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;</i></p> <p>(5) <i>The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.</i></p>
--	---

**2. RED BERRY ESTATES, LLC**  
**(Applicant)**

**13-6-CZ11-2 (13-014)**  
**Area 11/District 10**  
**Hearing Date: 06/11/13**

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:**

<b><u>Year</u></b>	<b><u>Applicant</u></b>	<b><u>Request</u></b>	<b><u>Board</u></b>	<b><u>Decision</u></b>
1987	Robert & Elizabeth Goldenberg	- Unusual Use to permit recreational facility.	ZAB	Approved with condition(s)

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.

**Date:** March 13, 2013  
**To:** Jack Osterholt, Director  
Department of Regulatory and Economic Resources  
**From:** Jose Gonzalez, P.E.  
Department of Regulatory and Economic Resources  
**Subject:** #Z2013000014  
Red Berry's Baseball World, LTD  
7455 SW 125<sup>th</sup> Avenue  
District Boundary Changes: EU-M  
(GU) (5 Acres)  
36-54-39



The subject application has been reviewed for compliance with the requirements of Chapter 24 of the Miami-Dade County Code (the Code) and meets the minimum requirements of the Code. Accordingly, the application may be scheduled for public hearing.

Wellfield Protection

The subject property is located within the Basic Day Pumpage Wellfield Protection Area of the Southwest Wellfield Complex. Development of the subject property shall be in accordance with the regulations established in Section 24-43 of the Code. Since the proposed zoning request is for a residential land use, a hazardous wastes prohibition covenant is not required.

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. All sewer lines serving the property shall comply with the exfiltration standards as applied to development within wellfield protection areas.

Be advised that the required water main extension permit is issued by the Florida Department of Health. Civil drawings for the proposed water main extension will need to be approved by the Miami-Dade Water and Sewer Department and the DERM Environmental Permitting Section.

Civil drawings for the required sewer main extension will need to be approved by Miami-Dade Water and Sewer Department and the DERM Environmental Permitting Section, prior to approval of final development orders.

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.

#### Stormwater Management

A Surface Water Management General Permit shall be required for the construction and operation of the required surface water management system. This permit shall be obtained prior to any future development order approval. The applicant is advised to contact the Water Control Section at (305)-372-6681 for further information regarding permitting procedures and requirements.

Stormwater shall be retained on site utilizing properly designed seepage or infiltration drainage system. Drainage plans shall provide for full on-site retention of the stormwater runoff generated by a 5-year / 1-day storm event.

Site grading and development plans shall comply with the requirements of Chapter 11C of the Code, as well as with all state and federal criteria, and shall not cause flooding of adjacent properties.

Any proposed development shall comply with county and federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the LOS standards for flood protection set forth in the CDMP subject to compliance with the conditions required for this proposed development order.

#### Wetlands

The subject property does 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

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

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

The applicant is advised to contact the Tree Permitting Program at (305)-372-6600 for additional information regarding tree permitting procedures and requirements prior to site development.

Enforcement History

There are no open or closed enforcement records for violations of Chapter 24 of the Code for the subject property.

Concurrency Review Program

A concurrency review has been conducted 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 written approval as required by Chapter 24 of 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.

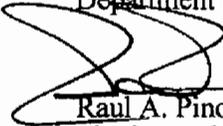
cc: Eric Silva, Department of Regulatory and Economic Resources

# Memorandum



**Date:** April 16, 2013

**To:** Eric Silva, Assistant Director  
Department of Regulatory and Economic Resources

**From:**   
Raul A. Pino, PLS, Chief  
Platting and Traffic Review Section  
Department of Regulatory and Economic Resources

**Subject:** Z2013000014  
Name: Red Berry's Baseball World, Ltd.  
Location: 7455 SW 125 Avenue  
Section 36 Township 54 South Range 39 East

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The Department of Regulatory and Economic Resources Platting and Traffic Review Section has reviewed the subject application and has no objections.

This land requires platting in accordance with Chapter 28 of the Miami-Dade County Code. Any right-of-way dedications and/or improvements required will be accomplished thru the recording of a plat.

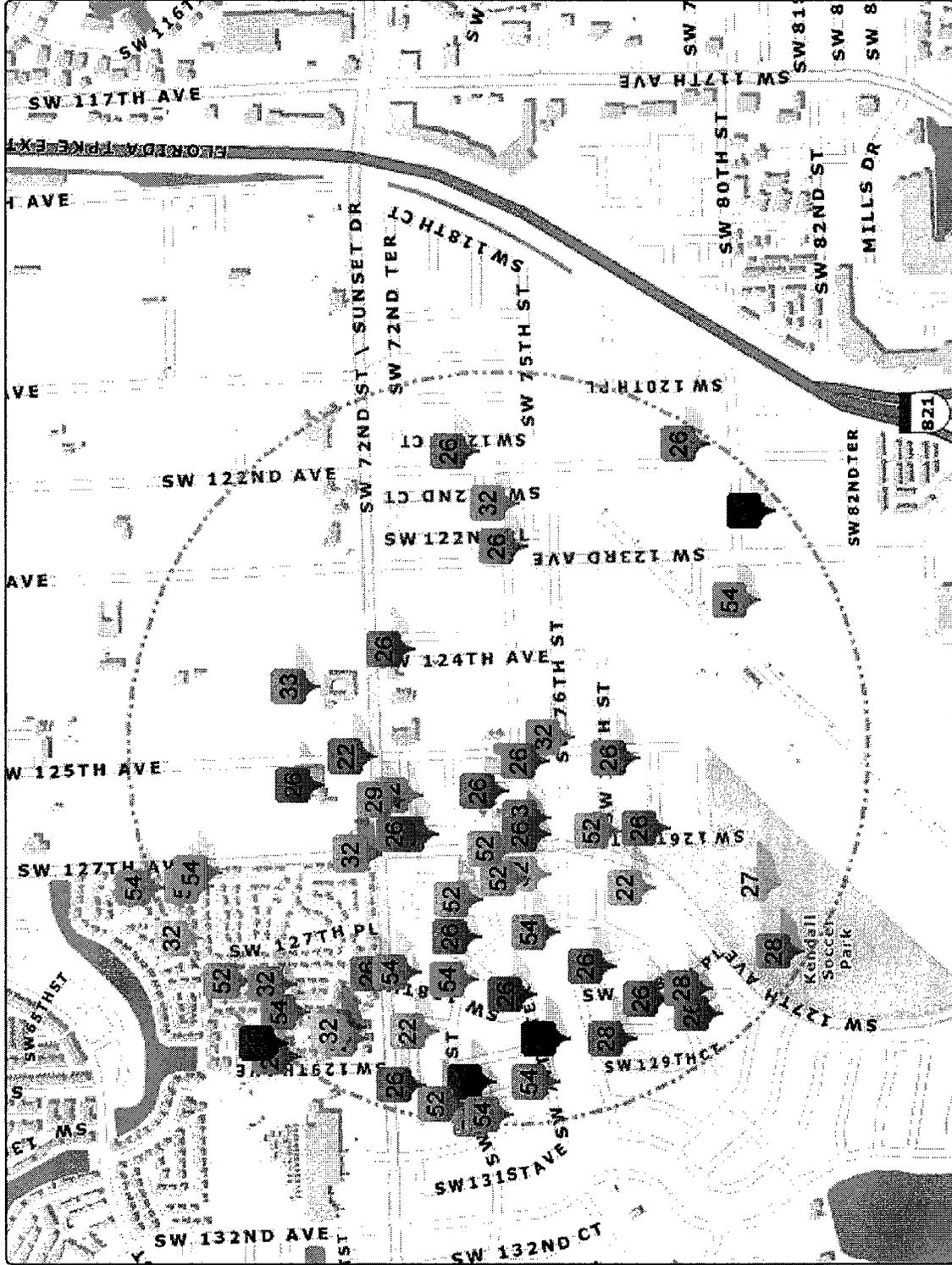
The proposed use for this application will generate less traffic than the existing use; therefore no vehicle trips have been assigned. This application meets the traffic concurrency criteria set for an Initial Development Order.

# RED BERRY'S BASEBALL WORLD, LTD

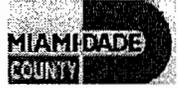
Z2013000014 2012 SELECTED CRIMES (JAN 1 - DEC 30) 0.5 MI

Miami-Dade Police Department

Map Legend	
	CDW Incidents (71)
	26R - Burglary Residential (18)
	52 - Narcotics Investigation (13)
	54 - Fraud (10)
	28 - Vandalism (5)
	22S - Auto Theft Stolen (5)
	32D - Domestic Assault (4)
	32 - Assault (4)
	14 - Conduct Investigation (3)
	26C - Burglary Commercial (2)
	29 - Robbery (2)
	33LM - Sex Offense L&L Molestation (2)
	33 - Sex Offense (1)
	22A - Auto Theft Attempt (1)
	27U - Larceny Under (1)



This map was prepared using Miami-Dade County's (MDC) Geographic Information System (GIS). As is the case with all public records information, the nature of the data and the collection processes limit the ability of any aggregator to independently validate data and content. Every effort has been made to ensure that the information presented is accurate, however, the results cannot be guaranteed. In order to ensure the accuracy of the information supplied by MDC, the requestor should consult the official government record. Based on these limitations, MDC is unable to guarantee the accuracy of the information represented. Employees or agents disclaim all warranties, expressed or implied, as to any matter whatsoever and shall not be responsible for any loss or damage that may directly or indirectly arise as the result of use of information contained in the County's GIS.



# Memorandum

**Date:** 06-MAR-13  
**To:** Jack Osterholt, Director  
 Department of Regulatory and Economic Resources  
**From:** Dave Downey, Fire Chief  
 Miami-Dade Fire Rescue Department  
**Subject:** Z2013000014

## Fire Prevention Unit:

No objection via Case # Z2013000014

## Service Impact/Demand

Development for the above Z2013000014  
 located at 7455 SW 125 AVENUE, MIAMI-DADE COUNTY, FLORIDA.  
 in Police Grid 1746 is proposed as the following:

<u>12</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: 3.20 alarms-annually.  
 The estimated average travel time is: 6:17 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 13

## Planned Service Expansions:

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

## Fire Planning Additional Comments

Current service impact calculated based on site plan date stamped received 02/06/13. Substantial changes to the plan will require additional service impact analysis.

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

12

DATE: 01-MAR-13

**BUILDING AND NEIGHBORHOOD  
COMPLIANCE DEPARTMENT**

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

RED BERRY'S BASEBALL WORLD,  
LTD

7455 SW 125 AVENUE, MIAMI-  
DADE COUNTY, FLORIDA.

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**APPLICANT**

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**ADDRESS**

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Z2013000014

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**HEARING NUMBER**

**HISTORY:**

ENFORCEMENT HISTORY: NC: No open cases. Prior case opened October 15, 2012 for Right-of-way violation and a warning was issued. Violation corrected and case closed October 22, 2012. Another prior case opened October 15, 2012 for junk/trash and a warning was issued. Violation corrected November 8, 2012 and closed. BNC: No bss cases opened/closed.

Red Berrys Baseball World

**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: RED BERRY ESTATES LLC

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

If a TRUST or ESTATE owns or leases the subject property, list the trust beneficiaries and 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: RED BERRY ESTATES, LLC

<u>NAME AND ADDRESS</u>	<u>Percentage of Ownership</u>
<u>ALBERT MAULY</u>	<u>50%</u>
<u>BENJAMIN LEON, III</u>	<u>50%</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.

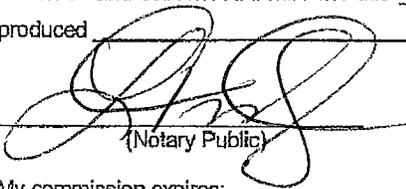
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

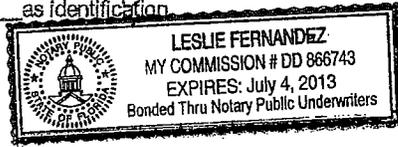
**NOTICE:** For any changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required.

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

**Signature:** By: \_\_\_\_\_  
(Applicant) Rolando Delgado

Sworn to and subscribed before me this 3 day of May, 2013. Affiant is personally know to me or has produced \_\_\_\_\_ as identification.

  
(Notary Public)



My commission expires: \_\_\_\_\_

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.



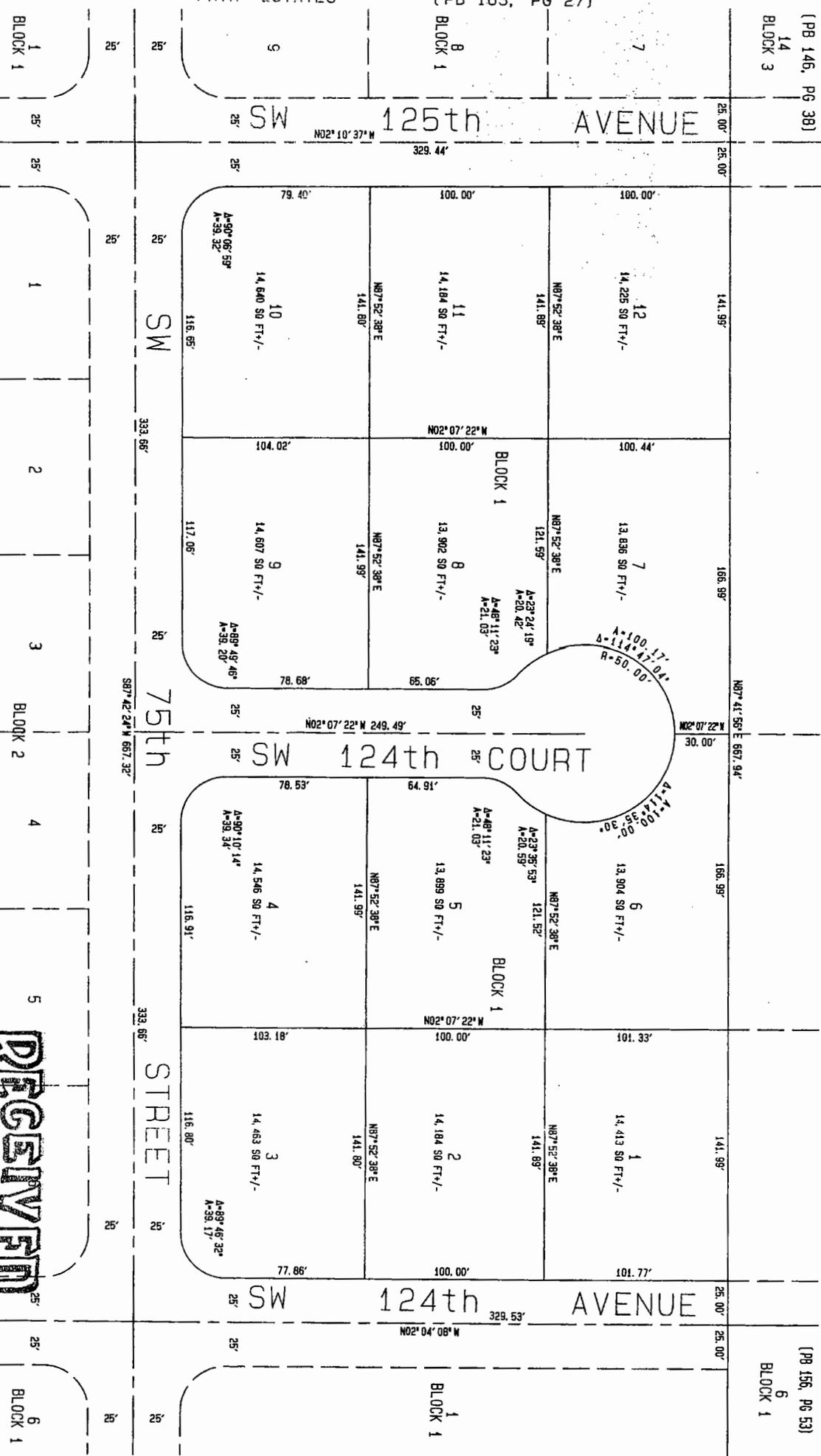
17

NOT SUBDIVIDED

BRECKENRIDGE ESTATES  
(PB 156, PG 53)  
BLOCK 6

(PB 146, PG 38)  
BLOCK 14  
BLOCK 3

BLOCK 1

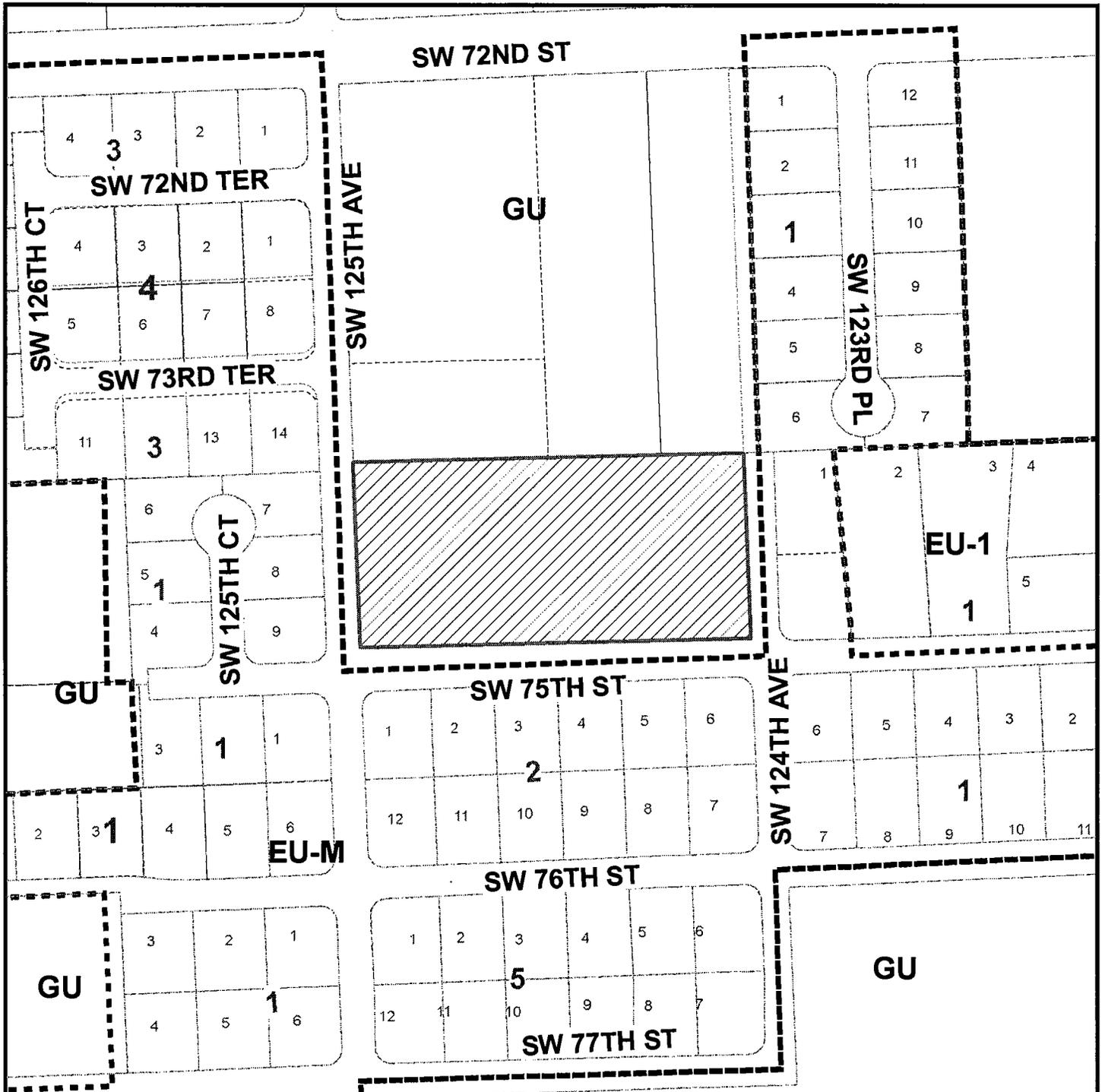


THE MANSIONS AT SUNSET FIRST ADDITION  
(PB 146, PG 31)

**RECEIVED**  
2/20/13  
FEB 06 2013

PASTURE ESTATES SUBDIVISION  
(PB 123, PG 33)

ZONING HEARINGS SECTION  
MIAMI-DADE PLANNING AND ZONING DEPT.  
BY \_\_\_\_\_



**MIAMI-DADE COUNTY**  
**HEARING MAP**

Process Number  
**Z2013000014**



Section: 36 Township: 54 Range: 39  
 Applicant: RED BERRY'S BASEBALL WORLD, LTD  
 Zoning Board: C11  
 Commission District: 10  
 Drafter ID: JEFFER GURDIAN  
 Scale: NTS

**Legend**

 Subject Property Case



SKETCH CREATED ON: Friday, February 22, 2013

REVISION	DATE	BY
		18



**MIAMI-DADE COUNTY**  
**AERIAL YEAR 2012**

Process Number

**Z2013000014**



Section: 36 Township: 54 Range: 39  
 Applicant: RED BERRY'S BASEBALL WORLD, LTD  
 Zoning Board: C11  
 Commission District: 10  
 Drafter ID: JEFFER GURDIAN  
 Scale: NTS

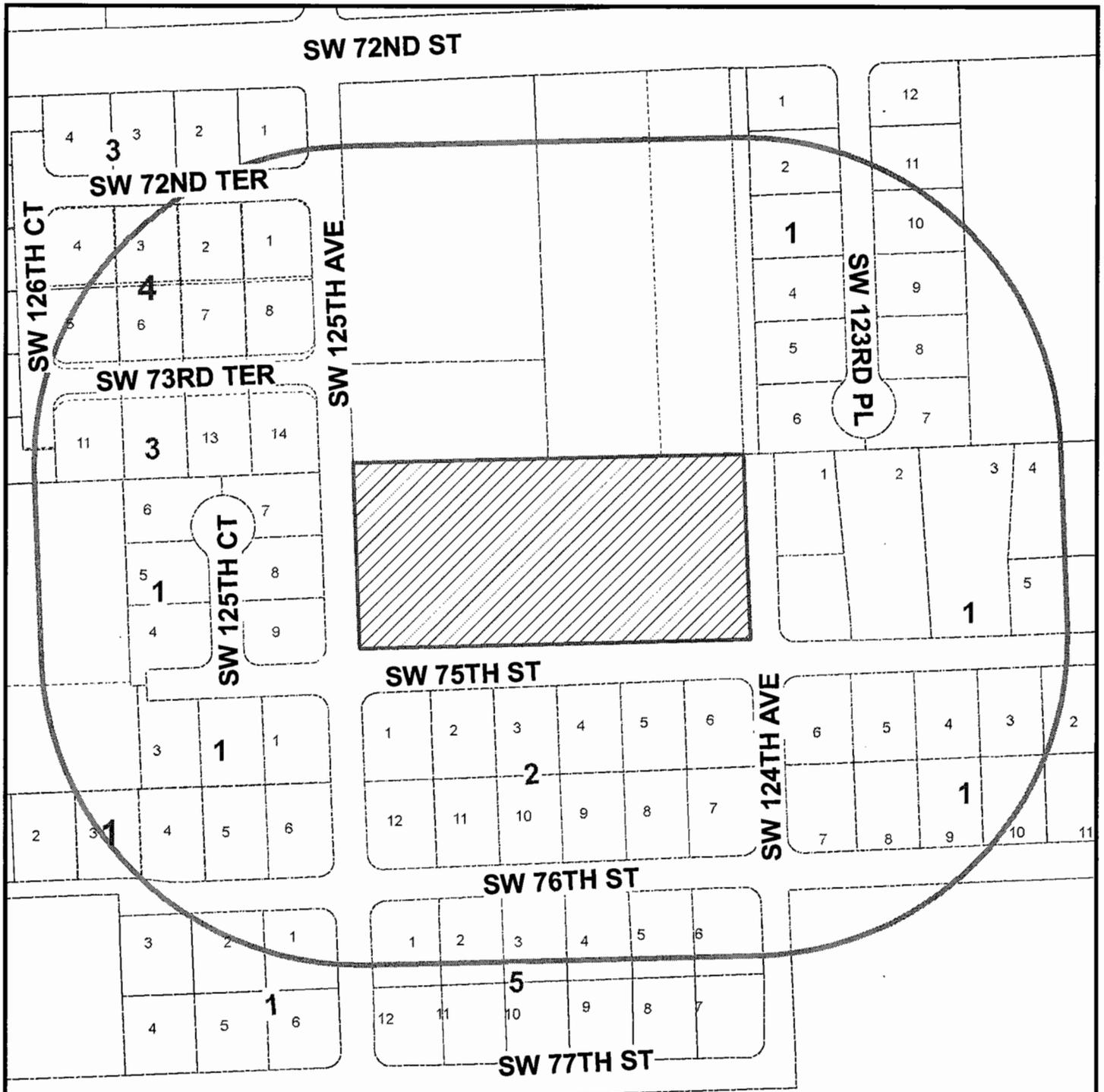
Legend

 Subject Property



SKETCH CREATED ON: Friday, February 22, 2013

REVISION	DATE	BY
		19



**MIAMI-DADE COUNTY  
RADIUS MAP**

Process Number  
**Z2013000014**



Section: 36 Township: 54 Range: 39  
 Applicant: RED BERRY'S BASEBALL WORLD, LTD  
 Zoning Board: C11  
 Commission District: 10  
 Drafter ID: JEFFER GURDIAN  
 Scale: NTS

RADIUS: 2640

**Legend**

-  Subject Property
-  Buffer



SKETCH CREATED ON: Friday, February 22, 2013

REVISION	DATE	BY
		W

AGRICULTURE

SW 72ND ST

SW 126TH CT

SW 72ND TER

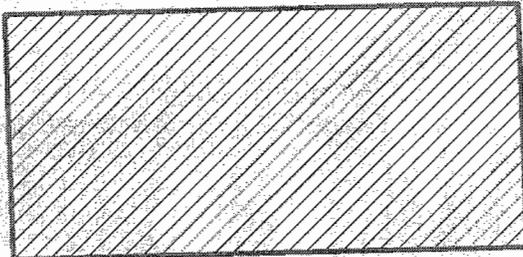
SW 125TH AVE

SW 73RD TER

(EDR) 1-2.5 DU/AC

SW 123RD PL

SW 125TH CT



SW 75TH ST

SW 124TH AVE

SW 76TH ST

SW 77TH ST

MIAMI-DADE COUNTY  
CDMP MAP

Process Number  
**Z2013000014**

Section: 36 Township: 54 Range: 39  
Applicant: RED BERRY'S BASEBALL WORLD, LTD  
Zoning Board: C11  
Commission District: 10  
Drafter ID: JEFFER GURDIAN  
Scale: NTS



Legend

 Subject Property Case



SKETCH CREATED ON: Friday, February 22, 2013

REVISION	DATE	BY

Revised 5/22/13  
Draft

Red Berry Estates, LLC (13-01)  
CZAB II 6/11/13

This instrument was prepared by:

Name: Simon Ferro, Esq.

Address: Gunster Yoakley & Stewart, P.A.  
2 South Biscayne Blvd., Suite 3400  
Miami, Florida 33131

Received by  
Zoning Agenda Coordinator

MAY 22 2013

(Space reserved for Clerk)

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**DECLARATION OF RESTRICTIONS**

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

IN ORDER TO ASSURE the County that the representations made by the Owner during consideration of Public Hearing No. Z2013000014 will be abided by the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property:

(1) Property shall be developed substantially in accordance with that certain site plan previously submitted entitled "Red Berry Estates" prepared by E.R. Brownell & Associates, Inc., dated 1/30/13, consisting of one page.

(2) The Property shall be developed with the application of Severable Use Rights in accordance with section 33B-45 of the Miami-Dade County Zoning Code and the maximum number of residential lots to be developed thereon, including the use of Severable Use Rights, shall not exceed 12 residential lots.

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

**Covenant Running with the Land.** This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. Owner, and their heirs, successors and assigns,

Section-Township-Range:

Folio number:

MIA\_ACTIVE 4083039.2

## **Declaration of Restrictions**

**Page 2**

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

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

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

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

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

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

**Presumption of Compliance.** Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

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

**Section-Township-Range:**

**Folio number:**

**(Public Hearing)**

**Declaration of Restrictions**

**Page 3**

**Recording.** This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owners following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Regulatory and Economic Resources Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

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

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

[Execution Pages Follow]

**Section-Township-Range:**

**Folio number:**

MIA\_ACTIVE 4083039.2

**(Public Hearing)**

**Declaration of Restrictions**

**Page 4**

IN WITNESS WHEREOF, ROLANDO DELGADO, as Managing Member of the Owner, RED BERRY ESTATES LLC, has executed this Declaration this \_\_\_\_\_ day of May, 2013.

**OWNER:**

RED BERRY ESTATES, LLC

Witnesses:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: Rolando Delgado

Title: Managing Member

STATE OF FLORIDA )

) ss:

COUNTY OF MIAMI-DADE )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by Rolando Delgado as Managing Member of the Owner of the subject property. He is personally known to me or has produced \_\_\_\_\_ as identification and did take an oath.

Witness my signature and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2013 in the County and State aforesaid.

\_\_\_\_\_  
Notary Public, State of Florida at Large

**Section-Township-Range:**

**Folio number:**

**EXHIBIT "A"**

The North  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 36, Township 54 South, Range 39 East LESS the East 25 feet and the West 25 feet thereof, lying and being in Miami Dade County, Florida.

**Section-Township-Range:**

**Folio number:**

MIA\_ACTIVE 4083039.2

**(Public Hearing)**