

KITS

10-8-2008 Version # 2



**COMMUNITY ZONING APPEALS BOARD 12
KENDALL VILLAGE CENTER - CIVIC PAVILION
8625 SW 124 Avenue, Miami
Wednesday, November 5, 2008 at 6:30 p.m.**

TIE VOTE

A. 08-10-CZ12-2 THOMAS AND TRACY ROWSEY 08-41 29-54-40

PREVIOUSLY DEFERRED

B. 08-9-CZ12-1 B & F MARINE, INC. 06-323 23-54-40

CURRENT

1. 08-11-CZ12-1 FRANK & GINA GUILFORD 07-173 31-54-41 N



Official Zoning Agenda

COMMUNITY ZONING APPEALS BOARD

COMMUNITY ZONING APPEALS BOARD - AREA 12

MEETING OF WEDNESDAY, NOVEMBER 5, 2008

KENDALL VILLAGE CENTER – CIVIC PAVILION

8625 SW 124 AVENUE, MIAMI, FLORIDA

NOTICE: THE FOLLOWING HEARINGS ARE SCHEDULED FOR 6:30 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

A. THOMAS AND TRACY ROWSEY (08-10-CZ12-2/08-41)

**29-54-40
Area 12/District 7**

Applicants are requesting to permit a shed setback 11.13' (20' required) from the interior side (east) property line.

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

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Storage Accessory Building," as prepared by Thomas and Tracy Rowsey, dated stamped received 3/03/08 and consisting of 1 page. Plans may be modified at public hearing.

LOCATION: 9890 S.W. 60 Street, Miami-Dade County, Florida.

SIZE OF PROPERTY: 1.059 Acres

Department of Planning and
Zoning Recommendation:

Denial without prejudice.

Protests: 0

Waivers: 0

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____

DEFERRED: _____

Deferred from 10/7/08 – as a Tie Vote

B. B & F MARINE, INC. (08-9-CZ12-1/06-323)

**23-54-40
Area 12/District 7**

(1) BU-1A and RU-1 to BU-2

(2) Applicant is requesting to permit a minimum setback of 15' (39' required) from the front (north and south) property lines setback 15' (39' required) from the side street (west) property line.

(3) Applicant is requesting to permit a lot coverage of 50% (40% maximum permitted).

(4) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.6 (1.35 maximum permitted).

(5) Applicant is requesting to waive the required wall set in 10' from the right-of-way and portions of a 10' wide landscape strip along the rear (south) property line where said lot lies across the street from RU zoned property; to permit openings for ingress/egress drives.

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

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Site Plan Study for Multiuse Project at: B & F Marine, Inc.," as prepared by Tapia-Ruano Architect, Inc., consisting of 14 sheets and dated stamped received 1/22/08. Plans may be modified at public hearing.

LOCATION: Lying east of S.W. 72 Avenue, Between S.W. 40 Street (Bird Road) and S.W. 41 Street, Miami-Dade County, Florida.

SIZE OF PROPERTY: 1.03 Acres

Department of Planning and Zoning Recommendation:

Approval of request #1, subject to the Board's acceptance of the proffered covenant; approval with conditions of requests #2 through #5 under Section 33-311(A)(4)(b) (NUV), and denial without prejudice of same requests under Sections 33-311(A)(16) (ASDO) and 33-311(A)(4)(c) (ANUV).

Protests: 4

Waivers: 5

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____ DEFERRED: _____

Deferred from 9/3/08

1. FRANK AND GINA GUILFORD (08-11-CZ12-1/07-173)

**31-54-41
Area 12/District 7**

- (1) Applicants are requesting to waive the zoning regulations prohibiting structures on or in a right-of-way; to permit a coral rock wall in the right-of-way of S.W. 50 Avenue.
- (2) Applicants are requesting to permit the coral rock wall varying from 4' to 9' in height (6' permitted).
- (3) Applicants are requesting to permit an existing residence setback 22.87' (25' required) from the rear (east) property line, setback 19.25' (25' required) from the front (west) property line and setback 22' (25' required) from the side street (south) property line.

Upon a demonstration that the applicable standards have been satisfied, approval of the requests #2 and #3 may be considered under §33-311(A)(14) (Alternative Site Development Option for Single-Family and Duplex Dwelling Units) and approval of requests #1 through #3 may be considered under §33-311 (A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Guilford Residence," as prepared by Brockhouse Associates, PA dated stamped received 6/9/08 consisting of 5 sheets. Plans may be modified at public hearing.

LOCATION: 7625 S.W. 50 Avenue, Miami-Dade County, Florida.

SIZE OF PROPERTY: 122' x 144'

Department of Planning and
Zoning Recommendation:

Approval with conditions of requests #1 through #3 under Section 33-311(A)(4)(b) (NUV), and denial without prejudice of same requests under Section 33-311(A)(4)(c) (ANUV); denial without prejudice of requests #2 and #3 under Section 33-311(A)(14) (ASDO).

Protests: _____ 0 _____

Waivers: _____ 0 _____

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____ DEFERRED: _____

T H E E N D

NOTICE OF APPEAL RIGHTS

Decisions of the Community Zoning Appeals Board (CZAB) are appealed either to Circuit Court or to the Board of County Commissioners (BCC) depending upon the items requested in the Zoning Application. Appeals to Circuit Court must be filed within 30 days of the transmittal of the CZAB resolution. Appeals to BCC must be filed with the Zoning Hearings Section of the Department of Planning and Zoning within 14 days of the posting of the results in the department.

Further information and assistance may be obtained by contacting the Legal Counsel's office for the Department of Planning and Zoning at (305) 375-3075, or the Zoning Hearings Section at (305) 375-2640. For filing or status of Appeals to Circuit Court, you may call the Clerk of the Circuit Court at (305) 349-7409.

A. THOMAS AND TRACY ROWSEY
(Applicant)

08-10-CZ12-2 (08-41)
Area 12/District 7
Hearing Date: 11/5/08

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

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

Disclosure of interest form attached? Yes No

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
				NONE

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

MIAMI-DADE COUNTY
COMMUNITY ZONING APPEALS BOARD - AREA 12
MOTION SLIP

#2

APPLICANT'S NAME: **THOMAS AND TRACY ROWSEY**

REPRESENTATIVE: Thomas Rowsey, Tracy Rowsey

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER	
08-10-CZ12-2 (08-41)	October 7, 2008	CZAB12	08

REC: Denial without prejudice.

WITHDRAW: APPLICATION ITEM(S): _____

DEFER: INDEFINITELY TO: _____ W/LEAVE TO AMEND

DENY: WITH PREJUDICE WITHOUT PREJUDICE

ACCEPT PROFFERED COVENANT ACCEPT REVISED PLANS

APPROVE: PER REQUEST PER DEPARTMENT PER D.I.C.

WITH CONDITIONS

OTHER: Deferred due to a tied vote.

TITLE	M/S	NAME	YES	NO	ABSENT
MS.	S	Peggy BRODEUR	X		
MR.		Edward D. LEVINSON	X		
MR.		Alberto SANTANA		X	
MR.		Jose I. VALDES (C.A.)			
VICE-CHAIRMAN		Robert W. WILCOSKY		X	
MR.	M	Elliot N. ZACK	X		
MADAME CHAIRPERSON		Carla ASCENCIO-SAVOLA		X	
VOTE:			3	3	

EXHIBITS: YES NO

COUNTY ATTORNEY: **ED SANCHEZ**

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO COMMUNITY COUNCIL No. 12**

APPLICANT: Thomas and Tracy Rowsey

PH: Z08-041 (08-10-CZ12-2)

SECTION: 29-54-40

DATE: November 5, 2008

COMMISSION DISTRICT: 7

ITEM NO.: A

A. INTRODUCTION:

o **REQUEST:**

Applicants are requesting to permit a shed setback 11.13' (20' required) from the interior side (east) property line.

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

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Storage Accessory Building," as prepared by Thomas and Tracy Rowsey, dated stamped received 3/03/08 and consisting of 2 sheets. Plans may be modified at public hearing.

o **SUMMARY OF REQUEST:**

The applicant is seeking approval for an existing storage shed setback less than required from the interior side property line.

o **LOCATION:**

9890 S.W. 60 Street, Miami-Dade County, Florida

o **SIZE:** 1.059 Acres

o **IMPACT:**

Approval of the encroachment into the interior side setback area could have a negative visual impact on adjacent properties.

B. ZONING HEARINGS HISTORY: None.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Estate Density Residential** use. This density range is typically characterized by detached estates which utilize only a small

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

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

SUBJECT PROPERTY:

EU-1; Single-family residence

Estate Density Residential, 1 to 2.5 du/a

SURROUNDING PROPERTY:

NORTH: EU-1; single-family residence

Estate Density Residential, 1 to 2.5 du/a

SOUTH: EU-1; single-family residence

Estate Density Residential, 1 to 2.5 du/a

EAST: EU-1; single-family residence

Estate Density Residential, 1 to 2.5 du/a

WEST: EU-1; single-family residence

Estate Density Residential, 1 to 2.5 du/a

This property is a corner lot located at 9890 S.W. 60 Street. The surrounding area is developed with estate single-family residences.

E. SITE AND BUILDINGS:

Site Plan Review:	(Site plan submitted.)
Scale/Utilization of Site:	Unacceptable
Location of Buildings:	Unacceptable
Compatibility:	Unacceptable
Landscape Treatment:	Unacceptable
Open Space:	N/A
Buffering:	Unacceptable
Access:	Acceptable
Parking Layout/Circulation:	N/A
Visibility/Visual Screening:	Unacceptable
Energy Considerations:	N/A
Roof Installations:	N/A
Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

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

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

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

1. the character and design of the proposed alternative development will not result in a material diminution of the privacy of adjoining residential property; and
2. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity, taking into account existing structures and open space; and
3. the proposed alternative development will not reduce the amount of open space on the parcel proposed for alternative development to less than 40% of the total net lot area; and
4. any area of shadow cast by the proposed alternative development upon an adjoining parcel of land during daylight hours will be no larger than would be cast by a structure constructed pursuant to the underlying district regulations, or will have no more than a *de minimus* impact on the use and enjoyment of the adjoining parcel of land; and
5. the proposed alternative development will not involve the installation or operation of any mechanical equipment closer to the adjoining parcel of land than any other portion of the proposed alternative development, unless such equipment is located within an enclosed, soundproofing structure; and
6. the proposed alternative development will not involve any outdoor lighting fixture that casts light on an adjoining parcel of land at an intensity greater than permitted by this code; and
7. the architectural design, scale, mass, and building materials of any proposed structure or addition are aesthetically harmonious with that of other existing or proposed structures or buildings on the parcel proposed for alternative development; and
8. the wall of any building within a setback area required by the underlying district regulations shall be improved with architectural details and treatments that avoid the appearance of a "blank wall"; and
9. the proposed development will not result in the destruction or removal of mature trees within a setback required by the underlying district regulations, with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the same side of the lot; and
10. any windows or doors in any building to be located within an interior setback required by the underlying district regulations shall be designed and located so

that they are not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; and

11. total lot coverage shall not be increased by more than twenty percent (20%) of the lot coverage permitted by the underlying regulations; and
12. the area within an interior side setback required by the underlying district regulations located behind the front building line will not be used for off-street parking except:
 - a. in an enclosed garage where the garage door is located so that it is not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; or
 - b. if the off-street parking is buffered from property that abuts the setback area by a solid wall at least six (6) feet in height along the area of pavement and parking, with either:
 - i. articulation to avoid the appearance of a “blank wall” when viewed from the adjoining property, or
 - ii. landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement regarding its maintenance in recordable form from the adjoining landowner; and
13. any structure within an interior side setback required by the underlying district regulations;
 - a. is screened from adjoining property by landscape material of sufficient size and composition to obscure at least sixty percent (60%) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure at time of planting; or
 - b. is screened from adjoining property by an opaque fence or wall at least six(6) feet in height that meets the standards set forth in paragraph (f) herein; and
14. any proposed alternative development not attached to a principal building, except canopy carports, is located behind the front building line; and
15. any structure not attached to a principal building and proposed to be located within a setback required by the underlying district regulations shall be separated from any other structure by at least three (3) feet; and
16. when a principal building is proposed to be located within a setback required by the underlying district regulations, any enclosed portion of the upper floor of

such building shall not extend beyond the first floor of such building within the setback; and

17. the eighteen (18) inch distance between any swimming pool and any wall or enclosure required by this code is maintained; and
18. safe sight distance triangles shall be maintained as required by this code; and
19. the parcel proposed for alternative development will continue to provide on-site parking as required by this code; and
20. the parcel proposed for alternative development shall satisfy underlying district regulations or, if applicable, prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002), regulating lot area, frontage and depth.
21. the proposed development will meet the following:
 - A. interior side setbacks will be at least three (3) feet or fifty percent (50%) of the side setbacks required by the underlying district regulations, whichever is greater.
 - B. Side street setbacks shall not be reduced by more than fifty percent (50%) of the underlying zoning district regulations;
 - C. Interior side setbacks for active recreational uses shall be no less than seven (7) feet in EU, AU, or GU zoning district or three (3) feet in all other zoning districts to which this subsection applies;
 - D. Front setbacks will be at least twelve and one-half (12 ½) feet or fifty percent (50%) of the front setbacks required by the underlying district regulations, whichever is greater;
 - E. Rear setbacks will be at least three (3) feet for detached accessory structures and ten (10) feet for principal structures.

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

1. will result in a significant diminution of the value of property in the immediate vicinity; or
2. will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or
3. will result in a materially greater adverse impact on public services and facilities than the impact that would result from development of the same parcel pursuant to the underlying district regulations; or

4. will combine severable use rights obtained pursuant to Chapter 33B of this code in conjunction with the approval sought hereunder so as to exceed the limitations imposed by section 33B-45 of this code.

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

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

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

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

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

Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a public hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with

the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

G. NEIGHBORHOOD SERVICES:

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

H. ANALYSIS:

This application was deferred from the October 7, 2008 meeting date due to a tie vote. The subject property is a corner lot located at 9890 S.W. 60 Street in an established area zoned EU-1, Estate One-Family One-Acre Residential District, and developed with single-family residences. The applicants are seeking approval to permit a shed setback 11.13' from the interior side (east) property line. The EU-1 zoning district requires a minimum interior side setback of 20' for accessory structures. Plans submitted by the applicant depict the request for the storage shed.

The Department of Environmental Resources Management (**DERM**) has **no objections** to this application and has indicated that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County. The **Public Works Department** also has **no objections** to this application.

Approval of the request will allow the applicants the maintenance and continued use of an existing storage shed with a non-conforming setback. The subject property is designated for **Estate Density Residential** use on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP), which allows a minimum of 1 to a maximum of 2.5 dwelling units per gross acre for a total of 1 unit on this site. Since the request will not add additional units to the community, the 1.059-acres, EU-1 zoned estate residential lot is **consistent** with the density requirements of the Estate Density Residential designation as shown in the LUP map of the CDMP.

When analyzed under the Non-Use Variance (NUV) Standards, Section 33-311(A)(4)(b), staff is of the opinion that the approval of the request would be **incompatible** with the surrounding area, would be detrimental to the neighborhood and would affect the appearance of the community. Under said standard, the Board shall hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. As previously mentioned, the applicants seek to legalize an

existing storage shed setback 11.13' (20' required) from the interior side (east) property line. Staff opines that the shed's encroachment of 8.87' into the setback area is intrusive and would result in an obvious departure from the aesthetic character of the surrounding area. Staff acknowledges that other similar approvals already exist in the immediate vicinity. For example, in 1991 a property located at 9852 SW 58 Street was granted among other things, pursuant to Resolution #4-ZAB-118-91, a similar request for an accessory building with an interior side setback of 10.2' where 20' was required. Additionally, in 1997, a residence located at 9855 SW 62 Street was granted approval for a shed setback 5' where 20' was required from the interior side property line, pursuant to Resolution #5-ZAB-60-97. Staff has consistently recommended denial of the aforementioned applications and opines that approval of this application could affect the aesthetic character of the area and is also unnecessary because the subject property contains ample space to relocate said shed and comply with the required zoning regulations. Staff notes that a 6' high wood fence exists along the interior side (east) property line which, in staff's opinion, would not be sufficient to mitigate any visual impact generated by the requested setback encroachment. As such, staff recommends denial without prejudice of this application under the Non-Use Variance Standards (NUV).

The Alternative Site Development Option (ASDO) Standards, Section 33-311(A)(14), provide for the approval of a zoning application which can demonstrate at a public hearing that the development requested is in compliance with the applicable ASDO Standards and does not contravene the enumerated public interest standards as established. However, the applicants have not provided staff with the documentation required for analysis under the ASDO standards. As such, the request cannot be approved under same and should be denied without prejudice under Section 33-311(A)(14) (ASDO).

When analyzed under the Alternative Non-Use Variance (ANUV) Standards, Section 33-311(A)(4)(c), the applicants would be required to prove that the request is due to unnecessary hardship and that, should the request not be granted, such denial would not permit the reasonable use of the premises. This application does not comply with the standards of said section since the property can be utilized in accordance with the EU-1 zoning regulations. Therefore, staff recommends denial without prejudice of this application under the Alternative Non-Use Variance (ANUV) Standards.

Accordingly, staff opines that the application, though **consistent** with the LUP map of the CDMP, is **incompatible** with the surrounding properties and therefore recommends denial without prejudice of the request under Section 33-311(A)(4)(b) (NUV), under Section 33-311(A)(14) (ASDO) and under Section 33-311(A)(4)(c) (ANUV).

I. **RECOMMENDATION:**

Denial without prejudice.

J. **CONDITIONS:** None.

DATE INSPECTED: 07/04/08
DATE TYPED: 08/22/08
DATE REVISED: 08/25/08; 08/26/08, 09/11/08, 10/08/08
DATE FINALIZED: 10/08/08
MCL; MTF; LVT; JV



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

Memorandum



Date: March 18, 2008

To: Subrata Basu, AIA, AICP, Interim Director
Department of Planning and Zoning

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

Subject: C-12 #Z2008000041
Thomas and Tracey Rowsey
9890 S.W. 60th Street
Request to Permit an Addition that Exceeds Setback Requirements
(EU-1) (1.05 Acres)
29-54-40

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

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

Concurrency Review Summary

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

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

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

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

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: THOMAS AND TRACY ROWSEY

This Department has no objections to this application.

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

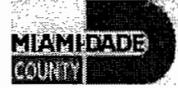
This application does not generate any new additional daily peak hour trips, therefore no vehicle trips have been assigned. This application meets the traffic concurrency criteria set for an Initial Development Order.



Raul A Pino, P.L.S.

29-JUL-08

Memorandum



Date: 19-MAR-08
To: Subrata Basu, Interim Director
Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department
Subject: Z2008000041

Fire Prevention Unit:

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

Service Impact/Demand:

Development for the above Z2008000041
located at 9890 S.W. 60 STREET, MIAMI-DADE COUNTY, FLORIDA.
in Police Grid 1670 is proposed as the following:

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

Based on this development information, estimated service impact is: N/A alarms-annually.
The estimated average travel time is: 8:12 minutes

Existing services:

The Fire station responding to an alarm in the proposed development will be:
Station 13 - East Kendall - 6000 SW 87 Avenue
BLS 75' Ladder, Squad

Planned Service Expansions:

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

Fire Planning Additional Comments:

Not applicable to service impact analysis.

TEAM METRO TAMIAMI OFFICE

ENFORCEMENT HISTORY

Thomas & Tracy Rowsey

9890 SW 60 STREET, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

ADDRESS

09/30/08

Z2008000041

DATE

HEARING NUMBER

April 2006

CMS # 2006032550

NOV issued for Construction Materials. Case closed as complied.

April 2006

CMS # 200603002391

NOV issued for Commercial Vehicles. Case closed as complied.

June 2004

CMS # 200418000453

CVN issued for Unauthorized Uses –Boarding House. CVN paid and case closed as complied.

May 2004

CMS # 200403003985

CVN issued for Signs in the right-of-way. Neighborhood Compliance Officer removed sign. CVN not paid. Case sent to Lien Unit for non-payment.

March 2004

CMS # 200403001925

CVN issued for Signs in the right-of-way. Neighborhood Compliance Officer removed sign. CVN not paid. Case sent to Lien Unit for non-payment.

278.47'

Site plan

Rowsey

et, Miami, Florida 33173

Owner DATE: 2/29/08

Existing house

$31.82 \times 10.07 = 320.42$
 $44.43 \times 14 = 622.02$
 $25.44 \times 48 = 1221.12$
 $44.43 \times 6 = 266.58$
 $31.92 \times 21.43 = 684.04$

3 11418

$152.49 \times 303.55 = 46288.33$

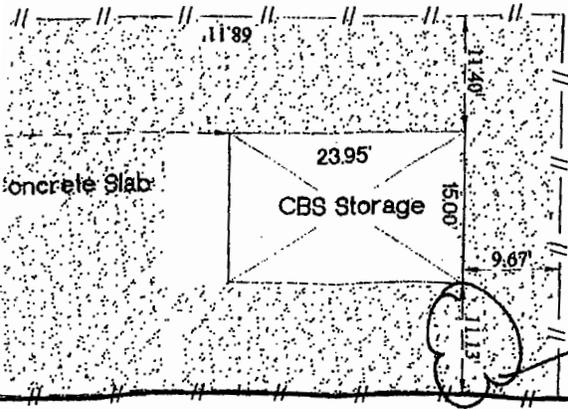
.06% ✓

Lot Size
 45,928 sq. ft.
 1.05 acres

$194.22 \times 152.49 = 29,616.60$

$29,616.60 \times .05 = 1480.83$
(Allowed Rear Lot)

$23.95 \times 15 = 359.25$
proposed



CBS Storage
 $23.95' \times 15.00' = 359.25$

20' required

6.0' High W/F all around

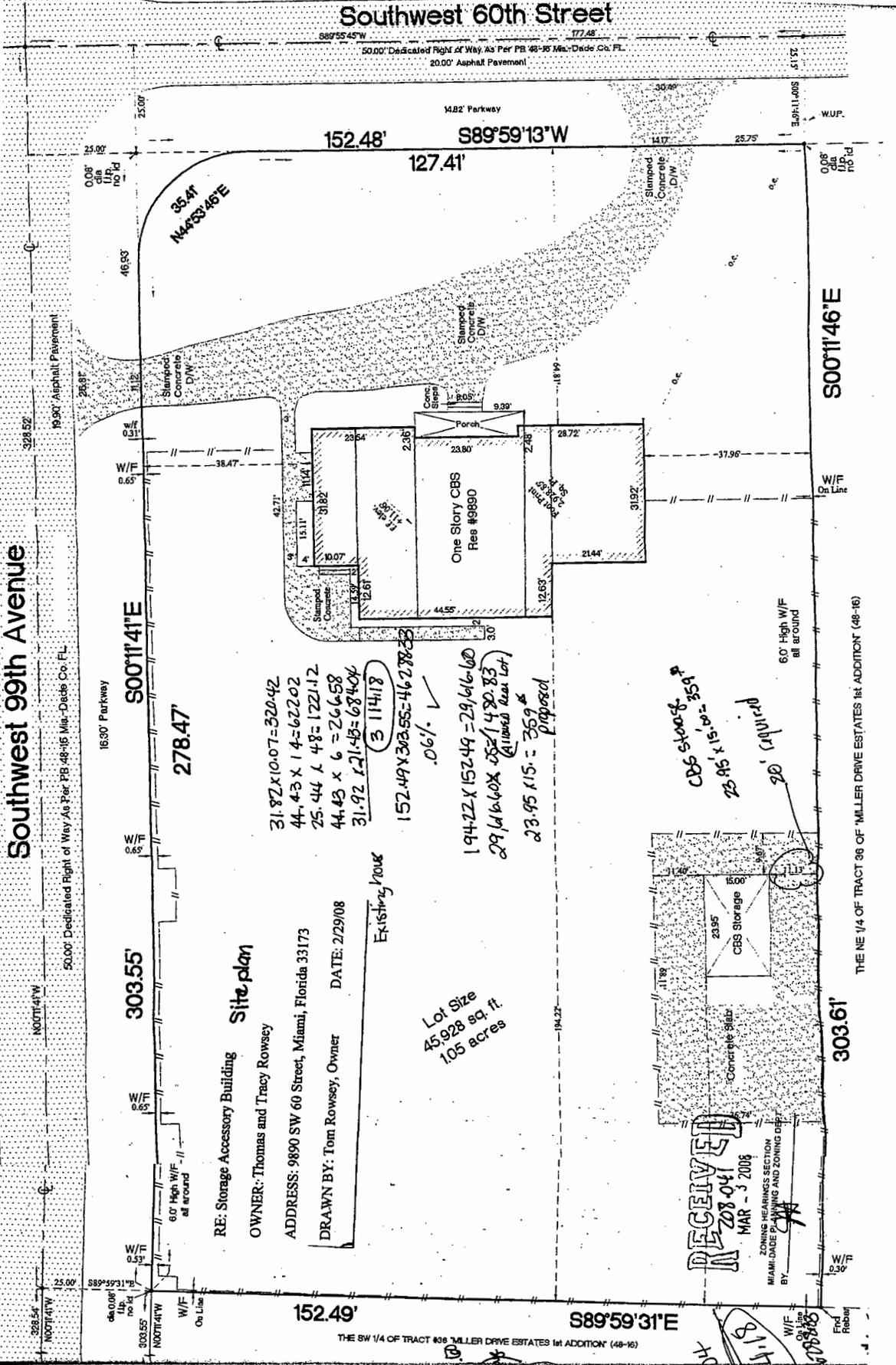
303.61'

THE NE 1/4 OF TRACT 36 OF 'MILLER DRIVE ESTATES 1st ADDITION' (48-16)

ENLARGED SITE PLAN

208-041

Southwest 99th Avenue



303.55' S00°11'41"E

278.47'

RE: Storage Accessory Building
 OWNER: Thomas and Tracy Rowsey

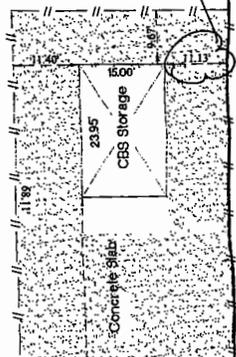
ADDRESS: 9890 SW 60 Street, Miami, Florida 33173

DRAWN BY: Tom Rowsey, Owner DATE: 2/29/08

Existing Road

Lot Size
 45,928 sq. ft.
 105 acres

31.82 x 10.07 = 320.42
 44.43 x 1.4 = 62.202
 25.44 x 4.8 = 122.112
 44.43 x 6 = 266.58
 31.92 x 21.45 = 684.04
 3 11418
 152.49 x 303.55 = 46278.28
 .06% ✓
 194.22 x 152.44 = 29416.60
 29416.60 x .85 = 25004.11 (11000 less lot)
 23.95 x 15 = 359.25 proposed



RECEIVED
 MAR - 3 2008
 ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.
 BY: [Signature]

S00°11'46"E

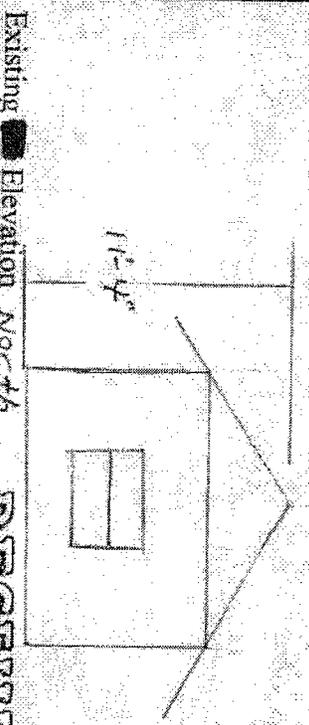
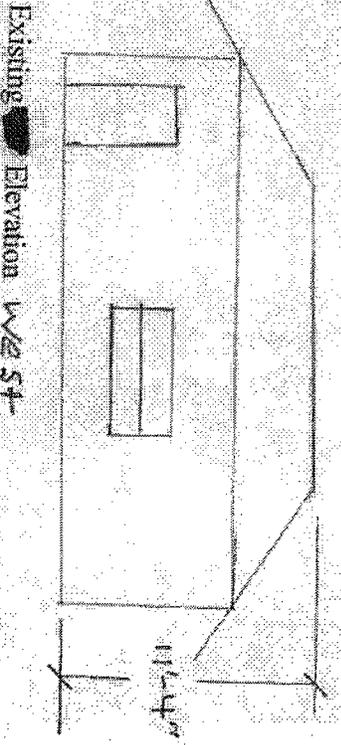
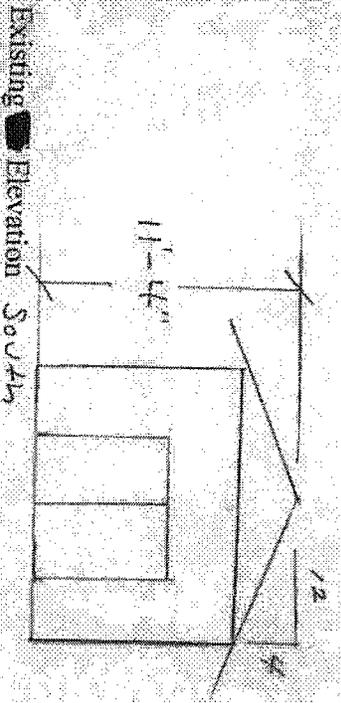
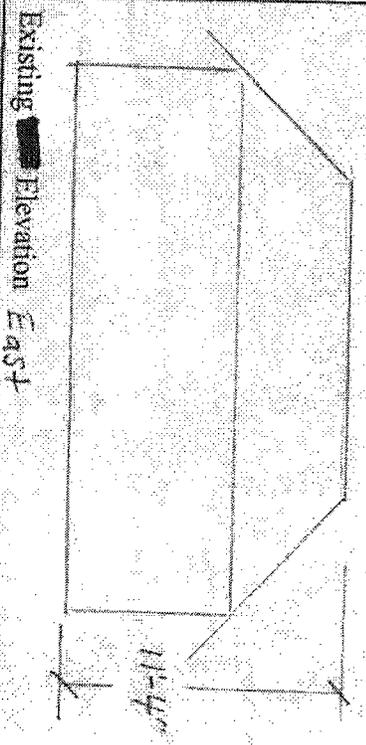
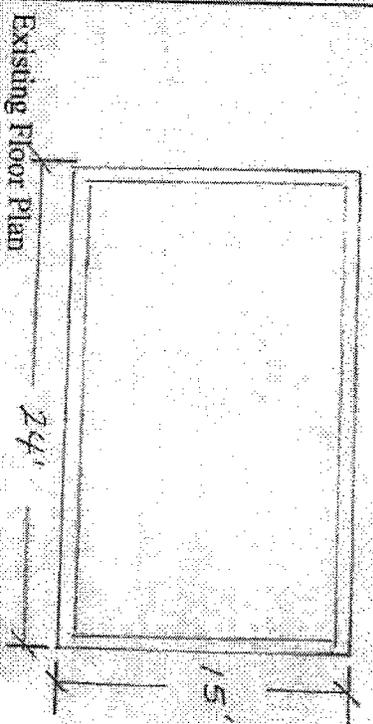
303.61'

152.49'

S89°59'31"E

THE SW 1/4 OF TRACT #36 MILLER DRIVE ESTATES 1st ADDITION (48-16)

THE NE 1/4 OF TRACT 36 OF MILLER DRIVE ESTATES 1st ADDITION (48-16)



BUILDING ELEVATIONS AND FLOOR PLAN

RE: Storage Accessory Building

OWNER: Thomas and Tracy Rowsey

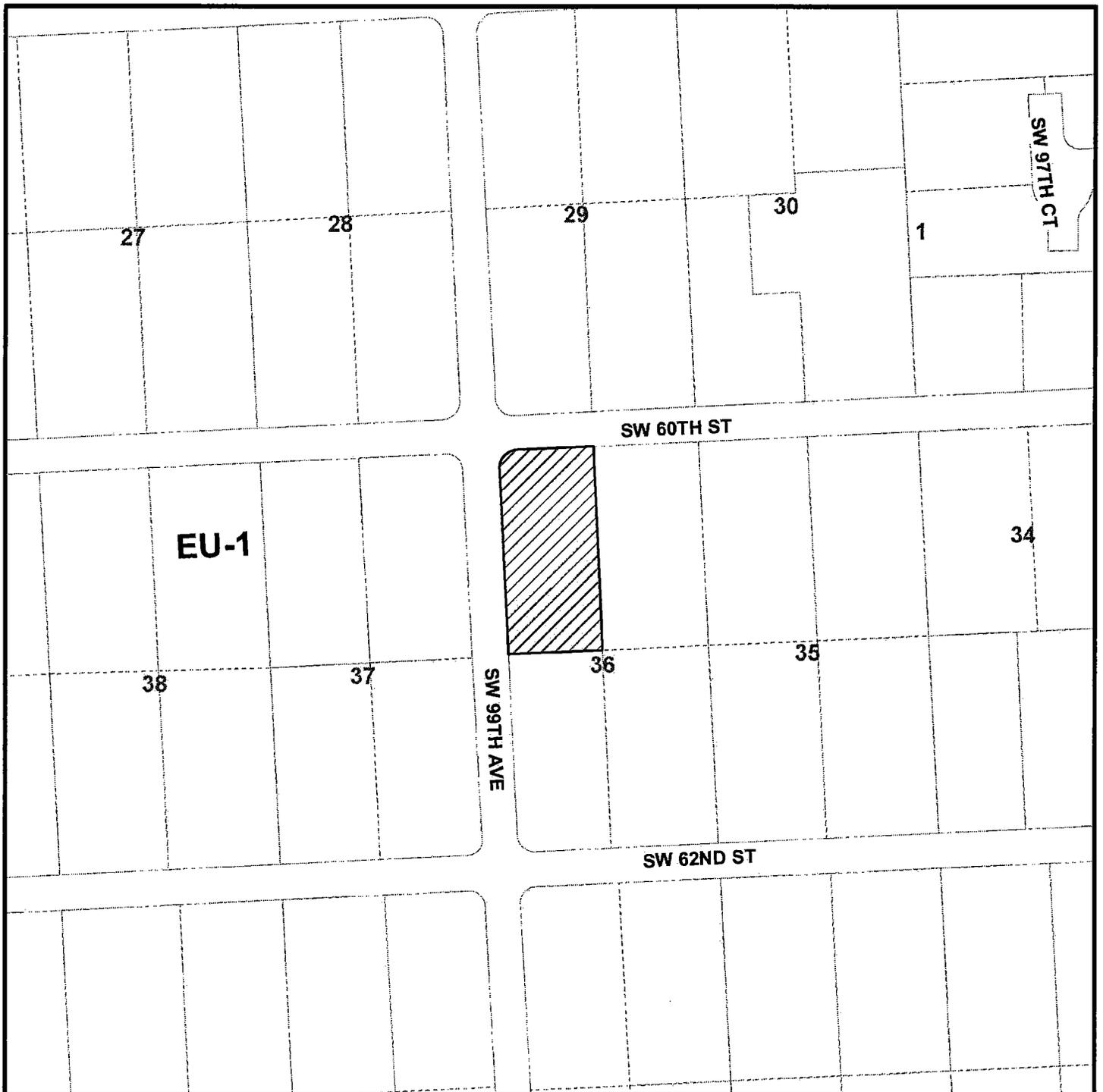
ADDRESS: 9890 SW 60 Street, Miami, Florida 33173

DRAWN BY: Tom Rowsey, Owner DATE: 2/29/08

RECEIVED
208-041
MAR 03 2008

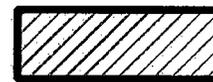
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

TR



**MIAMI-DADE COUNTY
HEARING MAP**

Process Number
08-041



SUBJECT PROPERTY

Section: 29 Township: 54 Range: 40
 Applicant: THOMAS AND TRACY ROWSEY
 Zoning Board: C12
 District Number: 07
 Drafter ID: KEELING
 Scale: NTS



CREATED ON: 03/13/08

REVISION	DATE	BY
		19



**MIAMI-DADE COUNTY
AERIAL**

Process Number
08-041



SUBJECT PROPERTY

Section: 29 Township: 54 Range: 40
 Applicant: THOMAS AND TRACY ROWSEY
 Zoning Board: C12
 District Number: 07
 Drafter ID: KEELING
 Scale: NTS



CREATED ON: 03/13/08

REVISION	DATE	BY

B. B & F MARINE, INC.
(Applicant)

08-9-CZ12-1 (06-323)
Area 12/District 7
Hearing Date: 11/5/08

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

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

Disclosure of interest form attached? Yes No

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
1976	BUR and Corporation.	<ul style="list-style-type: none">- Unusual use to permit non-comm. parking.- Variance of parking spaces.- Variance to permit ingress & egress easement.- Variance of wall requirement.	ZAB	Approved w/conds.
1987	Ana Veciana Suarez	<ul style="list-style-type: none">- Special exception to permit the expansion of an existing non-conforming building.- Non-Use variance of setback requirements.- Zone change from BU-2 and RU-1 to BU-1A.	ZAB	Approved w/conds.

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

MIAMI-DADE COUNTY
COMMUNITY ZONING APPEALS BOARD - AREA 12
MOTION SLIP

#1

APPLICANT'S NAME: **B & F MARINE, INC.**

REPRESENTATIVE: **Juan Mayol**

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER	
08-9-CZ12-19 (6-323)	September 3, 2008	CZAB12	08

REC: Approval of request #1, subject to the Board's acceptance of the proffered covenant; approval with conditions of requests #2 through #5 under Section 33-311(A)(4)(b) (NUV), and denial without prejudice of same requests under Sections 33-311(A)(16) (ASDO) and 33-311(A)(16) (ASDO) and 33-311(A)(4)(c) (ANUV).

<input type="checkbox"/> WITHDRAW:	<input type="checkbox"/> APPLICATION	<input type="checkbox"/> ITEM(S): _____
<input checked="" type="checkbox"/> DEFER:	<input type="checkbox"/> INDEFINITELY	<input checked="" type="checkbox"/> DATE: <u>Nov 5, 2008</u> <input checked="" type="checkbox"/> LEAVE TO AMEND
<input type="checkbox"/> DENY:	<input type="checkbox"/> WITH PREJUDICE	<input type="checkbox"/> WITHOUT PREJUDICE
<input type="checkbox"/> ACCEPT PROFFERED COVENANT	<input type="checkbox"/> ACCEPT REVISED PLANS	
<input type="checkbox"/> APPROVE:	<input type="checkbox"/> PER REQUEST	<input type="checkbox"/> PER DEPARTMENT <input type="checkbox"/> PER D.I.C.
	<input type="checkbox"/> WITH CONDITIONS	
<input checked="" type="checkbox"/> OTHER:	At applicant's request to submit revised plans.	

TITLE	M/S	NAME	YES	NO	ABSENT
MS.		Peggy BRODEUR	X		
MR.		Edward D. LEVINSON			X
MR.		Alberto SANTANA	X		
MR.	M	Jose I. VALDES (C.A.)	X		
VICE-CHAIRMAN		Robert W. WILCOSKY	X		
MR.	S	Elliot N. ZACK	X		
MADAME CHAIRPERSON		Carla ASCENCIO-SAVOLA			X
VOTE:			5	0	

EXHIBITS: YES NO

COUNTY ATTORNEY: STEPHEN STIEGLITZ

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO COMMUNITY COUNCIL No. 12**

APPLICANT: B and F Marine, Inc.

PH: Z06-323 (08-9-CZ12-1)

SECTION: 23-54-40

DATE: November 05, 2008

COMMISSION DISTRICT: 7

ITEM NO.: B

=====

A. INTRODUCTION

o **REQUESTS:**

- (1) BU-1A and RU-1 to BU-2
- (2) Applicant is requesting to permit a minimum setback of 15' (39' required) from the front (north and south) property lines and setback 15' (39' required) from the side street (west) property line.
- (3) Applicant is requesting to permit a lot coverage of 50% (40% maximum permitted).
- (4) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.6 (1.35 maximum permitted).
- (5) Applicant is requesting to waive the required wall set in 10' from the right-of-way and portions of a 10' wide landscape strip along the rear (south) property line where said lot lies across the street from RU zoned property; to permit openings for ingress/egress drives.

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

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Site Plan Study for Multiuse Project at: B & F Marine, Inc.," as prepared by Tapia-Ruano Architect, Inc., consisting of 14 sheets and dated stamped received 1/22/08. Plans may be modified at public hearing.

o **SUMMARY OF REQUESTS:**

This application would allow the rezoning of the property from BU-1A, Limited Business District, and RU-1, Single-Family Residential District, to BU-2, Special Business District. Additional requests are being sought on the subject property to permit reduced setbacks from property lines, to permit a greater lot coverage and floor area ratio than permitted and to waive a required wall along the rear (south) property line.

o **LOCATION:**

Lying east of S.W. 72 Avenue, Between S.W. 40 Street (Bird Road) and S.W. 41 Street, Miami-Dade County, Florida.

o **SIZE:** 1.03 acres

o **IMPACT:**

Approval of the rezoning of the property to BU-2 will allow the applicant to provide additional commercial services to the community. However, said zoning would bring additional traffic and activity to the surrounding community and would impact public services. Additionally, the requests to allow greater lot coverage and FAR, to permit reduced setbacks and waive the required wall could visually impact the surrounding properties.

B. ZONING HEARINGS HISTORY:

In 1976, several requests were granted on the subject site to permit parking and ingress and egress in a zone more restrictive than the use it served, to permit 8 parking spaces within 25' of the right-of-way and to waive a 5' high decorative masonry wall where the business zone abuts the residential zone, pursuant to Resolution #4-ZAB-291-76. In 1987, the Zoning Appeals Board (ZAB) approved two requests to permit the expansion of an existing non-conforming building and to permit a reduced setback from the side street property line, pursuant to Resolution #4-ZAB-510-87.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

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

amended pursuant to Land Use Element Policies LU-9P and LU-9Q, live-work and work-live developments shall be permitted on land designated as Business and Office, as transitional uses between commercial and residential areas.

2. **Uses and Zoning Not Specifically Depicted.** Existing lawful residential and non-residential uses and zoning are not specifically depicted on the LUP map. They are however reflected in the average Plan density depicted. All such lawful uses and zoning are deemed to be consistent with this Plan as provided in the section of this chapter titled "Concepts and Limitations of the Land Use Plan Map." The limitations referenced in this paragraph pertain to existing zoning and uses. All approval of new zoning must be consistent with the provisions of the specific category in which the subject parcel exists, including the provisions for density averaging and definition of gross density.
3. **Policy LU-4A.** When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.
4. **Policy LU-9J.** Miami-Dade County shall continue to use, but not be limited exclusively to, design guidelines established in its urban design manual as additional criteria for use in the review of all applications for new residential, commercial and industrial development in unincorporated Miami-Dade County.
5. **Guidelines for Urban Form.**

The following guidelines establish a generalized pattern for location of different uses, their intensity and density, and the interconnecting network of vehicular and pedestrian movement. The general pattern of land use in residential communities should conform to the following guidelines to the maximum extent consistent with the land use patterns and densities authorized and encouraged by the Land Use Plan (LUP) map, and future amendments to the LUP map should endeavor to promote this localized form within the metropolitan pattern of urban centers and transit corridors. Exceptions may occur (a) for Developments of Regional Impact and Developments of County Impact or (b) to conform the density, intensity, use, building envelope, traffic generation and demand on services and infrastructure of a proposed new use to such contextual elements as the general pattern of use, intensity and infrastructure which exists in an established neighborhood.
8. Pedestrian circulation shall be provided between activity nodes, all public places, and all subdivisions through connectivity of section, half-section and local roadways constructed with sidewalks and supplemented by pedestrian paths.
9. Along arterials, Major and high-speed roadways, pedestrian circulation should be accommodated by sheltering sidewalks from passing traffic by providing landscaping and trees at the street edge. In commercial areas, pedestrian

access should be further accommodated by pedestrian pathways from the neighborhood to the business entrances as convenient as those from parking lots, and by providing awnings, overhangs or porticos for protection from the sun and weather.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

BU-1A and RU-1; Commercial building
and single-family residences

Business and Office

Surrounding Properties:

NORTH: RU-1; Doug Barnes Park

Parks and Recreation

SOUTH: IU-1 and RU-1; Commercial building
and single-family residences

Industrial and Office

EAST: BU-2; Gas station and storage facility

Business and Office

WEST: BU-1A; Commercial building

Business and Office

The subject property is located east of S.W. 72 Avenue, Between S.W. 40 Street (Bird Road) and S.W. 41 Street. Residential and commercial uses characterize the surrounding area and Doug Barnes Park is located immediately across the street to the north of the subject property.

E. SITE AND BUILDINGS:

Site Plan Review:	(Site plan submitted.)
Scale/Utilization of Site:	Acceptable*
Location of Buildings:	Acceptable*
Compatibility:	Acceptable*
Landscape Treatment:	Acceptable*
Open Space:	Acceptable*
Buffering:	Acceptable*
Access:	Acceptable*
Parking Layout/Circulation:	Acceptable*
Visibility/Visual Screening:	Acceptable*
Urban Design:	Acceptable*

*Subject to conditions and a proffered covenant.

F. PERTINENT REQUIREMENTS/STANDARDS:

In evaluating an application for a **district boundary change**, **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.

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

- (c) **Setbacks** for a principal or accessory building or structure shall be approved after public hearing upon demonstration of the following:
 - (1) the character and design of the proposed alternative development will not result in a material diminution of the privacy of adjoining property; and

- (2) the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity, taking into account existing structures and open space; and
- (3) the proposed alternative development will not reduce the amount of open space on the parcel proposed for alternative development by more than 20% of the landscaped open space percentage required by the applicable district regulations; and
- (4) any area of shadow cast by the proposed alternative development upon an adjoining property will be no larger than would be cast by a structure constructed pursuant to the underlying district regulations, or will have no more than a de minimus impact on the use and enjoyment of the adjoining parcel of land; and
- (5) the proposed alternative development will not involve the installation or operation of any mechanical equipment closer to the adjoining parcel of land than any other portion of the proposed alternative development, unless such equipment is located within an enclosed, soundproofed structure and if located on the roof of such an alternative development shall be screened from ground view and from view at the level in which the installations are located, and shall be designed as an integral part of and harmonious with the building design; and
- (6) the proposed alternative development will not involve any outdoor lighting fixture that casts light on an adjoining parcel of land at an intensity greater than permitted by this code; and
- (7) the architectural design, scale, mass, and building materials of any proposed structure(s) or addition(s) are aesthetically harmonious with that of other existing or proposed structure(s) or building(s) on the parcel proposed for alternative development; and
- (8) the wall(s) of any building within a front, side street or double frontage setback area or within a setback area adjacent to a discordant use, required by the underlying district regulations, shall be improved with architectural details and treatments that avoid the appearance of a "blank wall"; and
- (9) the proposed alternative development will not result in the destruction or removal of mature trees within a setback required by the underlying district regulations, with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the same side of the lot, parcel or tract; and
- (10) any windows or doors in any building(s) to be located within an interior side or rear setback required by the underlying district regulations shall be designed and located so that they are not aligned directly across from facing windows or doors on building(s) of a discordant use located on an adjoining parcel of land; and

- (11) total lot coverage shall not be increased by more than ten percent (10%) of the lot coverage permitted by the underlying district regulations; or a total floor area ratio shall not be increased by more than ten percent (10%) of the floor area ratio permitted by the underlying district regulations; and
- (12) the area within an interior side or rear setback required by the underlying district regulations located adjacent to a discordant use will not be used for off-street parking except:
 - (A) in an enclosed garage where the garage door is located so that it is not aligned directly across from facing windows or doors on buildings of a discordant use located on an adjoining parcel of land; or
 - (B) if the off-street parking is buffered from property that abuts the setback area by a solid wall at least six (6) feet in height along the area of pavement and parking, with either:
 - (i) articulation to avoid the appearance of a "blank wall" when viewed from the adjoining property, or
 - (ii) landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement regarding its maintenance in recordable form from the adjoining landowner; and
- (13) any structure within an interior side setback required by the underlying district regulations:
 - (A) is screened from adjoining property by landscape material of sufficient size and composition to obscure at least eighty percent (80%) (if located adjoining or adjacent to a discordant use) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure(s) at time of planting; or
 - (B) is screened from adjoining property by an opaque fence or wall at least eight (8) feet, six (6) feet if located adjoining or adjacent to a discordant use, in height that meets the standards set forth in paragraph (g) herein; and
- (14) any structure not attached to a principal building and proposed to be located within a setback required by the underlying district regulations shall be separated from any other structure by at least 10 feet or the minimum distance to comply with fire safety standards, whichever is greater; and
- (15) when a principal or accessory building is proposed to be located within a setback required by the underlying district regulations, any enclosed portion of the upper floor of such building shall not extend beyond the first floor of such building within the setback; and

- (16) safe sight distance triangles shall be maintained as required by this code; and
- (17) the parcel proposed for alternative development shall continue to provide the required number of on-site parking spaces as required by this Code, except that off-site parking spaces may be provided in accordance with Section 33-128 of this Code; and
- (18) the parcel proposed for alternative development shall satisfy all other applicable underlying district regulations or, if applicable, prior zoning actions issued prior to the effective date of this ordinance (May 2, 2003), regulating setbacks, lot area and lot frontage, lot coverage, floor area ratio, landscaped open space and structure height; and
- (19) the proposed development will meet the following:
 - (A) interior side setbacks shall not be reduced by more than fifty percent (50%) of the side setbacks required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater when the adjoining parcel of land is a BU or IU district; interior side setbacks shall not be reduced by more than twenty-five (25%) percent of the interior side setbacks required by the underlying district regulations when the adjoining parcel of land allows a discordant use.
 - (B) side street setbacks shall not be reduced by more than twenty-five (25%) of the underlying district regulations;
 - (B) front setbacks (including double-frontage setbacks) shall not be reduced by more than twenty-five (25%) percent of the setbacks required by the underlying district regulations; and
 - (D) rear setbacks shall not be reduced below fifty (50%) percent of the rear setback required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater, when the adjoining parcel of land is a BU or IU district; rear setbacks shall not be reduced below twenty-five (25%) percent of the rear setback required by the underlying district regulations when the adjoining parcel of land allows a discordant use.
 - (E) setbacks between building(s) shall not be reduced below 10 feet, or the minimum distance required to comply with fire safety standards, whichever is greater.
- (d) An alternative lot coverage or floor area ratio for a building shall be approved upon demonstration of the following:**
 - (1) total lot coverage or floor area ratio shall not be increased by more than ten percent (10%) of the lot coverage or floor area permitted by the underlying district regulations; and

- (2) the proposed alternative development will not result in the destruction or removal of mature trees on the lot with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the lot; and
 - (3) the increase in lot coverage or floor area ratio will not result in a principal or accessory building(s) with an architectural design, scale, mass or building materials that are not aesthetically harmonious with that of other existing or proposed structures in the immediate vicinity; and
 - (4) the proposed alternative development will not result in an obvious departure from the aesthetic character of in the immediate vicinity.
- (h) **An alternative placement of a required perimeter wall** setback from the property line(s) of a parcel where said property line adjoins or lies across the street right-of-way from a residential district, shall be approved after public hearing upon demonstration of the following:
- (1) the setback of the wall is the minimum distance necessary so as not to encroach into an existing utility or landscape easement(s); and
 - (2) that visual screening for the wall by way of landscaping is included in the easement area to prevent graffiti vandalism in a manner provided by this Code; and
 - (3) that a suitable mechanism for maintenance of the landscaped area by the property owner, tenant association or similar association be provided in the form of a covenant running with the land.
- (i) **An alternative opening in a wall** otherwise required by this code to be a solid, unbroken barrier when a parcel adjoins or lies adjacent to a residential district, shall be approved after public hearing upon demonstration of the following:
- (1) the width of the wall opening is the minimum width necessary for pedestrians to access the parcel from adjoining or adjacent residential development(s); and
 - (2) the wall opening is immediately adjoining or adjacent to a residential lot, parcel or tract which is restricted in use as common open space.
- (k) **Notwithstanding the foregoing**, no proposed alternative development shall be approved upon demonstration that the proposed alternative development:
- (1) will result in a significant diminution of the value of property in the immediate vicinity; or
 - (2) will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or

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

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

- (A) the types of needs of the residents or other owners immediate vicinity and the needs of the business owners and employees of the parcel proposed for development that would likely be occasioned by the development, including but not limited to recreational, open space, transportation, aesthetic amenities, and buffering from adverse impacts; and
- (B) the proportionality between the impacts on the residents or other owners of property of parcel(s) in the immediate vicinity and the amenities or buffering required. For example, a reduction in setbacks for numerous lots or significantly large commercial buildings may warrant the provision of additional landscaped open space.

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

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

Section 33-311(A)(4)(c) Alternative Non-Use Variance Standard. Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a

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

G. NEIGHBORHOOD SERVICES:

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

*Subject to conditions indicated in their memoranda.

H. ANALYSIS:

This application was deferred from the September 3, 2008 meeting at the applicant's request to submit revised plans. As of the time of this writing, staff has not received any revised plans. The subject property is located east of S.W. 72 Avenue, between S.W. 40 Street (Bird Road) and S.W. 41 Street in an area characterized by single-family residences and commercial uses. The applicant is seeking a zone change on the subject property from BU-1A, Limited Business District, and RU-1, Single-Family Residential District, to BU-2, Special Business District, (request #1) in order to construct an office and commercial development totaling 61,600 square feet of office space and 10,500 square feet of commercial space within a 11-story building. Most of the commercial space that is located on the first floor will front on SW 72 Avenue along the west property line where the applicant is proposing a tower at a maximum height of 126'. The applicant has incorporated urban design elements into the site design. For example, the building that encompasses most of the westerly portion of the subject site provides a covered walkway along the frontage of said commercial space to both promote pedestrian activity and shelter pedestrians from the elements. Additionally, plans submitted with this application illustrate a proposed 6-story parking garage that is sited on the eastern portion of the site and will provide a total of 254 parking spaces including 7 surplus spaces, which staff opines, well exceed the required 247 parking spaces for the subject site. Additionally, other requests included in this application would permit a building with a minimum setback of 15' (39' required) from the front (north and south) property lines and setback 15' (39' required) from the side street (west) property line (request #2), to permit a lot coverage of 50% (40% maximum permitted) (request #3), to permit a floor area ratio (F.A.R.) of 1.6 (1.35 maximum permitted) (request #4) and to waive the required wall set in 10' from the right-of-way and portions of a 10' wide landscape strip along the rear (south) property line where said lot lies across the street from RU zoned property; to permit openings for

ingress/egress drives (request #5). The applicant has voluntarily proffered a covenant restricting the development of the site to the submitted plans.

The Department of Environmental Resources Management (**DERM**) **does not object** to this application and indicates that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County. However, the applicant will have to comply with all DERM conditions as set forth in their memorandum pertaining to this application. Additionally, the **Public Works Department does not object** to this application. Their memorandum indicates that access to SW 40 Street must meet current F.D.O.T. access management requirements. Additionally, the subject property requires platting and, therefore, road dedications and improvements will be accomplished through the recording of a plat. The Miami-Dade Fire Rescue Department (**MDFR**) **does not object** to this application. The Miami-Dade Aviation Department (**MDAD**) also **does not object** to this application. Their memorandum indicates that the proposed project height of 138' will not require a Height Analysis or Letter of Determination as it does not meet their review criteria.

The applicant is requesting a zone change from BU-1A, Limited Business District, and RU-1, Single-Family Residential District, to BU-2, Special Business District, as well as companion requests for variances of setbacks, floor area ratio, lot coverage and the waiving of the required wall as specified above, to construct an office and commercial development. The Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) designates the subject property for **Business and Office** use. This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes, entertainment and cultural facilities, amusements and commercial recreation establishments. These uses may occur in self-contained centers, high-rise structures, campus parks, municipal central business districts or strips along highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly compatibility with both adjacent and adjoining uses, and availability of highway capacity, ease of access and availability of other public services and facilities. Staff opines that the applicant has incorporated urban design elements such as siting the proposed building in close proximity to the intersection of two major roadways, SW 72 Avenue and SW 40 Street, thus creating a focal point at the intersection of said roadways. Moreover, staff notes that the submitted plans illustrate a covered walkway along the 1-story commercial pedestal of the building which staff opines will promote pedestrian activity and provide shelter from the elements. The submitted site plan also depicts a greenbelt that varies in width between the proposed covered walkway and the rights-of-way that features Sabal Palm and Mahogany trees which staff opines will not only enhance the curb appeal of the site but will also provide shade to pedestrians. Staff notes that for a development of this magnitude to fully comply with the Urban Design Manual it must apply for similar setback variances as mentioned above, by bringing the building closer to the street in order to provide a human element and promote pedestrian connectivity and circulation. Staff notes that BU-2 zoning exists immediately to the east of the subject property where a storage facility was approved in 2001 along with several variances including requests for additional lot coverage and F.A.R., pursuant to Resolution #CZAB12-44-01. Said storage facility was approved with requests to permit a lot coverage of 49.99% (40% permitted) and to permit a floor area ratio of 1.95 (0.84 permitted) with a maximum height of 59'-9". As previously mentioned, the applicant seeks approval of this application to permit a lot coverage of 50% (40%

maximum permitted) (request #3), to permit a floor area ratio (F.A.R.) of 1.6 (1.35 maximum permitted) (request #4) with a maximum height of 126' and to waive the required wall set in 10' from the right-of-way and portions of a 10' wide landscape strip along the rear (south) property line where said lot lies across the street from RU zoned property; to permit openings for ingress/egress drives (request #5). Staff further notes that BU-1A zoning with a commercial building already exists to the west of the subject site and IU-1, Light Industrial District, zoning exists to the south of the subject site where the neighboring building is being utilized as an animal hospital. Staff further acknowledges that, although there are a few remnant RU-1 zoned lots to the south of the subject site, the area is designated Industrial and Office which permits uses that are more intense than the uses permitted in the BU-2 zone. The proposed BU-2 zoning permits uses such as convention halls, grocery stores, junior department stores, restaurants, supermarkets, liquor package stores, office parks, and regional shopping centers, among others, which are permitted uses in the Business and Office designation of the CDMP. The proposed BU-2 zoning is, therefore, **compatible** with zones in the area and **consistent** with the Business and Office LUP Map designation of the Master Plan.

When considering district boundary changes, the Board shall hear and grant or deny applications by taking into consideration whether the proposed development 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. Additionally, the Board shall consider whether the development will have a favorable or unfavorable impact on the economy of Miami-Dade County, if it will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education, public transportation facilities 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. Further, the Board shall take into consideration whether the development conforms to the CDMP. As previously mentioned, the development of the subject property, if granted, would be consistent with the LUP Map designation of the Comprehensive Development Master Plan for Miami-Dade County. The applicant is requesting a zone change from BU-1A and RU-1 to BU-2 on the subject property in order to construct an office and commercial development. Staff recognizes that the proposed zoning of the subject property would uniformly zone the site, and that the proposed BU-2 zoning is consistent with the Business and Office land use category of the LUP Map of the CDMP. Furthermore, the proposed rezoning to BU-2 will not have an unfavorable impact on the environment as indicated in DERM's memorandum, which indicates that the application is acceptable. Additionally, staff notes that the proposal on the subject site is accessible by two major roadways, SW 72 Avenue and SW 40 Street, and as such, will be readily accessible to patrons. Moreover, the submitted plans depict a total of 254 parking spaces, fully meeting the parking requirements of the Zoning Code for the retail and office development proposed, which staff opines is adequate to accommodate the proposed retail and office uses. Staff further notes that a storage facility was approved in 2001 with a maximum height of 59'-9". Although the applicant seeks approval of a building with a maximum height of 126', staff is of the opinion that abundant landscaping elements in the form of trees and shrubs as illustrated on the submitted plans and 50' wide rights-of-way of SW 72 Avenue and SW 40 Street will effectively mitigate any negative visual or aural impacts the proposed retail and office uses may have on the adjoining properties. As

such, staff is of the opinion that the proposed zone change and the accompanying submitted plans are **compatible** with the area and are **consistent** with the CDMP. Accordingly, staff recommends approval of the zone change request to BU-2 (request #1), subject to the Board's acceptance of the proffered covenant.

When requests #2 through #5 are analyzed under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards, staff is of the opinion that said requests maintain the basic intent and purpose of the zoning, subdivision and other land use regulations, would be **compatible** with the surrounding area and would not be detrimental to the neighborhood. Approval of request #2, to permit a minimum setback of 15' (39' required) from the front (north and south) property lines and setback 15' (39' required) from the side street (west) property line, in staff's opinion, will serve to enhance the character of the site through the incorporation of sound urban design principles as enumerated in the Guidelines for Urban Form. **Policy LU-9J** of the CDMP indicates that Miami-Dade County shall continue to use, but not be limited exclusively to, design guidelines established in its urban design manual as additional criteria for use in the review of all applications for new residential, commercial and industrial development in unincorporated Miami-Dade County. Staff notes that the Guidelines for Urban Form specify that in commercial areas, pedestrian access should be further accommodated by pedestrian pathways from the neighborhood to the business entrances as convenient as those from parking lots, and by providing awnings, overhangs or porticos for protection from the sun and weather. Requests #3, to permit a lot coverage of 50% (40% maximum permitted), and request #4, to permit a floor area ratio (F.A.R.) of 1.6 (1.35 maximum permitted), in staff's opinion, are indicative and supportive of the urban design elements expressed above, and any negative visual or aural impacts generated by the proposed retail and office use building will be mitigated by abundant landscaping elements as illustrated on the submitted plans and by the 50' wide rights-of-way of SW 72 Avenue and SW 40 Street. As previously mentioned, the submitted plans depict street trees proposed for this development in the form of Live Oak and Sabal Palms which will accommodate pedestrian circulation along the perimeter of the proposed commercial development by sheltering the proposed pedestrian walkways from passing traffic along SW 72 Avenue and SW 40 Street. Additionally, staff notes that a self-storage facility located on a BU-2 zoned property already exists immediately to the east of the subject property where in 2001 this Board approved said use with several companion variances including a similar request to permit a lot coverage of 49.99% (40% permitted) and a more intense request to permit a floor area ratio of 1.95 (0.84 permitted), pursuant to Resolution #CZAB12-44-01. Request #5, to waive the required wall set in 10' from the right-of-way and portions of a 10' wide landscape strip along the rear (south) property line where said lot lies across the street from RU zoned property, to permit openings for ingress/egress drives, in staff's opinion, will not be detrimental to the residential properties located to the south of the subject site. Staff notes that ample landscaping is provided along this southeastern portion of the site, which will mitigate any negative impact generated by this request. Therefore, staff is of the opinion that the approval of the proposal would not be out of character with the area and would be **compatible** with same. As such, based on all the aforementioned, staff recommends approval with conditions of requests #2 through #5 under Section 33-311(A)(4)(b) (NUV).

The Alternative Site Development Option (ASDO) Standards for the BU Zoning District, Section 33-311(A)(16), provide for the approval of a zoning application which can demonstrate at a public hearing that the development requested is in compliance with the applicable ASDO Standards and does not contravene the enumerated public interest

standards as established. However, the applicant has not provided staff with the documentation required for analysis under same. As such, requests #2 through #5 cannot be approved under the ASDO Standards and should be denied without prejudice under Section 33-311(A)(16) (ASDO).

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

Based on the foregoing, staff opines that the proposed office and commercial development is **compatible** with the area and is **consistent** with the Business and Office LUP Map designation of the CDMP. Therefore, staff recommends approval of request #1, subject to the Board's acceptance of the voluntarily proffered covenant; approval with conditions of requests #2 through #5 under Section 33-311(A)(4)(b) (NUV) and denial without prejudice of same under Section 33-311(A)(16) (ASDO) and under Section 33-311(A)(4)(c) (ANUV).

I. RECOMMENDATION:

Approval of request #1, subject to the Board's acceptance of the proffered covenant; approval with conditions of requests #2 through #5 under Section 33-311(A)(4)(b) (NUV) and denial without prejudice of same under Section 33-311(A)(16) (ASDO) and under Section 33-311(A)(4)(c) (ANUV).

J. CONDITIONS: For requests #2 through #5 only.

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit; said plan to include among other things but not be limited to, location of structure or structures, types, sizes and location of signs, light standards, off-street parking areas, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Site Plan Study for Multiuse Project at: B & F Marine, Inc.," as prepared by Tapia-Ruano Architect, Inc., consisting of 14 sheets and dated stamped received 1/22/08.
3. That the use be established and maintained in accordance with the approved plan.
4. That prior to issuance of a building permit, the applicant submit to the Department of Planning and Zoning for its review and approval a landscaping plan which indicates the type and size of plant material in accordance with Chapter 18-A of the Landscape Code, said landscaping to be installed prior to final zoning inspection.

5. That the applicant comply with all of the applicable conditions, requirements, recommendations, requests and other provisions of the various Departments as contained in the Departmental memoranda which are part of the record of this application and incorporated herein by reference.

DATE INSPECTED: 06/20/08
DATE TYPED: 07/02/08
DATE REVISED: 07/03/08; 07/11/08; 07/30/08; 08/25/08; 09/23/08
DATE FINALIZED: 10/06/08
MCL; MTF; LVT; JV



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



Memorandum



Date: March 24, 2008

To: Subrata Basu, AIA, AICP, Interim Director
Department of Planning and Zoning

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

Subject: C-12 #Z2006000323-2nd Revision
B & F Marine, Inc.
4001 S.W. 72nd Avenue
District Boundary Change from B-U1A & RU-1 to BU-2
(BU-1A/RU-1) (1.03 Acres)
23-54-40

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

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

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

Site grading and development shall comply with the requirements of Chapter 11C of the Code.

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 by DERM for this proposed development order.

Pollution Remediation

The subject property has no records of current contamination assessment or remediation issues on the site or directly abutting the subject site. The applicant is advised that there are records of contamination assessment or remediation issues within 500 feet southwest of the subject property tracked under Permit UT-2440/F-9647, Tropical Paint & Body Shop (7270 SW 41st Street).

Air Quality Preservation

In the event of any kind of renovation or demolition activity, an asbestos survey from a Florida-licensed asbestos consultant is required. If said survey shows friable asbestos materials in amounts larger than prescribed by federal law (260 linear feet of pipe insulation/thermal system insulation [TSI] or 160 square feet of surfacing material), then those materials must be removed/abated by a Florida-licensed asbestos abatement contractor. A Notice of Asbestos Renovation or Demolition form must be filed with the Air Quality Management Division of DERM for both the abatement (renovation) work and the demolition activity at least 10 working days prior to starting the field operations.

Hazardous Materials Management

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

Operating Permits

Section 24-18 of the Code authorizes DERM to require operating permits from facilities that could be a source of pollution. The applicant is advised that due to the nature of some land uses permitted under the proposed zoning classification, operating permits from DERM may be required. The Permitting Section of DERM's Pollution Regulation and Enforcement Division may be contacted at (305) 372-6600 for further information concerning operating requirements.

Fuel Storage Facilities

Section 24-45 of the Code outlines regulations for any proposed or existing underground storage facilities. The regulations provide design, permitting, installation, modification, repair, replacement and continuing operation requirements and criteria. In addition, monitoring devices, inventory control practices and pressure testing of fuel storage tanks is required. The applicant is advised to contact the Permitting Section of DERM's Pollution Regulation and Enforcement Division, at (305) 372-6600 concerning permitting requirements for fuel storage facilities.

Wetlands

The subject property does not contain jurisdictional wetlands as defined in 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

Tree Removal Permit 2008-TREE-PER-00104 was issued to B & F Marine, Inc., on March 11, 2008 and is scheduled to expire on March 11, 2009. All approved tree removal, replanting and final inspection (a two weeks notice is required prior to the final inspection) must be completed prior to the scheduled expiration date of this permit to avoid violation of permit conditions.

The applicant is advised that a new Miami-Dade County Tree Removal Permit or an amendment to Tree Removal Permit 2008-TREE-PER-00104 shall be required prior to the removal or relocation of any other tree on the subject property. The DERM Tree Program may be contacted at (305) 372-6574 for further information.

Enforcement History

DERM has found the following closed enforcement case for the subject property:

B & F Marina
4001 SW 72nd Avenue

DERM has file number PSO-418. There is record of a closed enforcement case regarding failure to comply with the Sanitary Sewer Evaluation Survey (SSES) on the private pump station. The case was closed on September 9, 2003 with the approval of the SSES.

Concurrency Review Summary

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

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

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

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

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: B & F MARINE, INC

This Department has no objections to this application as it applies to the District Boundary Change.

Driveways or access to Bird Road (SW 40 St.) must meet current F.D.O.T. access management requirements; contact the district office at 305-470-5367 for driveway and drainage permits.

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

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



Raul A Pino, P.L.S.

13-DEC-06



Miami-Dade Aviation Department
P.O. Box 025504
Miami, Florida 33102-5504
T 305-876-7000 F 305-876-0948
www.miami-airport.com

miamidade.gov

Commercial Airport:
Miami International Airport

General Aviation Airports:
Dade-Collier Training & Transition
Homestead General
Kendall-Tamiami Executive
Opa-locka
Opa-locka West

August 4, 2008

Received by
Zoning Agenda Coordinator
AUG 08 2008

Mr. Alberto J. Torres
Land Use Consultant
Holland & Knight LLP
701 Brickell Avenue, Suite 3000
Miami, Florida 33131-2847

RE: Determination Number DN-08-07-052 Cursory Airspace Analysis for Z06-0323, B & F Marine, Inc., located at East of SW 72 Ave, between SW 40th Street and SW 41st Street, Miami, FL, Folio Numbers: 3040230140010, 3040230120042, 3040230120041 and 3040230120040.

Dear Mr. Torres:

The Miami-Dade Aviation Department (MDAD) has reviewed the above referenced project for an airspace analysis.

Airspace Review:

The Miami-Dade Aviation Department (MDAD) is in receipt of your submittal for an airspace analysis and determination letter for the above referenced project. Please note that based on our cursory review of the project information provided to us, an assumed project height of **138 ft. AMSL (Above Mean Sea Level)**, does not meet our review criteria for its location and will not require a Height Analysis or Letter of Determination from this Department. Please note that any future changes in building locations/layouts or heights reaching or exceeding an elevation of **192 ft. AMSL** will void this determination. Any future construction or alteration, including an increase to heights requires separate notice to the FAA and the Miami-Dade Aviation Department.

This height determination is an estimate issued on a preliminary or advisory basis. **It is not necessary to file with the FAA** for the structure height as stated above by using form 7460-1 'Notice of Proposed Construction Alteration for Determination of Known Hazards'. **However, any construction cranes for this project reaching or exceeding 192 ft AMSL (Above Mean Sea Level) must be filed by the construction contractor using the same form.** The form is available through this office or through the FAA website: <https://oeaaa.faa.gov>. This form may be mailed to: Federal Aviation Administration, Air Traffic Airspace Branch - ASW-520, 2601 Meacham Blvd, Ft. Worth, TX 76137-0520. Alternatively, the developer may "e-file" online at <https://oeaaa.faa.gov>.

Delivering Excellence Every Day

23

Mr. Alberto J. Torres
August 4, 2008
Page 2

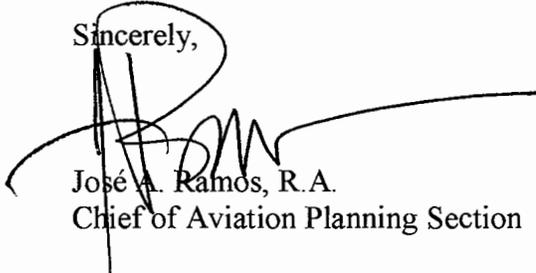
Please note that the airspace review process is governed by two different regulations: the Miami-Dade County Height Zoning Ordinances and Federal Regulation Title 14 Part 77. The FAA has its own airspace evaluation requirements, and issues airspace determinations for structures and cranes based on the particular facts then presented before the FAA. The County's Aviation Department or the applicable municipal building official determines whether the County's height limitations are met, and FAA determines whether FAA building, marking and height requirements are met.

This determination is based, in part, on the description provided to us by you, which includes specific building locations and heights. Any changes in building locations/layouts or heights will void this determination. Any future construction or alteration, including an increase to heights requires separate notice to the FAA and the Miami-Dade Aviation Department.

Furthermore, please note that upon completion of this project, no Certificate of Use and Certificate of Occupancy shall be issued by a municipality or Miami-Dade County until approval is obtained by this office certifying that the structure was built no higher than the height approved by this letter. The approval shall be issued by this office after submittal by applicant of the required information as outlined in the Miami International Airport (Wilcox Field) Zoning Ordinance, **Section 33-349 Airspace Approvals, Paragraph A, Subsection 2.**

Should you have any questions in obtaining and/or filling out FAA form 7460-1 or if I can be of any further assistance, please feel free to contact me at 305-876-8080.

Sincerely,



José A. Ramos, R.A.
Chief of Aviation Planning Section

JR/AH/cf

C: S. Harman
A. Herrera
Marc C. LaFerrier, Department of Planning and Zoning
D. Holness, Department of Planning and Zoning
L. Talleda, Department of Planning and Zoning
F. Gutierrez, Department of Planning and Zoning
File Zoning



Memorandum

Date: 28-JAN-08
To: Subrata Basu, Interim Director
 Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
 Miami-Dade Fire Rescue Department
Subject: Z2006000323

Fire Prevention Unit:

This Memo supersedes MDFR Memorandum dated December 19, 2007.

APPROVAL

Fire Engineering and Water Supply Bureau has no objection to Site plans date stamped December 21, 2007. Any changes to the vehicular circulation must be resubmitted for review and approval.

This plan has been reviewed only to assure compliance with the MDFR Access Road Requirements for zoning hearing applications. Please be advised that during the platting and permitting stages of this project, the proffered site plan must adhere to corresponding MDFR requirements.

Service Impact/Demand:

Development for the above Z2006000323 located at THE NORTHEAST CORNER OF S.W. 41 STREET AND S.W. 72 AVENUE, MIAMI-DADE COUNTY, FLORIDA.

in Police Grid 1596 is proposed as the following:

<u>N/A</u>	dwelling units	<u>N/A</u>	square feet
residential		industrial	
<u>61,600</u>	square feet	<u>N/A</u>	square feet
Office		institutional	
<u>10,500</u>	square feet	<u>N/A</u>	square feet
Retail		nursing home/hospitals	

Based on this development information, estimated service impact is: 16.66 alarms-annually.
 The estimated average travel time is: 6:01 minutes

Existing services:

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

Station 3 - Tropical Park - 3911 SW 82 Avenue.
 Rescue, ALS Engine

Planned Service Expansions:

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

Station 13 - East Kendall - 6000 SW 87 Avenue.

Fire Planning Additional Comments:

Current service impact calculated based on plans date stamped December 21, 2007. Substantial changes to the plans will require additional service impact analysis.

TEAM METRO

ENFORCEMENT HISTORY

B & F MARINE, INC

THE NORTHEAST CORNER OF S.W.
41 STREET AND S.W. 72 AVENUE,
MIAMI-DADE COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2006000323

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

No open cases. No current violations.

Prior cases:

Folio# 30-4023-014-0010 -CMS#200603005267 NOV issued in November 2006 for unauthorized use.
Case closed as complied.

Folio# 30-4023-012-0040 -CMS#200103010810 NOV issued in December 2001 for graffiti on
dumpster. Case closed as complied.

Folio# 30-4023-012-0041 -No violations.

Folio# 30-4023-012-0042 -CMS#200703011945 complaint for tow trucks at location. Not in violation.

DISCLOSURE OF INTEREST*

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

CORPORATION NAME: B&F MARINE, INC.

<u>NAME AND ADDRESS</u>	<u>Percentage of Stock</u>
<u>ANTONIO VECIANA, SR. / 10464 SW 128 TERR, MIA, FL</u>	<u>36.25</u>
<u>ANTONIO VECIANA, JR / 1900 SW 134 AVE, MIA, FL</u>	<u>29.77</u>
<u>CARLOS VECIANA / 3163 VIRGINIA ST., C.G. FL</u>	<u>7.82</u>
<u>ANA VECIANA / 10464 SW 128 TERR., MIAMI, FL</u>	<u>16.57</u>
<u>SIRA VECIANA - MUNIO / 6767 COLLINS AVE, M.B., FL #803</u>	<u>10.39</u>

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

TRUST/ESTATE NAME: _____

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

RECEIVED
206-323
NOV 08 2006
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
AV

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

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

<u>NAME AND ADDRESS</u>	<u>Percent of Ownership</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

NAME OF PURCHASER: B&F MARINE, INC.

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:

RECEIVED
206-323
NOV 08 2006

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

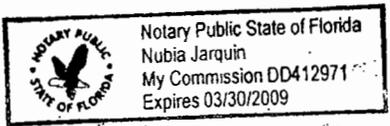
NOTICE: For changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required.

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

Signature: [Handwritten Signature]
(Applicant)

Sworn to and subscribed before me this 8th day of November, 2006. Affiant is personally known to me or has produced Florida driver's license as identification.

[Handwritten Signature]
(Notary Public)



My commission expires _____

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

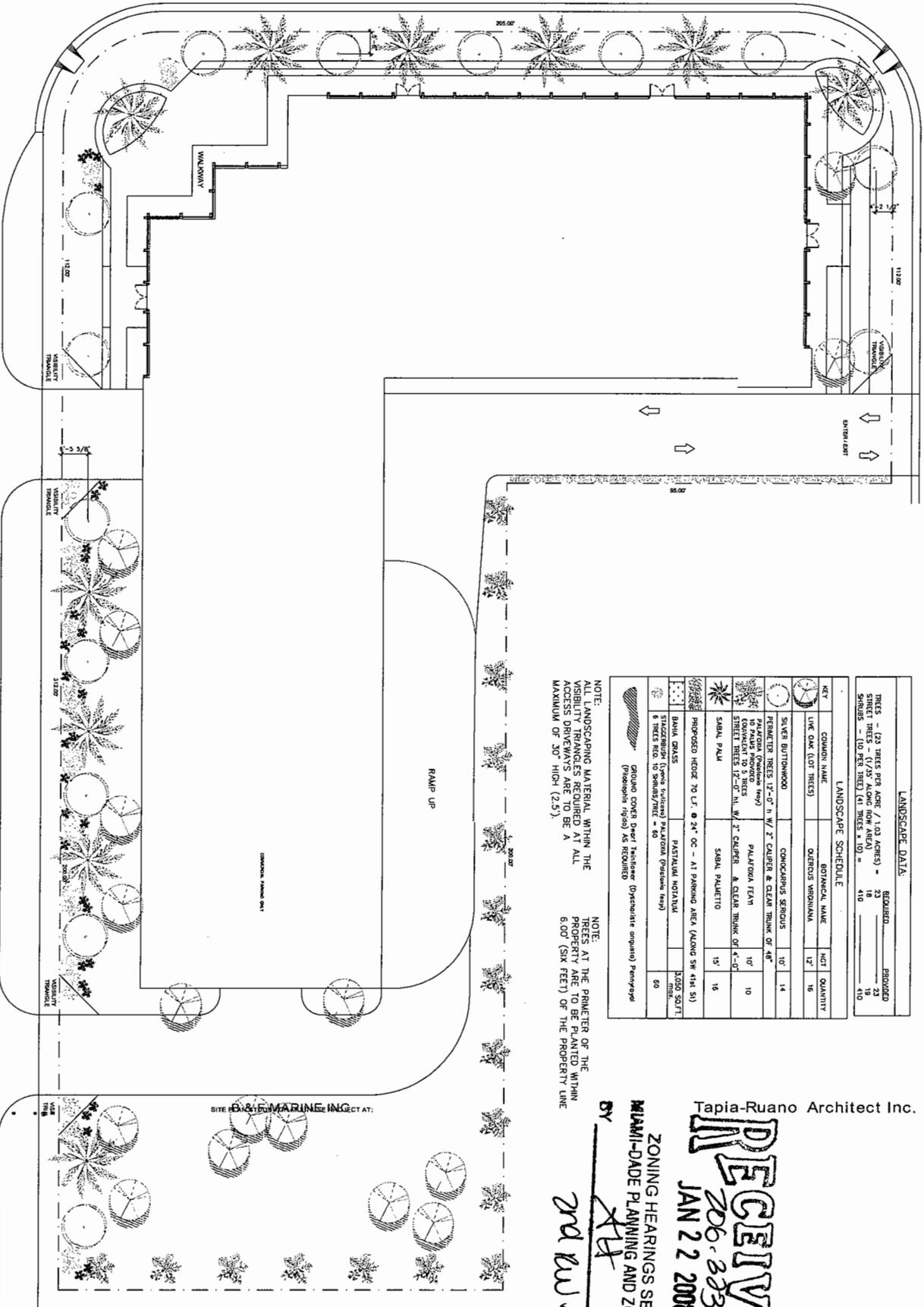
RECEIVED
MAY 15 2008
PLANNING DEPT.

CL SW 72nd AVENUE

CL SW 40th STREET (BIRD ROAD)

LANDSCAPING CONCEPT PLAN
SCALE: 3/32" = 1'-0"

CL SW 41st STREET



LANDSCAPE DATA

REQUIREMENTS	PROPOSED
TREES - 123 TREES PER ACRE / 1.03 ACRES =	23
STREET TREES - (1/25' ALONG ROW AREA)	18
SHRUBS - (10' PER TREE) (41 TREES x 10') =	410
	19
	410

LANDSCAPE SCHEDULE

KEY	COMMON NAME	BOTANICAL NAME	HGT	QUANTITY
	LIME OAK (LOT TREES)	QUERCUS VIRGINIANA	12'	16
	SILVER BUTTONWOOD	CONOCARPUS SERICEUS	10'	14
	PALM TREES 12'-0" h w/ 2" CALIPER & CLEAR TRUNK OF 4"	PALAUOLA FEAX	10'	10
	PALM TREES 12'-0" h w/ 2" CALIPER & CLEAR TRUNK OF 4"-0"	SABAL PALMETTO	15'	16
	PROPAGATED HEDGE TO L.S. @ 24" OC - AT PARKING AREA (ALONG SW 41st ST)	PASTYALUM NOTATAUM		60
	BANKS GRASS	PASTYALUM NOTATAUM		60
	SHADE COVER (Open solution) PALAUOLA FEAX (Open solution)			
	9 TREES PER 10' SPACES/PER = 90			

NOTE:
ALL LANDSCAPING MATERIAL WITHIN THE VISIBILITY TRIANGLES REQUIRED AT ALL ACCESS DRIVEWAYS ARE TO BE A MAXIMUM OF 30" HIGH (2.5').

NOTE:
TREES AT THE PERMETER OF THE PROPERTY ARE TO BE PLANTED WITHIN 6.00' (SIX FEET) OF THE PROPERTY LINE.

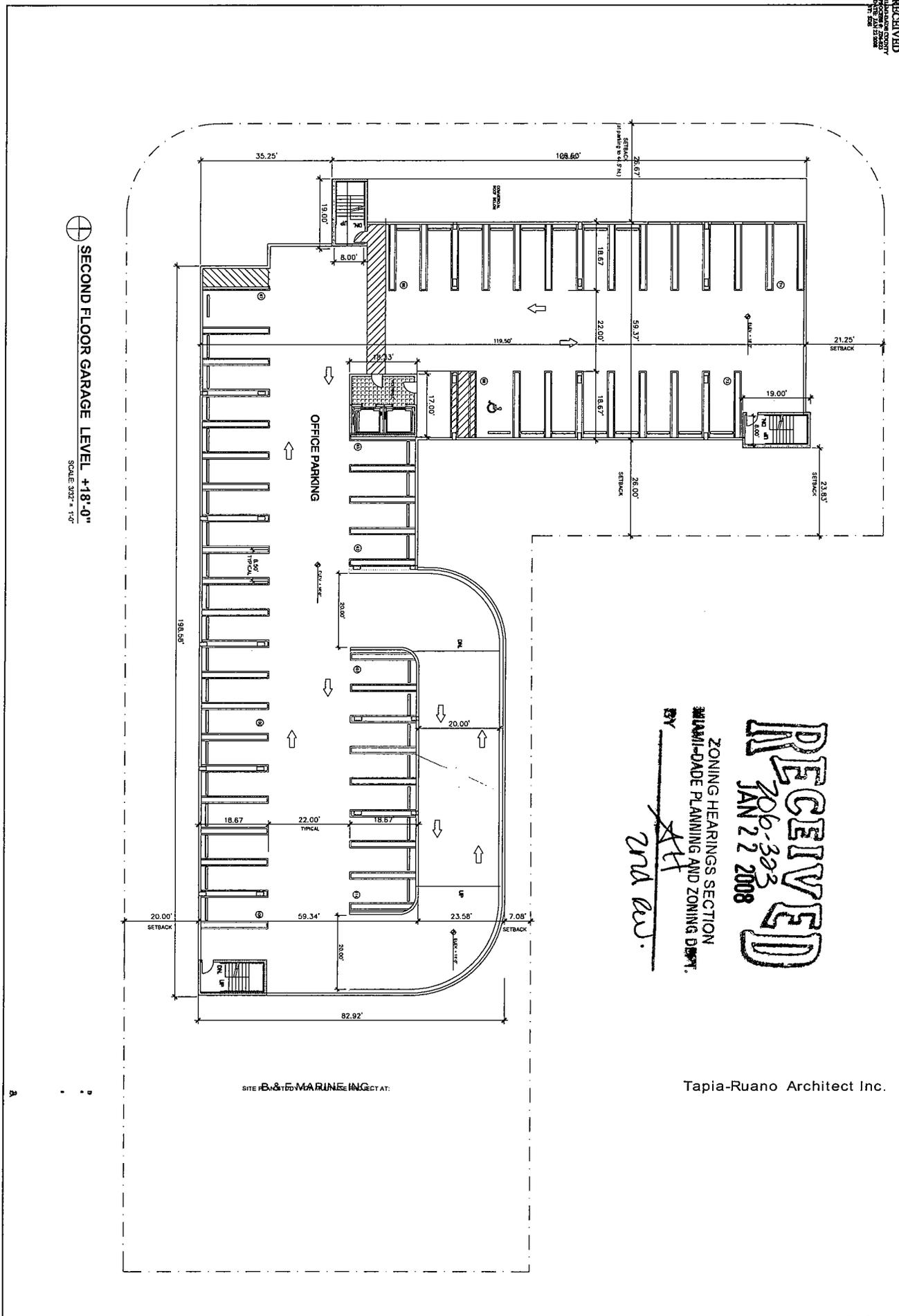
Tapia-Ruano Architect Inc.

RECEIVED
2006-333
JAN 22 2008

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY *2nd ru.*

31



⊕ SECOND FLOOR GARAGE LEVEL +18.0'
SCALE 3/32" = 1'-0"

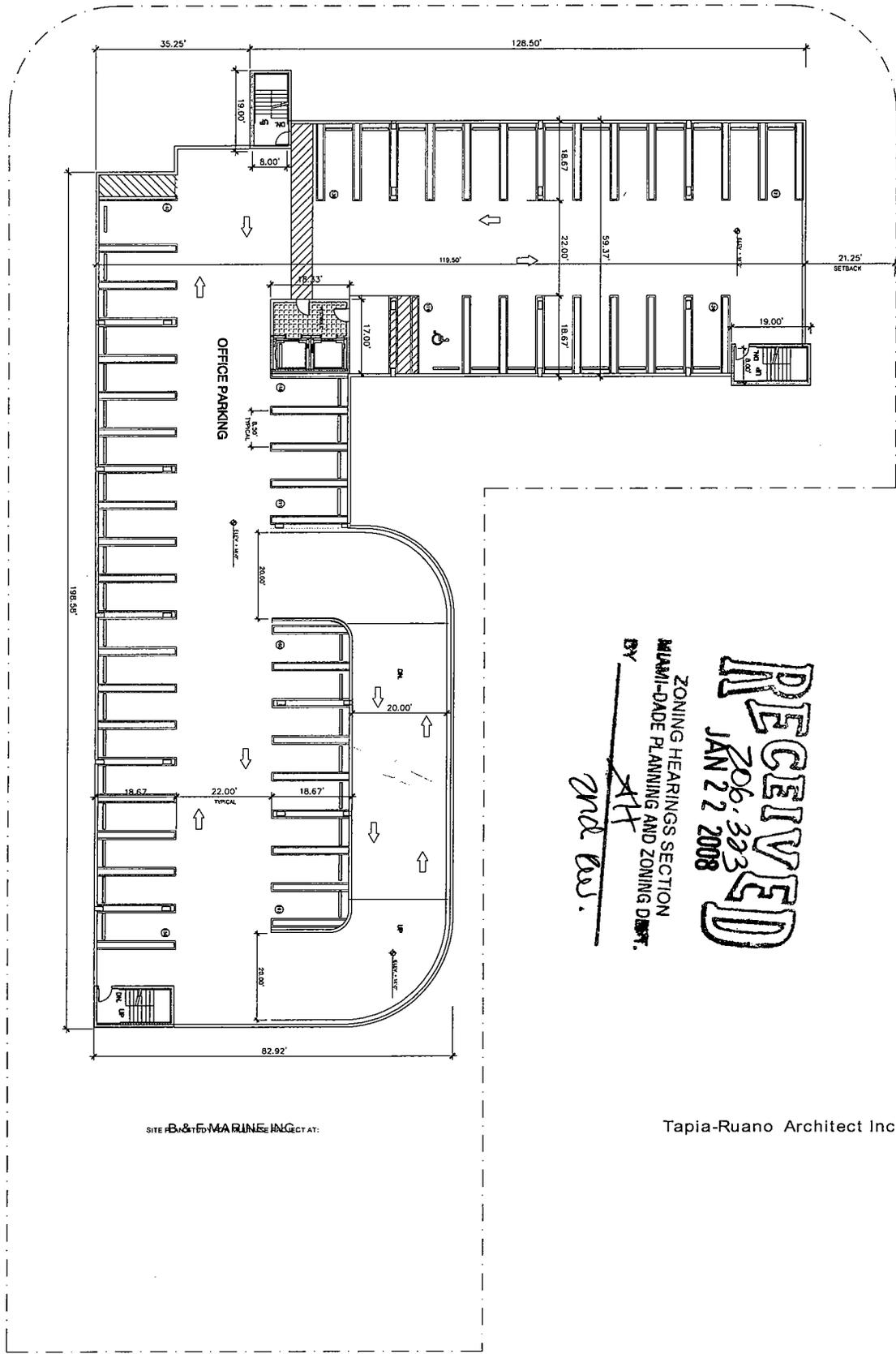
RECEIVED
206-323
JAN 22 2008
ZONING HEARINGS SECTION
MILWAUKEE COUNTY PLANNING AND ZONING DEPT.
BY *TH*
ZMA EW.

SITE BY B. & T. MARINE INC. ARCHITECT

Tapia-Ruano Architect Inc.

RECEIVED
MICHIGAN COUNTY
JAN 22 2008

⊕ THIRD FLOOR GARAGE LEVEL +27'-0"
SCALE: 3/32" = 1'-0"



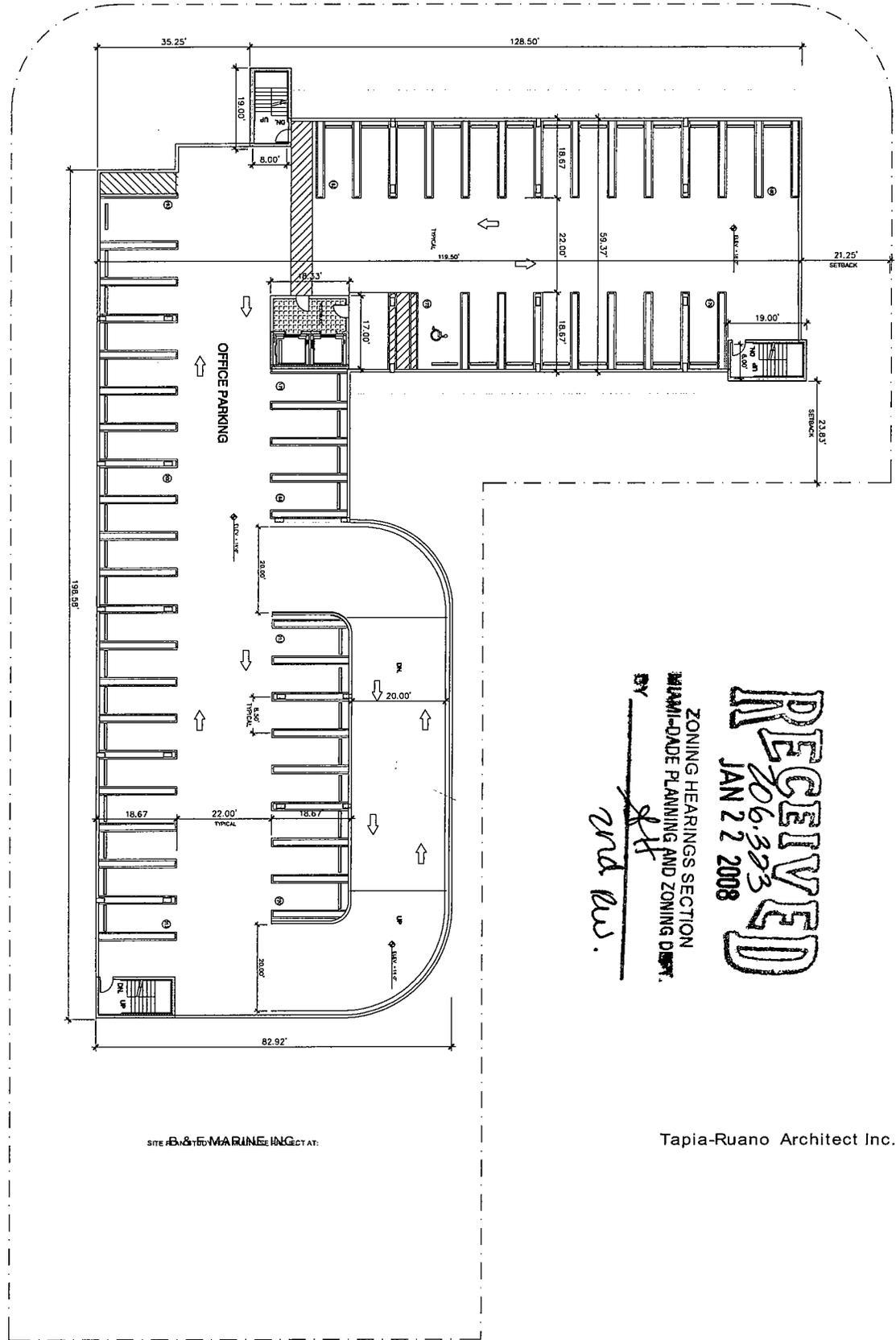
RECEIVED
 ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.
 206-323
 JAN 22 2008
 BY AT
 and co.

SITE BY B&T MARINE INC. ARCHITECT

Tapia-Ruano Architect Inc.

RECEIVED
MAY 12 2008
PLANNING AND ZONING DEPT.
150 N. MIAMI AVENUE
MAY 12 2008

⊕ FOURTH FLOOR GARAGE LEVEL +36'-0"
SCALE: 3/32" = 1'-0"



RECEIVED
2006.3.23
JAN 22 2008
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY *RT*
2nd fl.

SITE BY **BAYTED MARINE INC** ARCHT AT:

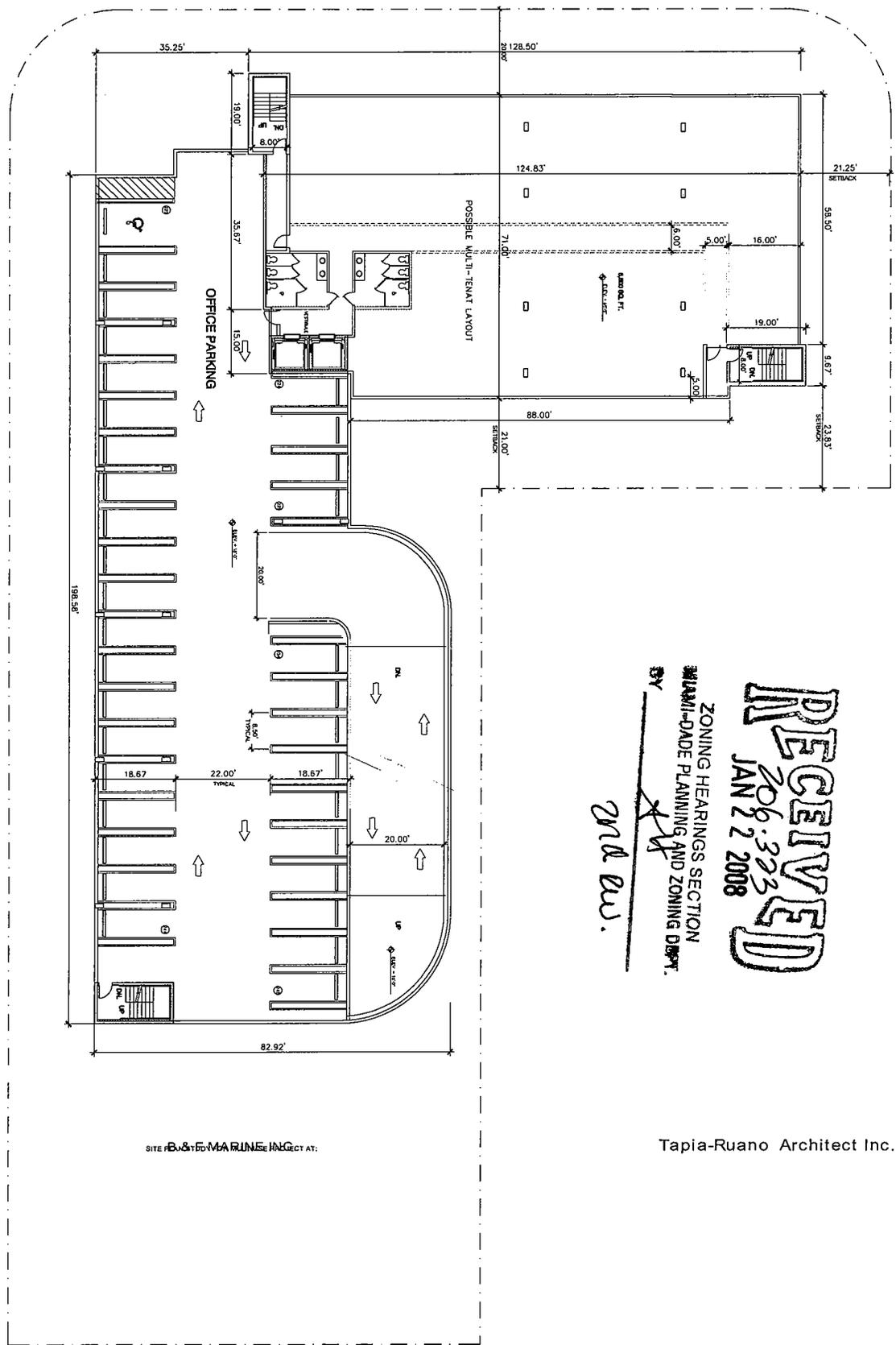
Tapia-Ruano Architect Inc.

RECEIVED
MAY 12 2008
PLANNING DEPT.

10/20/08 11:58 AM OFFICE PLAN REVIT 11/08 OFFICE PLAN REVIT 11/08



FIFTH FLOOR GARAGE LEVEL & FIRST OFFICE FLOOR +46'-0"
SCALE 3/8" = 1'-0"

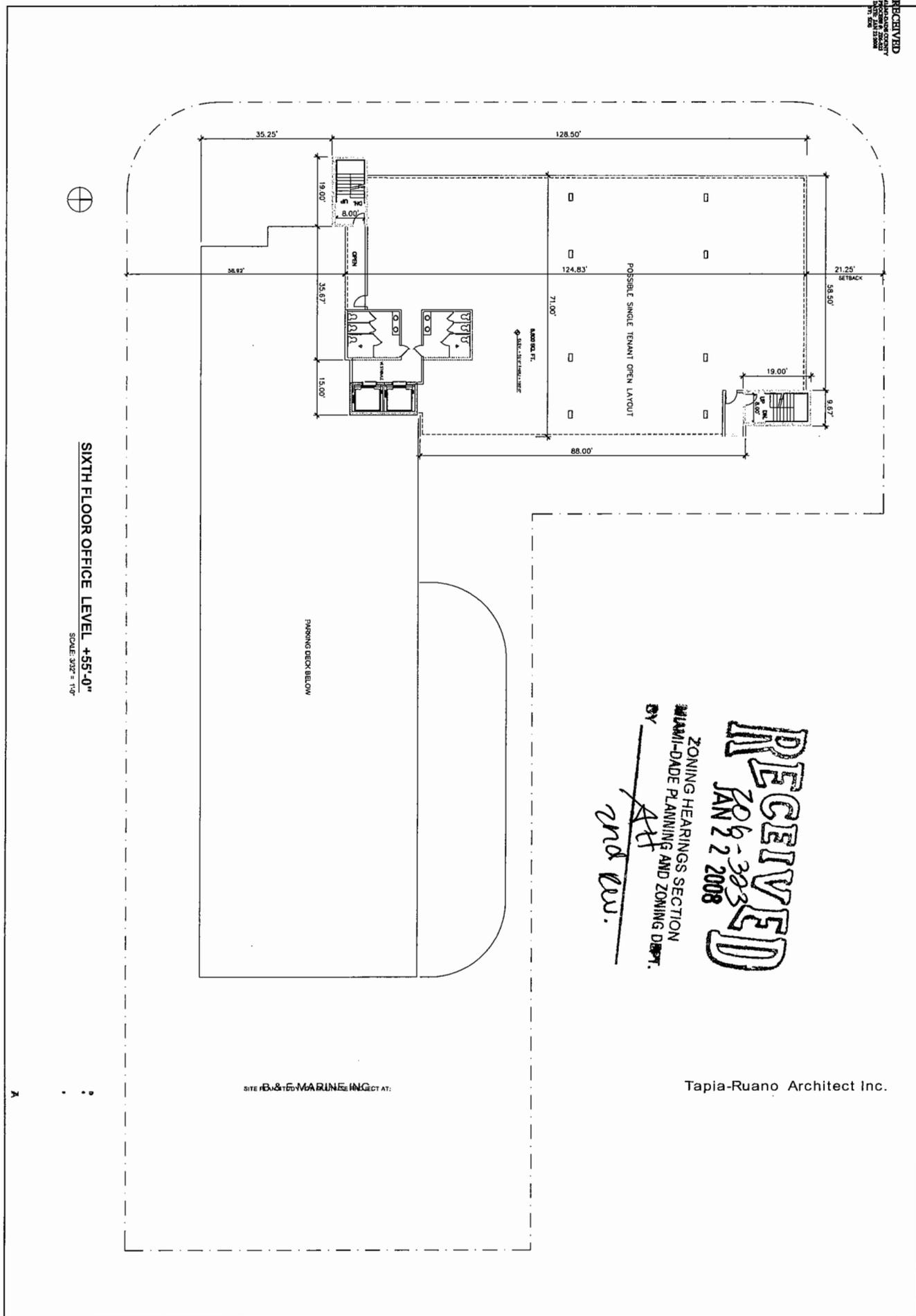


RECEIVED
 206-323
 JAN 22 2008
 ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.
 BY *[Signature]*
 2nd fl.

SITE BY: M&T MARLINE INC. ARCHITECT AT:

Tapia-Ruano Architect Inc.

PLANNING AND ZONING DEPARTMENT



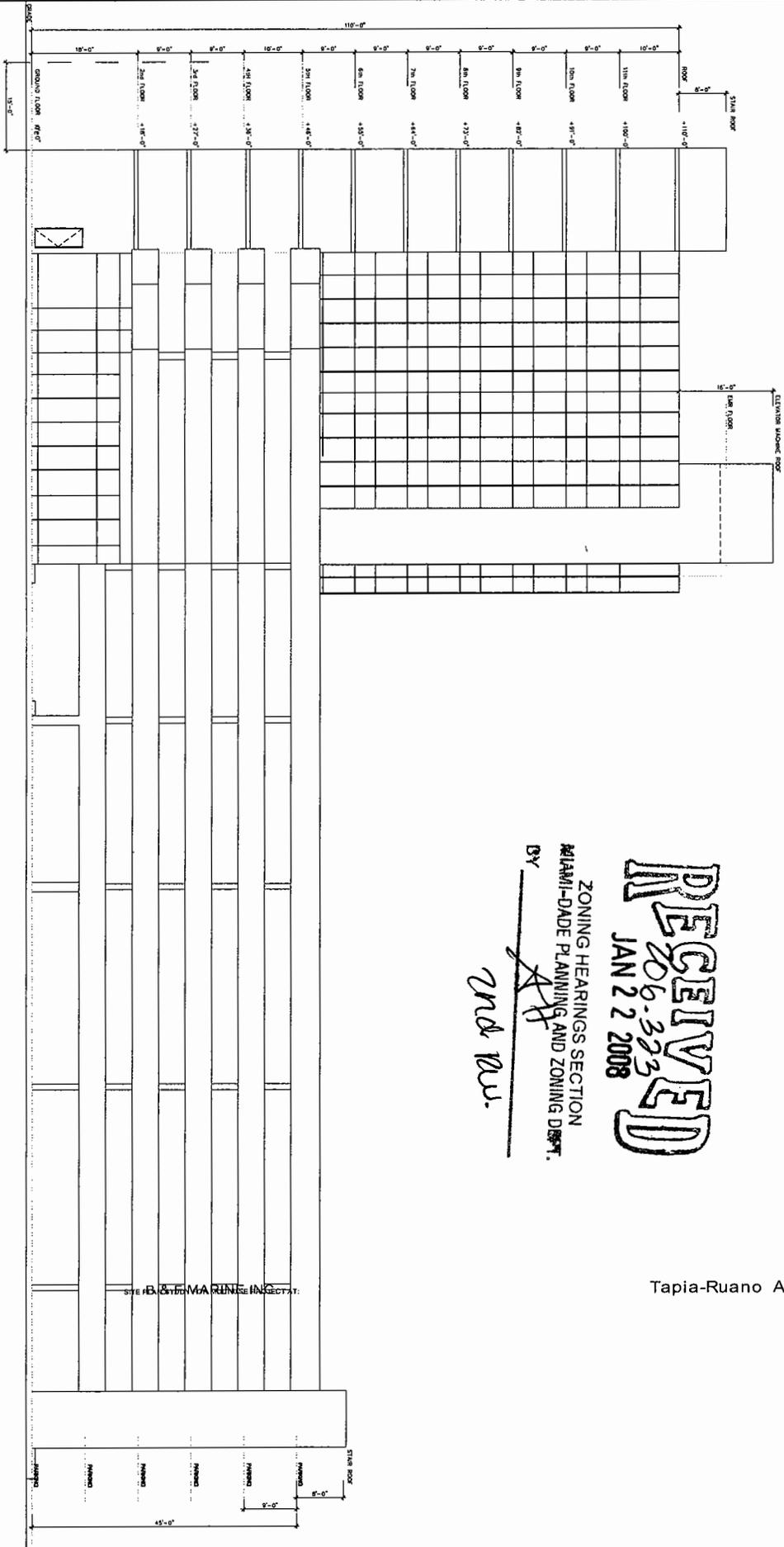
SIXTH FLOOR OFFICE LEVEL +55'-0"
SCALE: 3/32" = 1'-0"

RECEIVED
 ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.
 206-3833
 JAN 22 2008
 BY Att
 and cv.

SITE BY: ED MARINE INC. ARCHITECT AT:

Tapia-Ruano Architect Inc.

RECEIVED
PLANNING AND ZONING DEPT.
JAN 22 2008

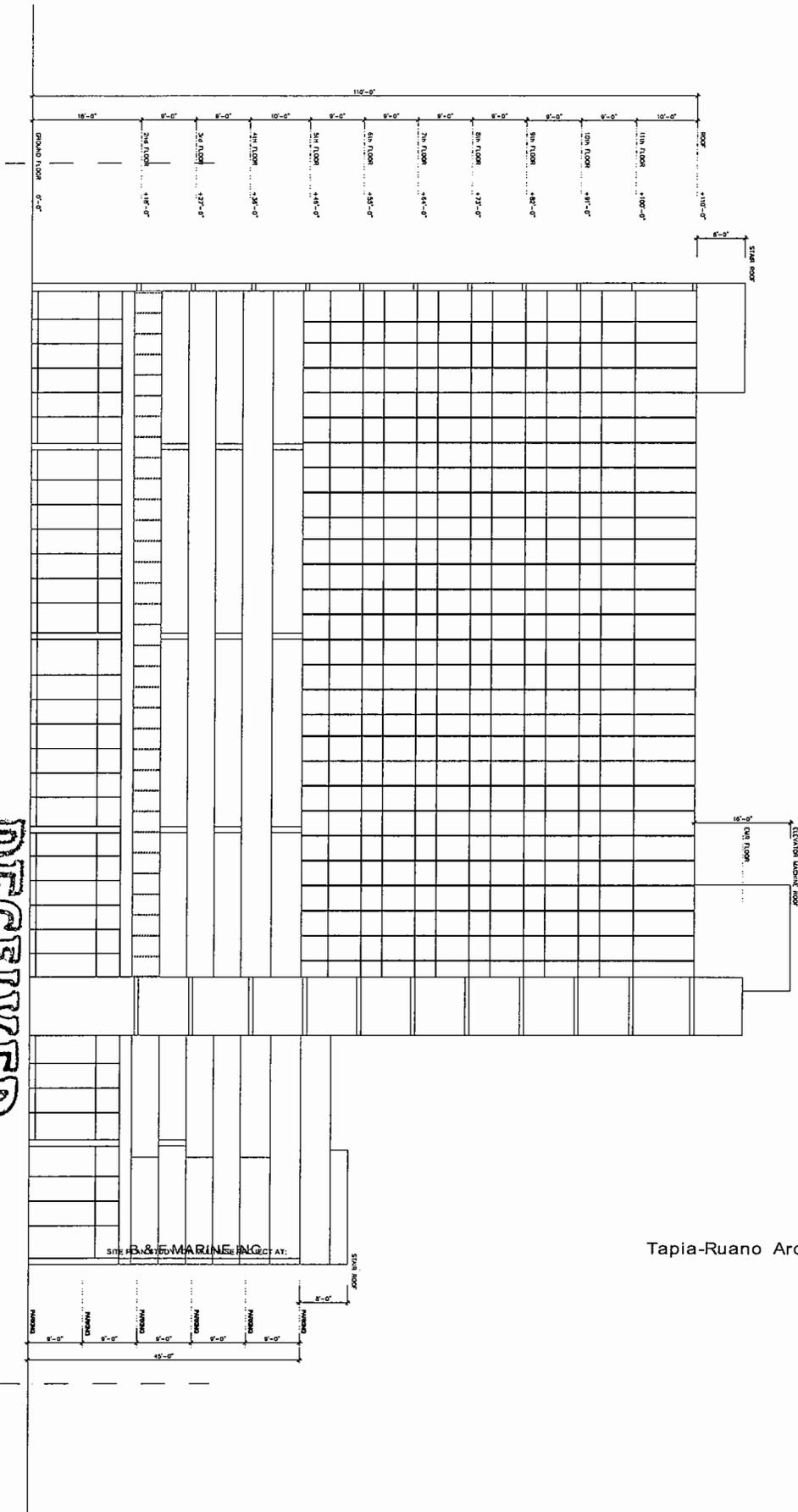


SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

RECEIVED
206-3223
JAN 22 2008

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY AR
2nd RU.

Tapia-Ruano Architect Inc.



WEST ELEVATION

SCALE: 1/8" = 1'-0"

RECEIVED
2006-3333
JAN 2 2 2008

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

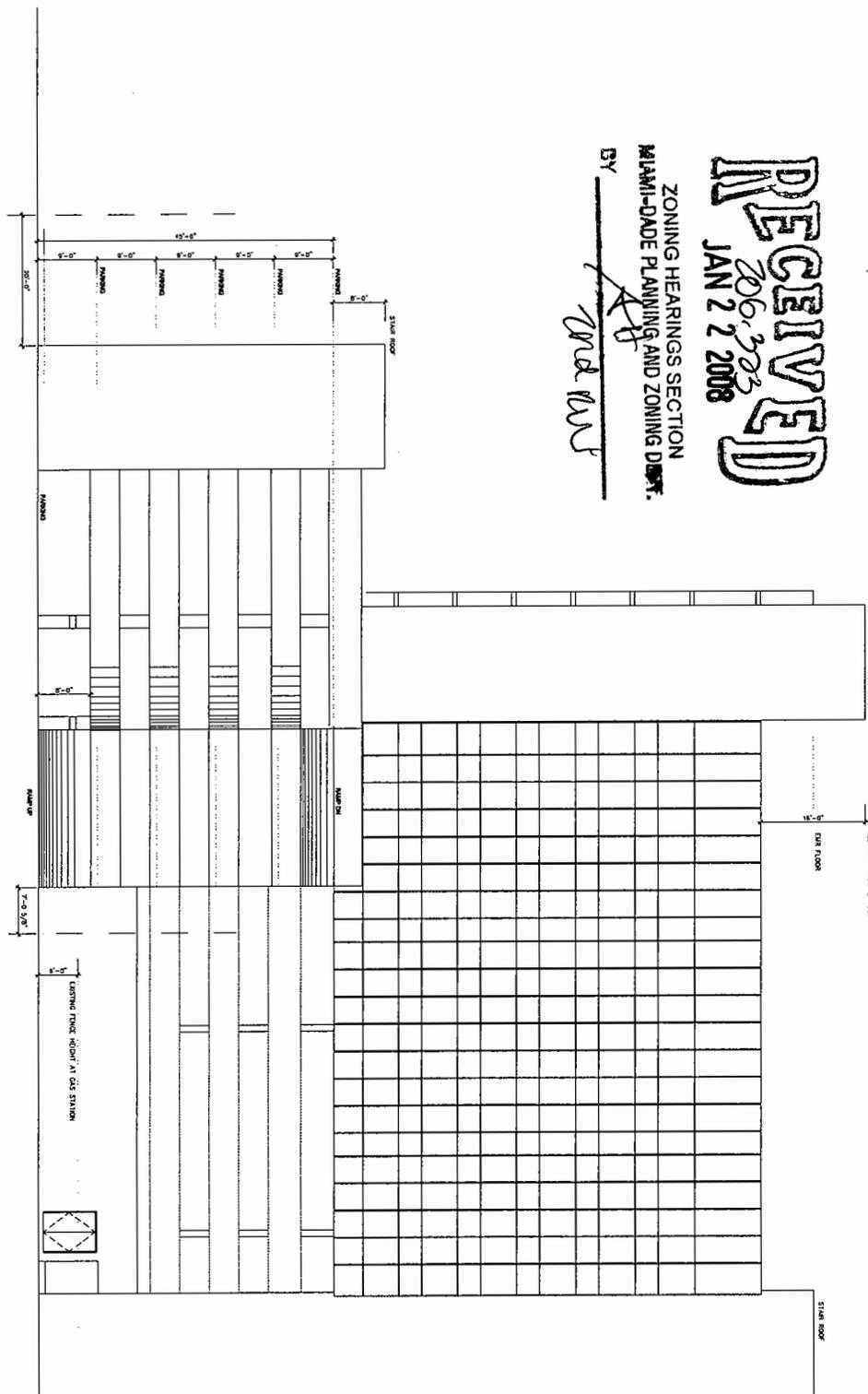
BY ART

and pw

Tapia-Ruano Architect Inc.

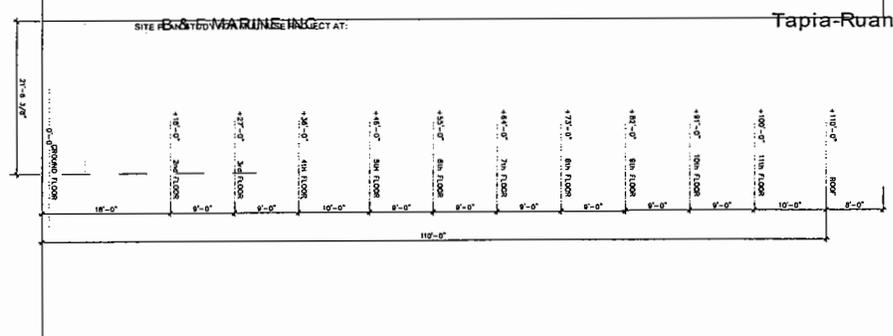
RECEIVED
206-3323
JAN 22 2008

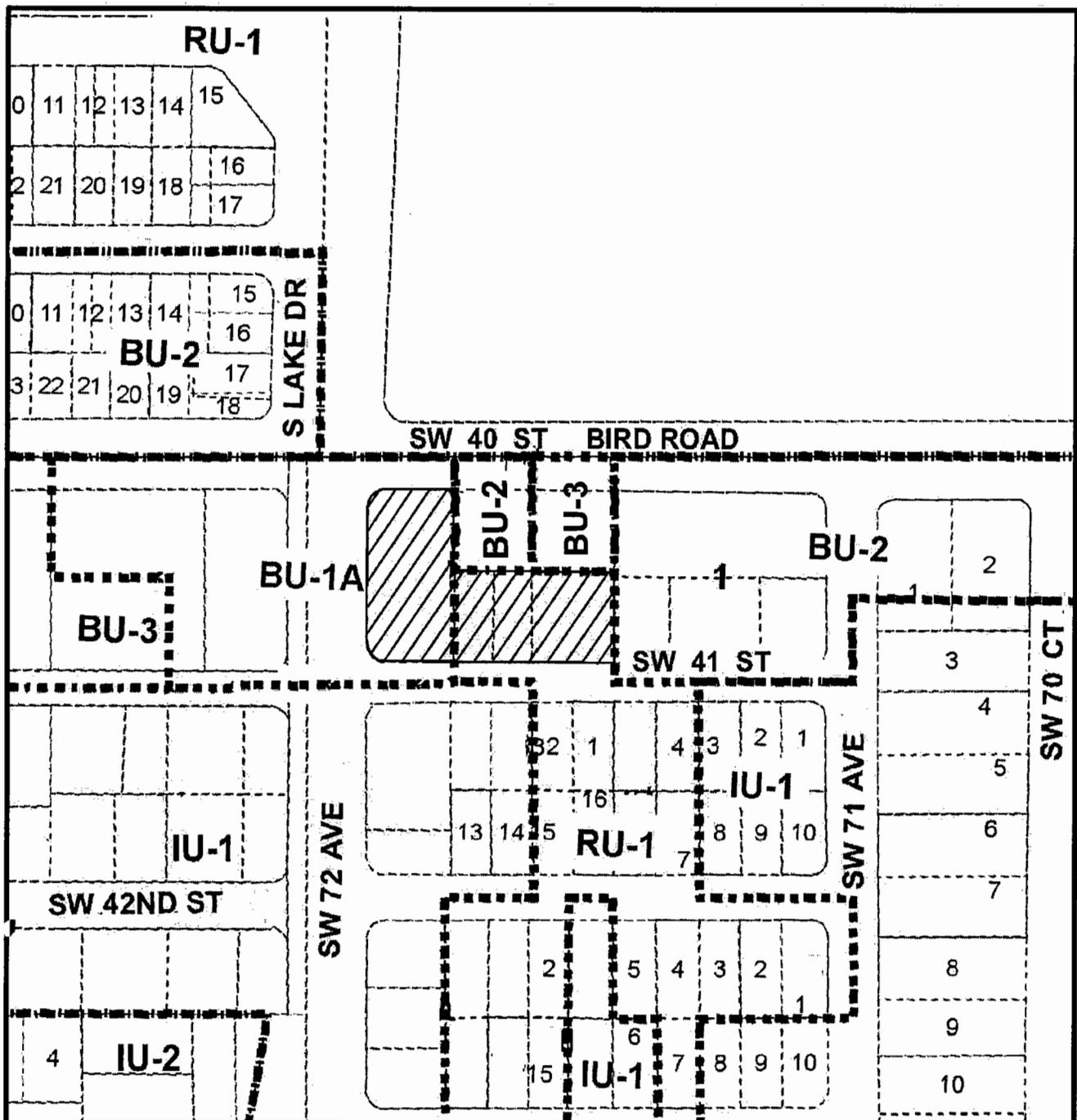
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY AR
Tapia-Ruano



EAST ELEVATION
SCALE: 1/8" = 1'-0"

Tapia-Ruano Architect Inc.





**MIAMI-DADE COUNTY
HEARING MAP**

**PROCESS NUMBER
06-323**

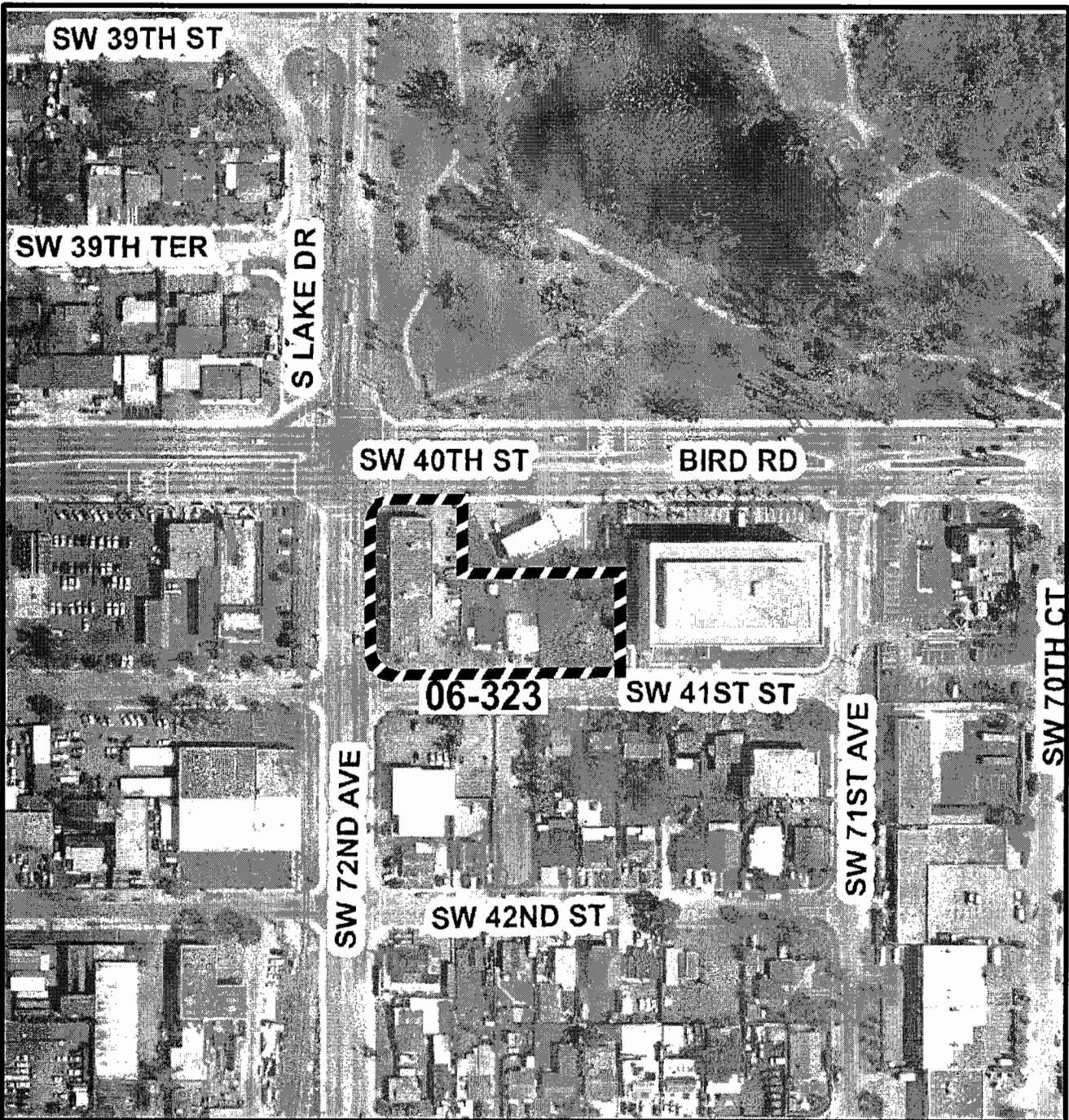


 SUBJECT PROPERTY

Section: 23 Township: 54 Range: 40
 Process Number: 06-323
 Applicant: B & F MARINE, INC.
 Zoning Board: C12
 District Number: 07
 Cadastral: ERIC
 Scale: NTS

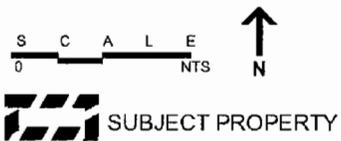


44



MIAMI-DADE COUNTY
AERIAL

Section: 23 Township: 54 Range: 40
Process Number: 06-323
Applicant: B & F MARINE, INC.
Zoning Board: C12
District Number: 07
Cadastral: ERIC
Scale: NTS



B & F Marine, Inc.
(06-323)
Part 1 of 2

This instrument was prepared by:

Name: Jorge A. Lima
Address: Holland & Knight LLP
701 Brickell Avenue
Suite 3000
Miami, Florida 33131

(Space reserved for Clerk of Court)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned owner, B & F MARINE, INC., a Florida corporation (the "Owner"), holds the fee simple title to that certain 1.032± acre parcel of land in Miami-Dade County, Florida (the "County"), located on the southeast corner of S.W. 40th Street (Bird Road) and S.W. 72nd Avenue (the "Property"), which is legally described in Exhibit "A" to this Declaration; and

WHEREAS, the Owner has filed an application with the Department of Planning and Zoning in Miami-Dade County, which application is currently pending under Public Hearing Application No. Z2006000323 (the "Application") for the purpose of seeking a district boundary change from "BU-1A" and "RU-1" to "BU-2" and other zoning approvals.

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

1. **Site Plan.** The Property shall be developed substantially in accordance with the

plans previously submitted, entitled, "B & F Marine, Inc.", as prepared by Tapia-Ruano Architect, Inc., consisting of fourteen (14) sheets and dated stamped received 01/22/08, said plans being filed with the Miami-Dade County Planning and Zoning Department, and by reference made a part of this Declaration, as may be amended during the public hearing on the Application (the "Plan").

2. **Environmental and Sustainable Development.** Committed to the environmental and sustainable development of the proposed building on the Property (the "Building"), the Owner shall, at a minimum, incorporate design and construction features into the Building to comply with the following components of the U.S. Green Building Council's LEED for New Construction and Major Renovations Rating System, version 2.2:

- a) Sustainable Sites section, Credits 4.1, 4.3, 5.2, 7.1, 7.2;
- b) Water Efficiency section, Credits 1.1, 2, 3.1, 3.2;
- c) Energy & Atmosphere section, Credit 1.1;
- d) Materials & Resources section, Prerequisite 1, Credit 2.1; and
- e) Indoor Environmental Quality section, Prerequisite 2, Credits 3.2, 4.1, 4.2, 4.3, 4.4, 5, 6.2, 8.1.

3. **Miscellaneous.**

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 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 its heirs, successors and assigns until such time as the same is modified or released. The restrictions contained within this Declaration, while in effect, shall be for the benefit of, and constitute limitations upon, all present and future owners of the Property, and for the benefit of Miami-Dade County and the public welfare.

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 such change has been approved 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 covered by the modification, amendment or release, 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.

Should this Declaration be so modified, amended or released, the Director, or the executive officer of the successor agency to the Department, or in the absence of such director or executive officer, by her/his assistant in charge of the Department or such successor agency in her/his absence, shall forthwith execute a written instrument effectuating and acknowledging

such modification, amendment or release.

Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants 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.

Section-Township-Range: 23-54-40

Folio Number: 30-4023-014-0010 & 30-4023-012-0042 & 30-4023-012-0041 & 30-4023-012-0040

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.

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 Planning and Zoning Department 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 County 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 Pages Follow]

Section-Township-Range: 23-54-40

Folio Number: 30-4023-014-0010 & 30-4023-012-0042 & 30-4023-012-0041 & 30-4023-012-0040

**JOINDER BY MORTGAGEE
CORPORATION**

The undersigned, Loyal Properties Corporation, a Florida corporation and Mortgagee under that certain Mortgage from B & F Marine, Inc., a Florida corporation, recorded in Official Records Book 24784, Page 4995, in the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing Declaration of Restrictions, does hereby consent to the execution of this Declaration of Restrictive Covenants by B & F Marine, Inc., a Florida corporation, and agree that in the event Mortgagee or any other party shall obtain title to the property through foreclosure or deed-in-lieu of foreclosure, this Declaration of Restrictions shall be binding upon the entity obtaining title as the then owner of such property.

IN WITNESS WHEREOF, these presents have been executed this 27th day of August, 2008.

WITNESSES:

Hilda P. Fernandez
HILDA P. FERNANDEZ
Print or Type Name

Teresa Ruiz
TERESA RUIZ
Print or Type Name

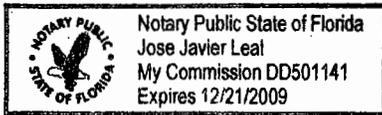
Loyal Properties Corporation

By: *Norberto Leal*
Title: **PRESIDENT**
Print name: **NORBERTO LEAL**
Address: **4221 SW 75 AVE**
MIAMI, FL 33155

(Corporate Seal)

STATE OF FLORIDA)
) SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 27th day of August, 2008 by NORBERTO LEAL, PRESIDENT, of Loyal Properties Corporation, on behalf of the corporation. He/She is personally known to me or has produced _____, as identification and did/did not take an oath.



Jose J. Leal
Notary Public State of FLORIDA
Print Name JOSE J. LEAL
My Commission Expires: 12/21/2009

**JOINDER BY MORTGAGEE
CORPORATION**

The undersigned, Regions Bank and Mortgagee under that certain Mortgage from B & F Marine, Inc., a Florida corporation, recorded in Official Records Book 24659, Page 2041, in the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing Declaration of Restrictions, does hereby consent to the execution of this Declaration of Restrictive Covenants by B & F Marine, Inc., a Florida corporation, and agree that in the event Mortgagee or any other party shall obtain title to the property through foreclosure or deed-in-lieu of foreclosure, this Declaration of Restrictions shall be binding upon the entity obtaining title as the then owner of such property.

IN WITNESS WHEREOF, these presents have been executed this 25th day of August, 2008.

WITNESSES:

Regions Bank

V. Barzda
Veranayda Barzda
Print or Type Name

By: [Signature]
Title: AVP Relationship Manager
Print name: LOURDES MAESTRES
Address: 2800 PONCE DE LEON
9th FLOOR
CORAL GABLES FL 33134

[Signature]
Anthony Acosta
Print or Type Name

(Corporate Seal)

STATE OF FLORIDA)
) SS
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 25th day of August, 2008 by Lourdes Maestres, of Regions Bank, on behalf of the corporation. He/She is personally known to me or has produced personally known, as identification and did/did not take an oath.

[Signature]
Notary Public - State of Florida
Print Name Monica Offredi
My Commission Expires: Sep 25, 2011



EXHIBIT "A"

LEGAL DESCRIPTIONS:

- B&F MARINE – RETAIL STORE:
4001 SW 72nd AVENUE, MIAMI, FL

THE WEST 112.0 FEET OF TRACT 2, OF "AMENDED PLAT OF BIRD ROAD ESTATES, SECTION TWO," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 33, AT PAGE 19, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS THE NORTH 15 FEET AND LESS ALL THAT PART OF TRACT 2 WHICH LIES WITHIN THE EXTERNAL AREA FORMED BY A 25.00 FOOT RADIUS ARC. CONCAVE TO THE SOUTHEAST TANGENT OF THE WEST LINE OF SAID TRACT 2, AND TANGENT TO THE SOUTH LINE OF THE NORTH 15 FEET OF SAID TRACT 2.

- PARCELS 1, 2 & 3:
7155, 7161 & 7185 SW 41st STREET, MIAMI, FL 33155

PARCEL 1

ALL OF "QUECK SUBDIVISION," (A RESUBDIVISION OF THE SOUTH 110 FEET OF THE EAST 100 FEET OF TRACT 2, OF THE "AMENDED PLAT OF BIRD ROAD ESTATES, SECTION 2," PLAT BOOK 33, PAGE 19), RECORDED IN PLAT BOOK 66, AT PAGE 85, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING THE SAME PROPERTY DESCRIBED IN THE WARRANTY DEED RECORDED UNDER CLERK'S FILE NO. 77R-279948 IN OFFICIAL RECORDS BOOK 9855, AT PAGE 1509, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

PARCEL 2

THE EAST 50 FEET OF THE WEST 162 FEET OF THE SOUTH 110 FEET OF TRACT 2, OF "BIRD ROAD ESTATES, SECTION TWO," ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 33, AT PAGE 19, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

PARCEL 3

THE EAST 50 FEET OF THE WEST 212 FEET OF THE SOUTH 110 FEET OF TRACT 2, OF "BIRD ROAD ESTATES, SECTION TWO," ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 33, AT PAGE 19, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

1. FRANK & GINA GUILFORD
(Applicant)

08-11-CZ12-1 (07-173)
Area 12/District 7
Hearing Date: 11/5/08

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

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

Disclosure of interest form attached? Yes No

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
1958	H. Jackson Appleget	Zone change from EU-1 to EU-M.	BCC	Approved

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

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO COMMUNITY COUNCIL No. 12**

APPLICANT: Frank and Gina Guilford

PH: Z07-173 (08-11-CZ12-1)

SECTION: 31-54-41

DATE: November 5, 2008

COMMISSION DISTRICT: 7

ITEM NO.: 1

=====

A. INTRODUCTION

o **REQUESTS:**

- (1) Applicants are requesting to waive the zoning regulations prohibiting structures on or in a right-of-way; to permit a coral rock wall in the right-of-way of S.W. 50 Avenue.
- (2) Applicants are requesting to permit the coral rock wall varying from 4' to 9' in height (6' permitted).
- (3) Applicants are requesting to permit an existing residence setback 22.87' (25' required) from the rear (east) property line, setback 19.25' (25' required) from the front (west) property line and setback 22' (25' required) from the side street (south) property line.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 and #3 may be considered under §33-311(A)(14) (Alternative Site Development Option for Single-Family and Duplex Dwelling Units) and approval of requests #1 through #3 may be considered under §33-311 (A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Guilford Residence," as prepared by Brockhouse Associates, PA dated stamped received 6/9/08 consisting of 5 sheets. Plans may be modified at public hearing.

o **SUMMARY OF REQUESTS:**

This application seeks to permit a single-family residence to setback less than required from property lines, to permit a coral rock wall encroaching into the right-of-way and exceeding the maximum height permitted.

o **LOCATION:**

7625 S.W. 50 Avenue, Miami-Dade County, Florida.

o **SIZE:** 122' x 144'

o **IMPACT:**

The existing structures encroaching into the required setback and right-of-way could have a negative visual impact on adjacent properties and could affect traffic visibility.

B. ZONING HEARINGS HISTORY:

In 1958, the subject site was approved a district boundary change from EU-1 to EU-M, pursuant to Resolution #1804.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Estate Density Residential** use. This density range is typically characterized by detached estates which utilize only a small portion of the total parcel. Clustering, and a variety of housing types may, however, be authorized. The residential densities allowed in this category shall range from a minimum of 1.0 to a maximum of 2.5 dwelling units per gross acre.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

SUBJECT PROPERTY:

EU-M; single-family residence

Estate Density Residential, 1 to 2.5 dua

SURROUNDING PROPERTY:

NORTH: EU-M; single-family residence

Estate Density Residential, 1 to 2.5 dua

SOUTH: EU-1; single-family residence

Estate Density Residential, 1 to 2.5 dua

EAST: EU-M; single-family residence

Estate Density Residential, 1 to 2.5 dua

WEST: RU-1; single-family residence

Low Density Residential, 2.5 - 6 dua

The property is a corner lot located at 7625 S.W. 50 Avenue. The surrounding area is predominately developed with single-family residences.

E. SITE AND BUILDINGS:

Site Plan Review:

(Site plan submitted)

Scale/Utilization of Site:

Acceptable*

Location of Buildings:

Acceptable*

Compatibility:

Acceptable*

Landscape Treatment:

Acceptable

Open Space:

Acceptable

Buffering:

Acceptable*

Access:	Acceptable*
Parking Layout/Circulation:	N/A
Visibility/Visual Screening:	N/A
Energy Considerations:	N/A
Roof Installations:	N/A
Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

*Subject to conditions.

F. PERTINENT REQUIREMENTS/STANDARDS:

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

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

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

1. the character and design of the proposed alternative development will not result in a material diminution of the privacy of adjoining residential property; and
2. the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity, taking into account existing structures and open space; and
3. the proposed alternative development will not reduce the amount of open space on the parcel proposed for alternative development to less than 40% of the total net lot area; and
4. any area of shadow cast by the proposed alternative development upon an adjoining parcel of land during daylight hours will be no larger than would be cast by a structure constructed pursuant to the underlying district regulations, or will have no more than a *de minimus* impact on the use and enjoyment of the adjoining parcel of land; and
5. the proposed alternative development will not involve the installation or operation of any mechanical equipment closer to the adjoining parcel of land than any other portion of the proposed alternative development, unless such equipment is located within an enclosed, soundproofing structure; and
6. the proposed alternative development will not involve any outdoor lighting fixture that casts light on an adjoining parcel of land at an intensity greater than permitted by this code; and
7. the architectural design, scale, mass, and building materials of any proposed structure or addition are aesthetically harmonious with that of other existing or

- proposed structures or buildings on the parcel proposed for alternative development; and
8. the wall of any building within a setback area required by the underlying district regulations shall be improved with architectural details and treatments that avoid the appearance of a “blank wall”; and
 9. the proposed development will not result in the destruction or removal of mature trees within a setback required by the underlying district regulations, with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the same side of the lot; and
 10. any windows or doors in any building to be located within an interior setback required by the underlying district regulations shall be designed and located so that they are not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; and
 11. total lot coverage shall not be increased by more than twenty percent (20%) of the lot coverage permitted by the underlying regulations; and
 12. the area within an interior side setback required by the underlying district regulations located behind the front building line will not be used for off-street parking except:
 - a. in an enclosed garage where the garage door is located so that it is not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; or
 - b. if the off-street parking is buffered from property that abuts the setback area by a solid wall at least six (6) feet in height along the area of pavement and parking, with either:
 - i. articulation to avoid the appearance of a “blank wall” when viewed from the adjoining property, or
 - ii. landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement regarding its maintenance in recordable form from the adjoining landowner; and
 13. any structure within an interior side setback required by the underlying district regulations;
 - a. is screened from adjoining property by landscape material of sufficient size and composition to obscure at least sixty percent (60%) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure at time of planting; or

- b. is screened from adjoining property by an opaque fence or wall at least six(6) feet in height that meets the standards set forth in paragraph (f) herein; and
14. any proposed alternative development not attached to a principal building, except canopy carports, is located behind the front building line; and
15. any structure not attached to a principal building and proposed to be located within a setback required by the underlying district regulations shall be separated from any other structure by at least three (3) feet; and
16. when a principal building is proposed to be located within a setback required by the underlying district regulations, any enclosed portion of the upper floor of such building shall not extend beyond the first floor of such building within the setback; and
17. the eighteen (18) inch distance between any swimming pool and any wall or enclosure required by this code is maintained; and
18. safe sight distance triangles shall be maintained as required by this code; and
19. the parcel proposed for alternative development will continue to provide on-site parking as required by this code; and
20. the parcel proposed for alternative development shall satisfy underlying district regulations or, if applicable, prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002), regulating lot area, frontage and depth.
21. the proposed development will meet the following:
 - A. interior side setbacks will be at least three (3) feet or fifty percent (50%) of the side setbacks required by the underlying district regulations, whichever is greater.
 - B. Side street setbacks shall not be reduced by more than fifty percent (50%) of the underlying zoning district regulations;
 - C. Interior side setbacks for active recreational uses shall be no less than seven (7) feet in EU, AU, or GU zoning district or three (3) feet in all other zoning districts to which this subsection applies;
 - D. Front setbacks will be at least twelve and one-half (12 ½) feet or fifty percent (50%) of the front setbacks required by the underlying district regulations, whichever is greater;
 - E. Rear setbacks will be at least three (3) feet for detached accessory structures and ten (10) feet for principal structures.

- (f) **An alternative maximum height of walls, hedges or fences** for a single family or duplex dwelling shall be approved upon demonstration of the following:
- (1) no wall, hedge or fence shall exceed eight (8) feet in height; and
 - (2) no wall, hedge or fence located in a front setback required by the underlying district regulations shall exceed six (6) feet in height; and
 - (3) the additional height of a proposed wall, hedge or fence will not obscure in whole or in part an existing view or vista to any landmark, natural area, or water body from any window or door in a residential unit on an adjoining parcel of land; and
 - (4) proposed walls or fences shall be:
 - (A) articulated to avoid the appearance of a "blank wall" when viewed from adjoining property; or
 - (B) landscaped with landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement from the landowner regarding its maintenance in recordable form from the adjoining property owner; or
 - (C) where facing a public right-of-way, set back at least two and one-half (2 1/2) feet from the right-of-way line and extensively landscaped with shrubs of a minimum of three (3) feet in height when measured immediately after planting, which will form a continuous, unbroken, solid, visual screen within one (1) year after time of planting; hedges of a minimum of three (3) feet in height immediately after planting, which will form a continuous, unbroken, solid, visual screen within one (1) year after time of planting; and/or climbing vines of a minimum of thirty-six (36) inches in height immediately after planting; and
 - (5) proposed fences shall be constructed or installed so that the "unfinished" side is directed inward toward the center of the parcel proposed for alternative development; and
 - (6) proposed fences are constructed of durable materials and are decorative; and
 - (7) proposed fences are not comprised of chain link or other wire mesh, unless located in an AU or GU with AU trend zoning district; and
 - (8) Safe sight distance triangles are maintained pursuant to this code.

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

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

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

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

Section 33-311(A)(4)(b) Non-use Variance Standard. Upon appeal or direct application in specific cases, the Board shall hear and grant applications for **non-use variances** from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains

the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.

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

G. NEIGHBORHOOD SERVICES:

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

*Subject to conditions indicated in their memoranda.

H. ANALYSIS:

The subject property is a corner lot located at 7625 S.W. 50 Avenue in an area characterized by single-family residences. The applicants are requesting to waive the zoning regulations prohibiting structures on or in a right-of-way; to permit an existing coral rock wall in the right-of-way of S.W. 50 Avenue (request #1), to permit the coral rock wall varying from 4' to 9' in height (6' permitted) (request #2) and to permit the existing residence setback 22.87' (25' required) from the rear (east) property line, setback 19.25' (25' required) from the front (west) property line and setback 22' (25' required) from the side street (south) property line (request #3). The applicants have submitted plans depicting the aforementioned requests. This corner lot is comprised of an existing two-story residence, which faces SW 50 Avenue. An existing swimming pool is located to the rear of the subject site.

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

their memorandum indicates that the applicants must submit an executed recorded covenant along with a hold harmless agreement concerning the encroachment of the coral rock wall into the public right-of-way. Additionally, any required road dedications and improvements will be accomplished through the recording of a plat.

The approval of this application will allow the applicants the maintenance and continued use of a single-family residence and a non-conforming coral rock wall. The Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) designates this site for **Estate Density Residential** use, which permits a minimum of 1 to a maximum of 2.5 units per gross acre. The requests found within this application will not create additional units on the subject property. As such, the existing EU-M zoned single-family residential lot is **consistent** with density requirements of the Estate Density Residential designation as shown in the LUP map of the CDMP.

When analyzed under the Non-Use Variance (NUV) Standards, Section 33-311(A)(4)(b), staff is of the opinion that the approval of requests #1 through #3 would be **compatible** with the surrounding area, would not be detrimental to the neighborhood, and would not negatively affect the appearance of the community. Request #1, to waive the zoning regulations prohibiting structures on or in a right-of-way in order to permit a coral rock wall in the right-of-way of S.W. 50 Avenue, and request #2, to permit the coral rock wall varying from 4' to 9' in height (6' permitted), will not be contrary to the basic intent and purpose of the zoning and land use regulations since these requests are generated by an existing wall which, in staff's opinion, does not create any visual disturbance and provides pleasant architectural characteristics that enhance the frontal appearance of the subject single-family residence. Additionally, the Public Works Department does not object to these requests, but states in their memorandum that the applicants must provide a covenant to be recorded with Miami-Dade County along with a "hold harmless" agreement pertaining to the rock wall. Therefore, staff will recommend as a condition that the applicants comply with all applicable conditions and requirements of the Public Works Department. Request #3, to permit an existing residence setback 22.87' (25' required) from the rear (east) property line, setback 19.25' (25' required) from the front (west) property line and setback 22' (25' required) from the side street (south) property line, does not result in an obvious departure from the aesthetic character of the surrounding area as research indicates that similar requests have been approved in the area. In 1996, a similar request was granted on a parcel located three lots to the west of the subject property that permitted, among other things, an addition to a single-family residence to setback 10.75' from the rear property line, pursuant to Resolution #5-ZAB-162-96. Staff opines that the requested setback encroachments into the front and the side street setbacks are not intensive and are buffered from adjacent properties by the existing lush landscaping and the existing coral rock wall along the south and portions of the west property lines, which minimize any visual impact on adjacent properties and from the right-of-way. However, staff will recommend a condition that the applicants apply for and secure building permits for all non-permitted structures on the property from the Building Department within 120 days of the expiration of the appeal period for this public hearing application, unless a time extension is granted by the Director of the Department of Planning and Zoning for good cause shown. As such, staff recommends approval with conditions of this application under the Non-Use Variance Standards (NUV).

The Alternative Site Development Option (ASDO) Standards, Section 33-311(A)(14), provide for the approval of a zoning application which can demonstrate at a public

hearing that the development requested is in compliance with the applicable ASDO Standards and does not contravene the enumerated public interest standards as established. However, the applicants have not provided staff with the documentation required for analysis under the ASDO standards. As such, requests #2 and #3 cannot be approved under same and should be denied without prejudice under Section 33-311(A)(14) (ASDO).

When analyzed under the Alternative Non-Use Variance (ANUV) Standards, Section 33-311(A)(4)(c), the applicants would have to prove that the requests are due to unnecessary hardship and that, should the requests not be granted, such denial would not permit the reasonable use of the premises. Staff is of the opinion that this application does not comply with the standards of said section since the property can be utilized in accordance with the EU-M zoning regulations. Therefore, staff recommends denial without prejudice under the Alternative Non-Use Variance Standards (ANUV).

Accordingly, staff recommends approval with conditions of this application under Section 33-311(A)(4)(b) (NUV), denial without prejudice under Section 33-311(A)(4)(c) (ANUV) and denial without prejudice of requests #2 and #3 under Section 33-311(A)(14) (ASDO).

I. RECOMMENDATION:

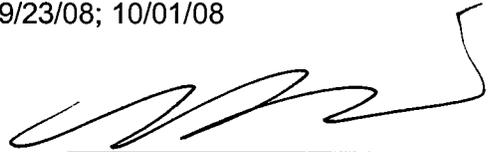
Approval with conditions of requests #1 through #3 under Section 33-311(A)(4)(b) (NUV) and denial without prejudice of same under Section 33-311(A)(4)(c) (ANUV); and denial without prejudice of requests #2 and #3 under Section 33-311(A)(14) (ASDO).

J. CONDITIONS:

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit and/or Certificate of Completion, said plan shall include but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, and other requirements.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Guilford Residence," as prepared by Brockhouse Associates, PA dated stamped received 6/9/08 consisting of 5 sheets. Except as may be specified by any zoning resolution applicable to the subject property, any future additions on the property which conform to Zoning Code requirements will not require further public hearing action.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicants apply for and secure building permits for all non-permitted structures on the property from the Building Department within 120 days of the expiration of the appeal period for this public hearing application, unless a time extension is granted by the Director of the Department of Planning and Zoning for good cause shown.
5. That the applicants comply with all applicable conditions and requirements of the Public Works Department which indicates that the applicants must provide a

covenant to be recorded with Miami-Dade County along with a "hold harmless" agreement pertaining to the rock wall.

DATE INSPECTED: 08/07/08
DATE TYPED: 09/15/08
DATE REVISED: 09/16/08; 09/23/08; 10/01/08
DATE FINALIZED: 10/06/08
MCL; MTF; LVT; JV



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



Memorandum



Date: May 17, 2007

To: Subrata Basu, AIA, AICP, Interim Director
Department of Planning and Zoning

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

A handwritten signature in black ink, appearing to read "Jose Gonzalez". The signature is written in a cursive, flowing style.

Subject: C-12 #Z20070 00173
Frank and Gina L. Guilford
7625 S.W. 50th Avenue
Non-Use Variance to Permit a Stone Fence within the Right-of-Way
(EU-M) (0.36 Acres)
31-54-41

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

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

Enforcement History

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

Concurrency Review Summary

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

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

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

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

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

PUBLIC WORKS DEPARTMENT COMMENTS

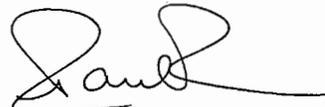
Applicant's Names: FRANK & GINA GUIFORD

This Department has no objections to this application.

The applicant must submit an executed covenant recorded with Miami-Dade County along with a hold harmless agreement concerning the encroachment of the coral rock wall into public right-of-way.

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

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



Raul A Pino, P.L.S.

03-JUL-07

Memorandum



Date: 23-MAY-07
To: Subrata Basu, Interim Director
Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue Department
Subject: Z2007000173

Fire Prevention Unit:

Fire Engineering & Water Supply has no objection to this application

Service Impact/Demand:

Development for the above Z2007000173
located at 7625 S.W. 50 AVENUE, MIAMI-DADE COUNTY, FLORIDA.
in Police Grid 1762 is proposed as the following:

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

Based on this development information, estimated service impact is: ___ alarms-annually.

Existing services:

The Fire station responding to an alarm in the proposed development will be:
Sta 14, 5860 SW 70 Street

Planned Service Expansions:

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

Fire Planning Additional Comments:

Not applicable to service impact analysis.

TEAM METRO

ENFORCEMENT HISTORY

FRANK & GINA GUILFORD

7625 S.W. 50 AVENUE, MIAMI-
DADE COUNTY, FLORIDA.

APPLICANT

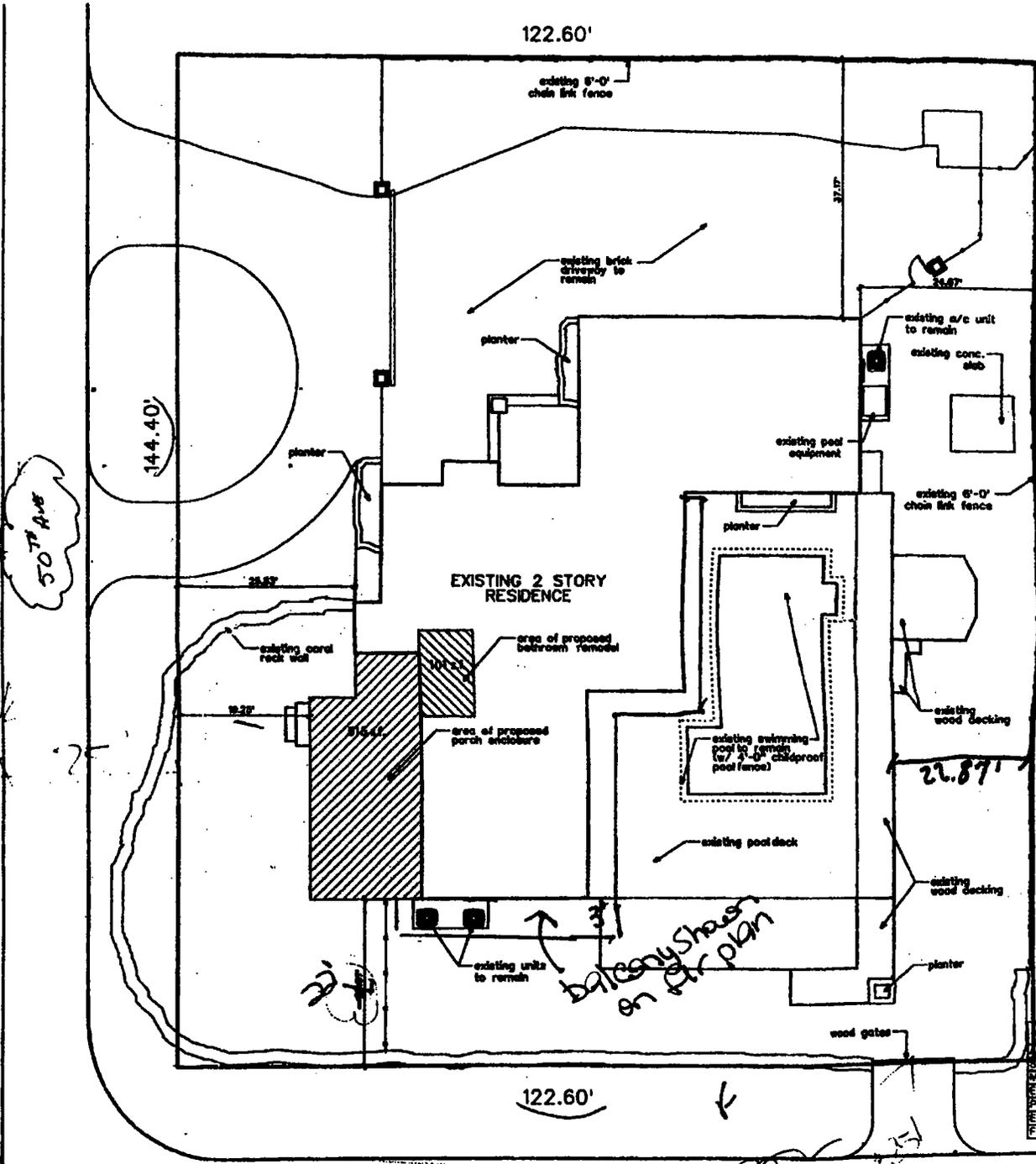
ADDRESS

Z2007000173

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

No open or current cases. No previous violations.



50TH AVE

144.40'

122.60'

EXISTING 2 STORY RESIDENCE

144.40'

122.60'

	REVIEWER INITIALS	DATE REVIEWED
ARCHITECTURAL	CS	12/12/23
STRUCTURAL		
MECHANICAL		
ELECTRICAL		
PLUMBING		
ENERGY	S	
FIRE		

M.T. CHADLEY, INC.
REGISTERED PROFESSIONAL ENGINEER
NO. 12547

77TH STREET

c2007022072

EXHIBIT

To Match Existing

N/A



Property Site Plan
1/8" = 1'-0"

Legal Description

31 54 41 .37 AC M/L KINGSLEYS SUB PB 1-41 S169.40FT OF E1/2 LOT 4 LESS E525 FT & LESS W25FT & S25FT FOR RDS Miami Dade County, Florida

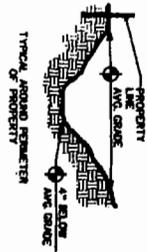
ENLARGED SITE PLAN

17

10/10/2023
A.T. King
9/14/2023

RECEIVED
 Enclosure & Bath Renovation For the
 MIAMI-DADE COUNTY
QUILFORD RESIDENCE
 DATE: JUN 09 2008
 BY: BIL

7625 SW 50th Avenue Miami, Florida 33146



Swale Detail
 1/2" = 1'-0"

Zoning Information

ZONING DESIGNATION: R-1
 DISTRICT: 17203 SQ. FT.
 AREA INFORMATION:
 AREA OF PROPOSED RESIDENCE (UNDER AIR)
 AREA OF EXISTING 1 1/2 STORY RESIDENCE 2016 SQ. FT.
 AREA OF EXISTING 2ND LEVEL TOTAL EXISTING AREA 3,485 SQ. FT.
 AREA OF PROPOSED PORCH ENCLOSURE 515 SQ. FT.
 TOTAL PROPOSED AREA 4,120 SQ. FT.
 AREA OF SUPPORT STRUCTURES:
 GARAGE 977 SQ. FT.
 BALCONY 583 SQ. FT.
 COVERED TERRACE 442 SQ. FT.
 COVERED PORCH 149 SQ. FT.
 TOTAL SUPPORT AREA 2,141 SQ. FT.
 AREA OF DRIVE & WALKWAYS 309 SQ. FT.
 AREA OF POOL PATIO & DECK 2715 SQ. FT.

Site Notes

REMARKS: ALL DRAINAGE SHALL BE TO THE STREET. SEE SMALL SCALE PLAN FOR DRAINAGE INFORMATION.
 ALL PROPOSED SETBACKS & RECORDAL INFORMATION

Setback Information

REAR SETBACK: 25' (MIN)
 SIDE SETBACK: 10' (MIN)
 FRONT SETBACK: 15' (MIN)
 EXISTING SIDE SETBACK: 15' (MIN)
 REAR PROPOSED SETBACK: 25' (MIN)
 SIDE PROPOSED SETBACK: 15' (MIN)
 FRONT PROPOSED SETBACK: 15' (MIN)
 BUILDING FOOTPRINT: 4,120 SQ. FT. (MAX)
 MAXIMUM FOOTPRINT ALLOWABLE: 4,120 SQ. FT. (MAX)
 GREENSPACE: 21,981 SQ. FT. (MIN)
 GREENSPACE PROPOSED: 21,981 SQ. FT. (MIN)

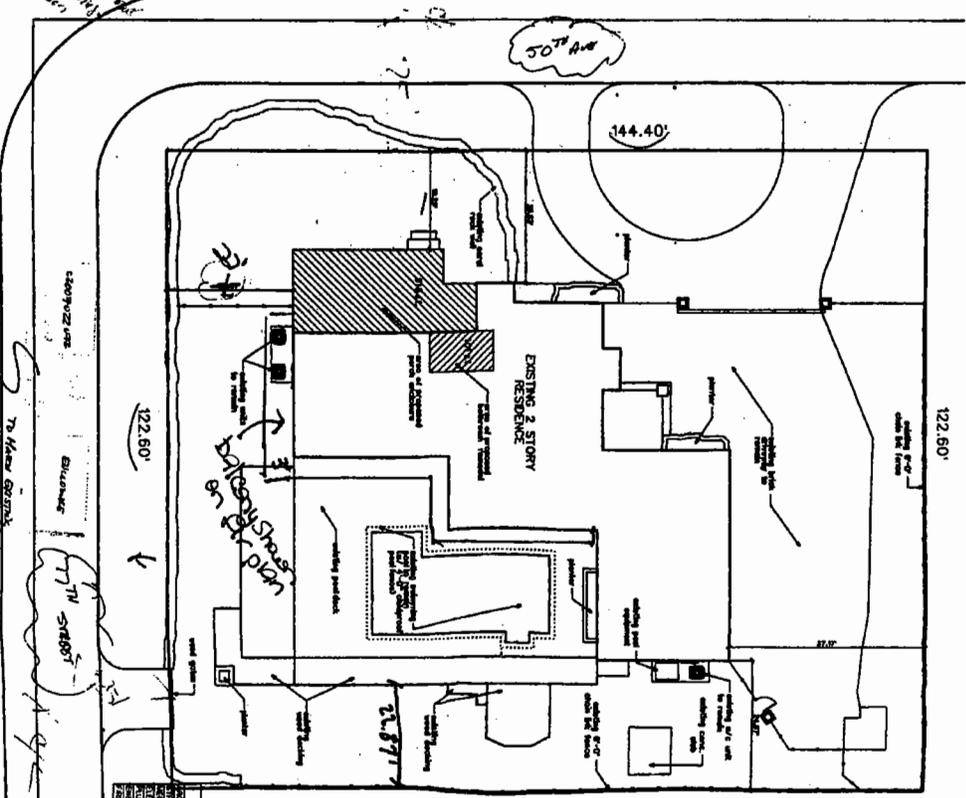
RECEIVED
 JUN 9 2008

Lot Coverage
 3135/1773 = 17.6%

30% allowed

Property Site Plan

6/10/08
 7625 SW 50th Ave
 7625 SW 50th Ave
 7625 SW 50th Ave



Legal Description
 31.34 AC. OF LAND, MORE OR LESS, BEING PART OF A 1/4 SECTION 16, TOWNSHIP 25 N., RANGE 28 W., COUNTY OF MIAMI-DADE, FLORIDA

BROCKHOUSE
 ARCHITECTS
 1100 S.W. 15th Avenue, Suite 200
 Miami, Florida 33135
 Phone: 305.371.1111
 Fax: 305.371.1112
 www.brockhouse.com

QUILFORD RESIDENCE
 7625 SW 50th Avenue
 Miami, Florida 33146
 2008-06-11

DATE: 06/11/08
PROJECT: Enclosure & Bath Renovation
SCALE: 1/8" = 1'-0"
DATE: 06/11/08
PROJECT: Enclosure & Bath Renovation
SCALE: 1/8" = 1'-0"

REVISIONS:

NO.	DATE	DESCRIPTION
1	06/11/08	AS NOTED
2	06/11/08	AS NOTED

APPROVED:
 ARCHITECT: A.1

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

81

RECEIVED
 MIAMI-DADE COUNTY
 PROCESS # 207-4173
 DATE: JUN 09 2008
 BY: BUL

RECEIVED
 JUN - 9 2008

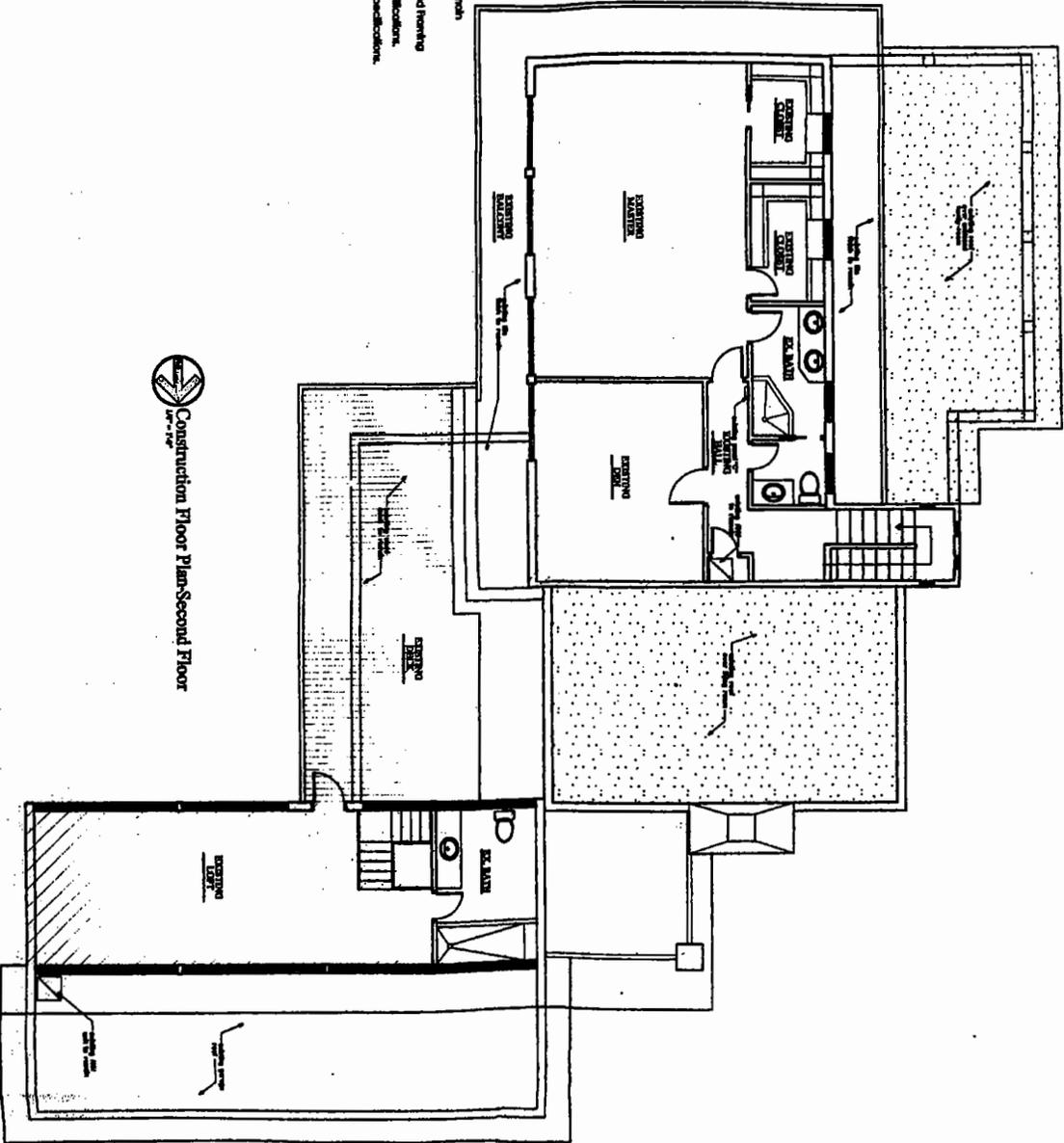
ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.
 BY: _____

Scope of Work
 1. No work on Second Level Required

Area Calculations
 Existing Second Floor: 1,085 Sq. Ft.
 Existing Lift: 521 Sq. Ft.
 Total Area: 1,607 Sq. Ft.

Wall Legend

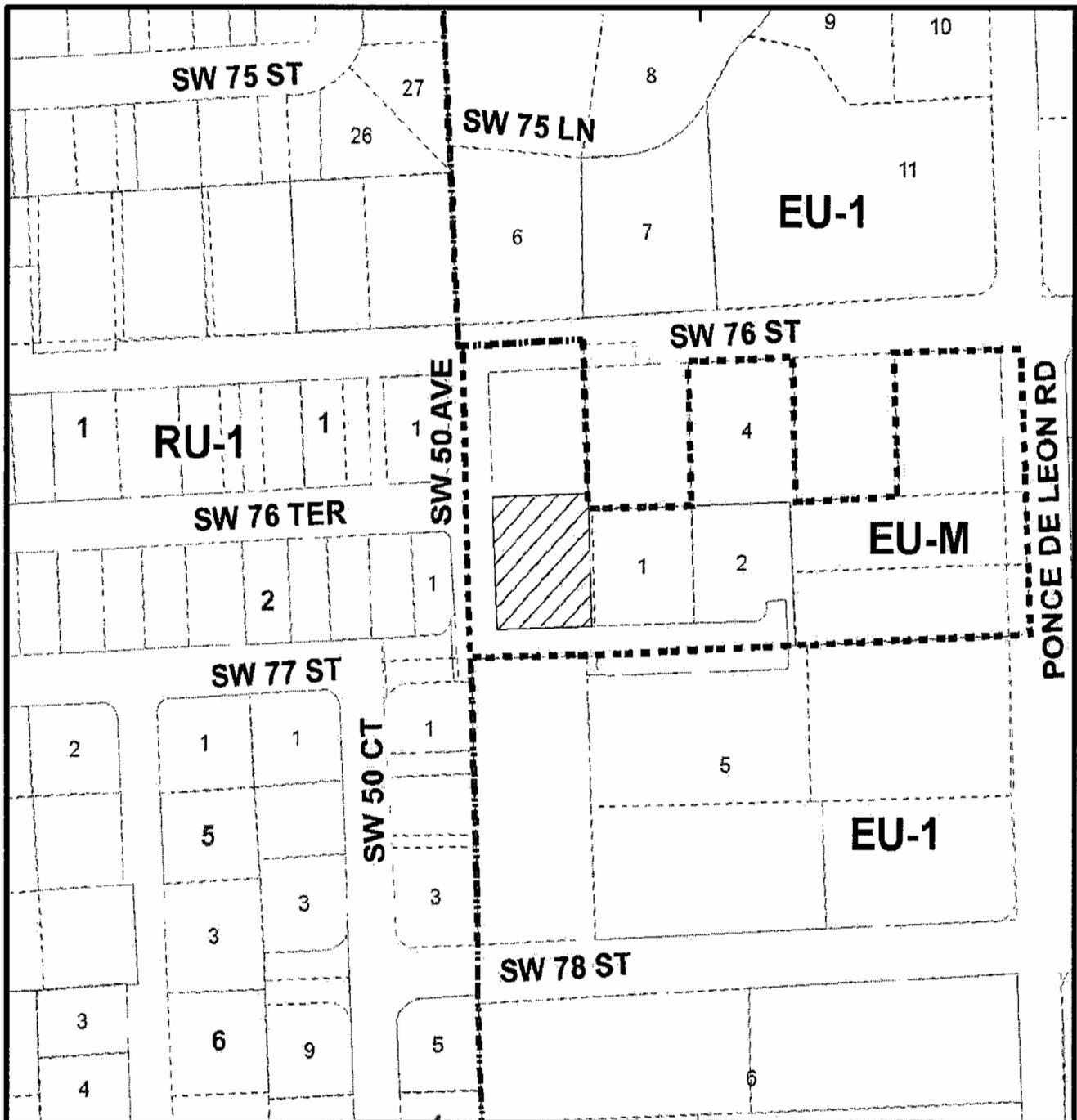
- Existing Exterior/Interior Walls to Remain
- New or Concrete Masonry Wall
- New Drywall Partitions w/ Metal Stud Framing
- Refer to Door Schedule sheet A.4 for specifications.
- Refer to Window Schedule sheet A.4 for specifications.



Construction Floor Plan-Second Floor

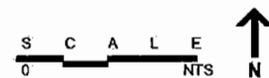


GREGORY J. GIFFORD REGISTERED PROFESSIONAL ENGINEER STATE OF FLORIDA NO. 27186 EXPIRES 12/31/2011	
CONSTRUCTION FLOOR PLAN SECOND FLOOR 04056-467-439	
PROJECT NO. 04056-467-439	DATE 06/07/06
DRAWN BY J.S.	CHECKED BY G.J.
SCALE 1/4"=1'-0"	PROJECT 04056
SHEET NO. A.4	TOTAL SHEETS 1



**MIAMI-DADE COUNTY
HEARING MAP**

Process Number
07-173



 SUBJECT PROPERTY

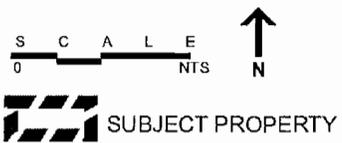
Section: 31 Township: 54 Range: 41
 Process Number: 07-173
 Applicant: FRANK & GINA GUIFORD
 Zoning Board: C12
 District Number: 7
 Cadastral: N'NAGBE
 Scale: NTS





MIAMI-DADE COUNTY
AERIAL

Process Number
07-173



Section: 31 Township: 54 Range: 41
Process Number: 07-173
Applicant: FRANK & GINA GUIFORD
Zoning Board: C12
District Number: 7
Cadastral: N'NAGBE
Scale: NTS

