

# FINAL AGENDA

12-4-2012 Version # 2



COMMUNITY ZONING APPEALS BOARD 14  
SOUTH DADE GOVERNMENT CENTER-ROOM 203 (OLD BUILDING)  
10710 SW 211 Street, Miami  
Wednesday, January 9, 2013 at 6:00 p.m.

## CURRENT

- |    |             |   |        |          |   |
|----|-------------|---|--------|----------|---|
| 1. | 13-1-CZ14-1 | <u>A &amp; J &amp; B GROUP, LLC</u>     | 10-183 | 30-56-39 | N |
| 2. | 13-1-CZ14-2 | <u>YOSMANY MENDEZ &amp; DAIMIT PENA</u> | 12-13  | 31-55-40 | N |



# Official Zoning Agenda

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## COMMUNITY ZONING APPEALS BOARD

COMMUNITY ZONING APPEALS BOARD - AREA 14

MEETING OF WEDNESDAY, JANUARY 9, 2013

SOUTH DADE GOVERNMENT CENTER – ROOM 203 (OLD BUILDING)

10710 SW 211 STREET, MIAMI, FLORIDA

NOTICE: THE FOLLOWING HEARINGS ARE SCHEDULED FOR 6:00 P.M., AND

ALL PARTIES SHOULD BE PRESENT AT THAT TIME

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

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

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

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

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

SWEARING IN OF WITNESSES

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**Miami-Dade County Department of Regulatory and Economic Resources  
Staff Report to Community Council No. 14**

**PH: Z10-183 (13-1-CZ14-1)**

**January 9, 2013**

Item No. 1

<b>Recommendation Summary</b>	
<b>Commission District</b>	8
<b>Applicant</b>	A & J & B Group, LLC
<b>Summary of Requests</b>	This application would allow the applicant to rezone the parcel to an estate zoning district, to permit an existing lake excavation, permit the parcel with less lot trees than permitted and to waive the requirement for a dissimilar land use buffer.
<b>Location</b>	Lying north of SW 264 Street and approximately 1,008.89' west of SW 167 Avenue, Miami-Dade County, Florida.
<b>Property Size</b>	10 acres
<b>Existing Zoning</b>	AU
<b>Existing Land Use</b>	Single-family residence and lake excavation.
<b>2015-2025 CDMP Land Use Designation</b>	Agriculture (see attached Zoning Recommendation Addendum)
<b>Comprehensive Plan Consistency</b>	<b>Inconsistent</b> with interpretative text, goals, objectives and policies of the CDMP
<b>Applicable Zoning Code Section(s)</b>	Section 33-311, District Boundary Change Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations Section 33-311(A)(3) Special Exceptions, Unusual Uses and New Uses. (see attached Zoning Recommendation Addendum)
<b>Recommendation</b>	<b>Denial without prejudice.</b>

**REQUESTS:**

- (1) DISTRICT BOUNDARY CHANGE from AU to EU-2
- (2) UNUSUAL USE to permit an existing lake excavation.
- (3) NON-USE VARIANCE to permit a total of 28 lot trees (90 lot trees minimum required).
- (4) NON-USE VARIANCE to waive the required 5' dissimilar land use buffer including a 6' high wall, fence or hedge and buffer trees along the north, east and west property lines.

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled, "Bass Residence & Old Florida Native Tree and Fishfarm lake Plan" prepared by Development, Inc., dated stamped received 3/7/11, "Site and Landscape Plan" prepared by Allan Ira Bass, Architect, dated stamped received 2/9/11, for a total of 2 sheets. Plans may be modified at public hearing.

**PROJECT DESCRIPTION:**

The submitted site plan depicts the 10-acre parcel consisting of a single-family residence and an existing approximately 2-acre, 20' deep lake excavation.

<b>NEIGHBORHOOD CHARACTERISTICS</b>		
	<b>Zoning and Existing Use</b>	<b>Land Use Designation</b>
<b>Subject Property</b>	AU; single-family residence	Agriculture
<b>North</b>	AU; row crops	Agriculture
<b>South</b>	AU; row crops	Agriculture
<b>East</b>	AU; row crops	Agriculture
<b>West</b>	AU; park and natural forest community	Parks and Recreation

**NEIGHBORHOOD COMPATIBILITY:**

The subject property is an existing single-family residence with an existing lake excavation project located on SW 264 Street west of SW 167 Avenue. The surrounding area is comprised of a park with a Natural Forest Community (NFC), vacant parcels with row crops and farm residences.

**SUMMARY OF THE IMPACTS:**

Approval of this application will allow the applicant to rezone the subject property to an estate residential district, to permit an existing lake excavation on a parcel containing a single-family residence and permit the residence with less lot trees and a reduced dissimilar land use buffer. However, the approval of the requests may have a negative visual impact on the abutting properties as well as environmental impacts on the abutting NFC area located to the west.

**CDMP ANALYSIS:**

The Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map designates the subject property for **Agricultural** use. The subject property is located approximately 1.2 miles west of and outside the Urban Development Boundary (UDB) and less than one (1) mile west of Krome Avenue. The CDMP interpretative text for the Agriculture land use category, states that *the principal uses in this area should be agriculture, uses ancillary to and directly supportive of agriculture and farm residences.* Said interpretative text also states that *uses ancillary to, and necessary to support the rural residential community of the agricultural area may also be approved, and that other uses, including utility uses compatible with agriculture and the rural agricultural community may be approved in the Agriculture area only if deemed to be a public necessity, or if deemed to be in the public interest and the applicant demonstrates that no suitable site for the use exists outside the Agriculture area. In order to protect the agricultural industry, uses incompatible with agriculture, and uses and facilities that support or encourage urban development are not allowed in this area.*

The applicant seeks to rezone the subject parcel from AU, Agricultural District to EU-2, Single-Family Five Acre Estate District. Although the interpretative text for the Agriculture land use category includes *enclaves of estate density residential use approved and grandfathered by zoning, ownership patterns and platting activities which predate this plan,* said text also states that *this paragraph does not, however, authorize the approval or expansion of any use inconsistent with this plan. To the contrary, it is the intent of this plan to contain and prevent the expansion inconsistent development in the Agriculture area.* Based on the aforementioned, the

subject parcel does not meet the requirements for grandfathering. In staff's opinion, the approval of the EU-2 zoning could encourage more intense urban development in this area. Further, the proposed EU-2 zoning district allows all the uses that are permitted in the EU-1, Single-Family One Acre Estate District including workforce housing. The EU-1 zoning district also permits limited agricultural uses; however, staff opines that these limited uses do not meet the intent of the AU zoning district uses, because it restricts the number of farm animals that can be kept on the property based on the acreage. For example, the 10-acre subject parcel would allow up to a maximum of 8 horses or cows and limited truck gardening. Therefore, staff opines that the EU-2 zoning district would limit the intensity of the agricultural uses allowed on the subject parcel in comparison to the agricultural production on the surrounding AU zoned properties. Further, staff notes that these uses are ancillary to single-family estate residences and are, therefore, not compatible with the unlimited agricultural uses that are allowed in the surrounding area that is designated Agriculture on the CDMP LUP map and predominantly zoned AU.

The applicant's letter of intent states that the proposed lake was previously permitted under a Zoning Improvement Permit, No. 2008-037506 in March 2008. However, said permit was issued on the basis of the applicant developing a pond under Section 33.16(5) of the Code. Said section states that *reflecting ponds and water features with a maximum depth of six (6) feet of water so long as said amenities are completely lined with impervious material, a horizontal five-foot safety shelf is provided around the perimeter of the reflecting pond or water feature at an elevation where not more than eighteen (18) inches of water is provided on the shelf area and so long as backsloping or a perimeter berm is provided to prevent overland storm water runoff from entering the water body do not require a public hearing.* However, the applicant subsequently continued the excavation and developed the pond to the current depth of 20' beyond the scope of the permit. The current depth and size requires review as a lake excavation. Notwithstanding the applicant's claim in their letter of intent that the proposed pond will help to create an "eco-friendly farmhouse and old Florida native habitat for fish and trees," staff opines that said excavation is not ancillary to or necessary to support the surrounding rural agricultural community.

Staff notes that the applicant has not provided staff with information to prove that the proposed lake is a public necessity or will serve the public's interest. In addition, staff notes that the applicant is providing less than 30% of the 90 lot trees required for the 10-acre parcel (request #2) and is requesting to waive the landscape buffer for the proposed lake. The criteria to evaluate compatibility among proximate land uses is outlined in the CDMP Land Use Element, **Policy LU-4A**, among which are *access, traffic, parking, height, bulk scale of architectural elements, buffering, and landscaping as applicable.* As such, staff opines that approval of the 20' deep lake excavation without the required buffering and trees will have a negative visual impact on the abutting properties and **incompatible** with the pastoral setting of the surrounding agricultural uses and the NFC.

Further, notwithstanding the recommendation of approval from the Division of Environmental Resources Management (DERM) of the Regulatory and Economic Resources (RER) Department, staff notes that the DERM memorandum indicated that excess fill is being excavated and it appears to be a commercial operation. The CDMP Land Use Element interpretative text for areas designated Agriculture on the CDMP LUP map states that *no business or industrial use should be approved in the area designated Agriculture unless the use is directly supportive of local agricultural production, and is located on an existing arterial roadway, and has adequate water supply and sewage disposal in accordance with Chapter 24 of the County Code, and the development order specifies the approved use(s).* As previously noted by staff, the 20' deep lake excavation is beyond the maximum 6' allowed by the permit

and therefore, staff opines this excavation is not ancillary to an agricultural use or the residence being developed on the parcel. Therefore, staff concurs with the DERM memorandum that this development is within the scale of a commercial lake excavation that is not allowed in an area that is designated Agriculture on the CDMP LUP map.

Therefore, staff opines that approval of the zone change to EU-2 and the existing lake excavation would be **incompatible** with the agricultural uses allowed in the area and the protected area located to the west based on the criteria set forth in CDMP Land Use Element **Policy LU-4A** and would therefore be **inconsistent** with the CDMP LUP map **Agriculture** designation and the CDMP Land Use Element interpretative text for **Agriculture**.

Further, the CDMP Land Use Element, Policy **LU-3F** states that any zoning action *that would approve any use other than direct production and permitted residential uses of property, in an area designated as Agriculture, whether as a primary use or as an accessory or subordinated use to an agricultural use, or action that would liberalize standards or allowances governing such other uses on land that is, a) outside the Urban Development Boundary (UDB), and b) within one mile of the right-of-way line of any portions of Krome Avenue designated in this Plan for improvement to 4-lanes, shall require an affirmative vote of not less than five members of the affected Community Zoning Appeals Board and two-thirds of the total membership of the Board of County Commissioners then in office, where such Community Zoning Appeals Board or Board of County Commissioners issues a decision.* However, said Policy also states that this policy is not intended to permit any use not otherwise permitted by the CDMP. Staff notes that the subject property is located outside the UDB and within a mile of the right-of-way of Krome Avenue. As such, the approval of this application would require a super-majority vote since said uses do not involve the direct production of agriculture, are not permitted residential uses on agriculturally designated land, and approval of said requests would liberalize the standards or allowances governing such uses.

#### **ZONING ANALYSIS:**

When the applicant's request to rezone the 10-acre parcel to EU-2, is analyzed under Section 33-311, District Boundary Change (request #1) and request #2, an Unusual Use to permit the an existing lake excavation, are analyzed under Section 33-311(A)(3), Standards For Special Exceptions, Unusual Uses and New Uses, staff is of the opinion that, approval would be **inconsistent** with the Agricultural designation of the parcel on the CDMP Land Use Plan map. Staff notes that the surrounding properties are zoned AU and are currently engaged in the cultivation of row crops based on a review of the County's Geographical Information Systems (GIS) aerial photographs of the area. As such, staff opines that approval of the zone change to EU-2 (request #1) which would restrict the scale of agricultural production on the parcel in the future as well as to permit the existing lake excavation and would be **incompatible** with the surrounding agricultural uses in this area for the reasons stated below.

Staff notes that the approval of the zone change or the existing lake excavation will not result in excessive traffic as evidenced by the memorandum from the Public Works and Waste Management Department which states that the application meets the traffic concurrency. Additionally the memorandum from the Miami-Dade Fire Rescue Department (MDFRD) does not indicate that the lake excavation will have a negative impact on fire rescue services in the area. Further, the DERM memorandum, indicates that approval will not result in a reduction in the LOS standards for potable water service, wastewater disposal, or stormwater management.

However, DERM indicated in its memorandum that excess fill is being generated by the lake excavation and that it appears that this excavation is a new commercial use within the area that is designated Agriculture on the CDMP LUP map. As such, staff opines that the size of this lake excavation is beyond the scale allowed to be considered as an ancillary use to the existing residence within the AU, Agricultural District. Further, staff notes that the memorandum from the Building and Neighborhood Compliance (BNC) Division of the Department of Regulatory and Economic Resources indicates that there is currently an open case for the subject property for Excavation Without a Permit under case #201001002348 and Failure to Comply With a Stop Work Order, case #201001002824. Based on the aforementioned department memoranda, staff opines that although this request will not result in, among other things, excessive noise or traffic, cause undue or excessive burden on public facilities, nor provoke excessive overcrowding and concentration of people, approval of this request would be too intensive and out of character with the surrounding agricultural uses and is beyond the scope of the pond that the applicant was permitted to build through a Zoning Improvement Permit #2008037506. Said permit allowed the applicant to build a pond at a maximum depth of 6' deep as allowed by Section 33.16(5) of the Code. However, the applicant subsequently continued the excavation and developed the pond to the current depth of 20' beyond the scope of the permit. In addition, when considering the necessity for and reasonableness of the applied for exception in relation to the present and future development of the area and the compatibility of the applied for exception with the area and its development staff opines that it would be **incompatible** with Agricultural zoning district and the surrounding agricultural uses. Further, staff's research did not indicate any similar approvals for lake excavations on residential properties within the surrounding area. **As such, staff recommends denial without prejudice of request # 1 under Section 33-311, District Boundary Change and request #2 under Section 33-311(A)(3) Standards For Special Exceptions, Unusual Uses and New Uses.**

When requests #3 and #4 are analyzed under Non-Use Variance (NUV) Standards, Section 33-311(A)(4)(b), staff opines that these requests are germane to the applicant's request for a lake excavation (request #2) and therefore should also be denied without prejudice. Staff opines that the applicant's request to allow less lot trees than required by the zoning code (request #3), is due to the existing lake excavation and the physical inability of the property to accommodate the sufficient trees on the 10 acre parcel. Further, the applicant indicates in their letter of intent that the proposed pond will help to create an "eco-friendly farmhouse and old Florida native habitat for fish and trees," staff opines that the size and depth of the existing lake excavation is beyond a decorative feature for a farm residence and as proposed, is not a fish farm. As such, staff opines that if approved, there would be a need for the required buffering along the property lines and the trees to mitigate the visual impact of the development. Staff therefore opines that the existing 20' deep lake is not ancillary to an agricultural use on the property and is similar to a commercial lake excavation that would be allowed in an urban area or within the Rockmining Overlay District. As such, this use would require the applicant to provide the 5' wide dissimilar land use buffer along the north, east and west property lines (request #4). In staff's opinion, the approval of the existing lake is out of character with the surrounding agricultural uses and as such, the approval of these requests along with request #1, would be visually intrusive to the surrounding area and would be **incompatible** with and adversely affect the rural agricultural character of the area dedicated to agriculture and farm residential uses only. **Therefore, staff recommends denial without prejudice of requests #3 and #4 under the Non-Use Variance Standards.**

Therefore, should the application be denied by the Board, the applicant will be required to comply with Section 33.16(5) of the Code and bring the existing lake excavation into conformity with the plans submitted in conjunction with Zoning Improvement Permit #2008037506. Based

on the aforementioned, staff opines that approval of the application is **incompatible** with the surrounding area and is **inconsistent** with the CDMP LUP map **Agriculture** designation and the CDMP Land Use Element interpretative text for **Agriculture** and can only be denied without prejudice. **Staff therefore recommends denial without prejudice of request #1 under Section 33-311, request #2 under Section 33-311(A)(3) and requests #3 and #4 under Section 33-311(A)(4)(b).**

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

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

**OTHER:** N/A

**RECOMMENDATION:** Denial without prejudice.

**CONDITIONS FOR APPROVAL:** None.

ES:MW:NN:AN:CH



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

NDM

# ZONING RECOMMENDATION ADDENDUM

A & J & B Group, LLC  
PH: Z10-183

<b>NEIGHBORHOOD SERVICES PROVIDER COMMENTS</b>	
<i>Division of Environmental Resources Management (RER)</i>	<i>No objection*</i>
<i>Public Works and Waste Management</i>	<i>No objection</i>
<i>Parks, Recreation and Open Spaces</i>	<i>No objection</i>
<i>Fire Rescue</i>	<i>No objection</i>
<i>*Subject to conditions in their memorandum.</i>	

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

<p><b>Agriculture</b> (Pg. I-58)</p>	<p><i>The area designated as "Agriculture" contains the best agricultural land remaining in Miami-Dade County. As stated in the Miami-Dade County Strategic Plan, approved in 2003 by the Board of County Commissioners, protection of viable agriculture is a priority. The principal uses in this area should be agriculture, uses ancillary to and directly supportive of agriculture and farm residences. Uses ancillary to and directly supportive of agriculture are defined as those uses related to preserving, processing, packaging or selling of agricultural products from Florida, and farm supplies, as well as sales and service of farm machinery and implements, subject to the requirements of Chapter 24 of the County Code. Uses ancillary to, and necessary to support the rural residential community of the agricultural area may also be approved, including houses of worship; however, schools shall not be approved in Agriculture areas but should be located inside the UDB in accordance with Policy EDU-2.A.</i></p> <p><i>In order to protect the agricultural industry, uses incompatible with agriculture, and uses and facilities that support or encourage urban development are not allowed in this area. Residential development that occurs in this area is allowed at a density of no more than one unit per five acres. Creation of new parcels smaller than five acres for residential use may be approved in the Agriculture area only if the immediate area surrounding the subject parcel on three or more contiguous sides is predominately and lawfully parcelized in a similar manner, and if a division of the subject parcel would not precipitate additional land division in the area. No business or industrial use should be approved in the area designated Agriculture unless the use is directly supportive of local agricultural production, and is located on an existing arterial roadway, and has adequate water supply and sewage disposal in accordance with Chapter 24 of the County Code, and the development order specifies the approved use(s); however, packing houses for produce grown in Florida are not restricted to locating on an arterial roadway. Other uses including utility uses compatible with agriculture and with the rural residential character may be approved in the Agriculture area only if deemed to be a public necessity, or if deemed to be in the public interest and the applicant demonstrates that no suitable site for the use exists outside the Agriculture area. Existing quarrying and ancillary uses in the Agriculture area may continue operation and be considered for approval of expansion.</i></p> <p><i>Also included in the Agricultural area are enclaves of estate density residential use approved and grandfathered by zoning, ownership patterns and platting activities that predate this Plan. The grandfather provisions of the Miami-Dade County Code shall continue to apply in this area except that lots smaller than 15,000 square feet in area are not grandfathered hereby. Moreover, all existing lawful uses and zoning are deemed to be consistent with this Plan unless such a use or zoning (a) is found through a subsequent planning study, as provided in Policy LU-4E, to be inconsistent with the foregoing grandfather provisions or with the CDMP as provided in the section of this chapter titled "Concepts and Limitations of the Land Use Plan Map". This paragraph does not, however, authorize the approval or expansion of any use inconsistent with this Plan. To the contrary, it is the intent of this Plan to contain and prevent the expansion of inconsistent development in the Agriculture area.</i></p>
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## ZONING RECOMMENDATION ADDENDUM

A & J & B Group, LLC  
PH: Z10-183

<p><b>LU-3F. Super-Majority Vote (Page I-9)</b></p>	<p>Any zoning action or amendment to the CDMP that any zoning action that would approve any use other than direct production and permitted residential uses of property, in an area designated as Agriculture, whether as a primary use or as an accessory or subordinated use to an agricultural use, or action that would liberalize standards or allowances governing such other uses on land that is, a) outside the Urban Development Boundary (UDB), and b) within one mile of the right-of-way line of any portions of Krome Avenue designated in this Plan for improvement to 4-lanes, shall require an affirmative vote of not less than five members of the affected Community Zoning Appeals Board and two-thirds of the total membership of the Board of County Commissioners then in office, where such Community Zoning Appeals Board or Board of County Commissioners issues a decision. The term "direct agricultural production" includes crops, livestock, nurseries, groves, packing houses, and barns but not uses such as houses of worship, schools, sale of produce and other items, and outdoor storage vehicles. This policy is not intended to permit any use not otherwise permitted by the CDMP. Any modification to this section to allow additional uses within the one mile distance from Krome Avenue shall require an affirmative vote of not less than two-thirds of the Board of County Commissioners then in office.</p>
<p><b>Policy LU-4A (Pg. I-11)</b></p>	<p>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.</p>

### PERTINENT ZONING REQUIREMENTS/STANDARDS

<p><b>Section 33-311 District Boundary Change</b></p>	<p>(A) <i>The Community Zoning Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the County.</i></p> <p>(F) <b>Section 33-311</b> provides that the Board shall take into consideration, among other factors the extent to which:</p> <ol style="list-style-type: none"> <li>(1) <i>The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;</i></li> <li>(2) <i>The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;</i></li> <li>(3) <i>The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;</i></li> </ol>
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# ZONING RECOMMENDATION ADDENDUM

A & J & B Group, LLC

PH: Z10-183

	<p>(4) <i>The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;</i></p> <p>(5) <i>The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.</i></p>
<p><b>Section 33-311(A)(3)(a) Special Exception, Unusual and New Uses.</b></p>	<p><i>Special exceptions (for all applications other than public charter schools), unusual and new uses. Hear application for and grant or deny special exceptions, except applications for public charter schools; that is, those exceptions permitted by the regulations only upon approval after public hearing, new uses and <b>unusual uses</b> which by the regulations are only permitted upon approval after public hearing; provided the applied for exception or use, including exception for site or plot plan approval, in the opinion of the Community Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the necessity for and reasonableness of such applied for exception or use in relation to the present and future development of the area concerned and the compatibility of the applied for exception or use with such area and its development.</i></p>
<p><b>Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations.</b></p>	<p><i>Upon appeal or direct application in specific cases, the Board shall hear and grant applications for <b>non-use variances</b> 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.</i></p>

**1. A & J & B GROUP, LLC**  
**(Applicant)**

**13-1-CZ14-1 (10-183)**  
**Area 14/District 08**  
**Hearing Date: 01/09/13**

Property Owner (if different from applicant) **A&J&B Group, LLC**

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

Disclosure of interest form attached? Yes  No

**Previous Zoning Hearings on the Property:**

<b><u>Year</u></b>	<b><u>Applicant</u></b>	<b><u>Request</u></b>	<b><u>Board</u></b>	<b><u>Decision</u></b>
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.

**Date:** March 22, 2011  
**To:** Marc C. LaFerrier, AICP, Director  
Department of Planning and Zoning

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

**Subject:** C-14 #Z2010000183-2<sup>nd</sup> Revision  
A&J&B Group, LLC  
North of S.W. 264<sup>th</sup> Street and West of S.W. 167<sup>th</sup> Avenue  
District Boundary Change from AU to EU-2 and Unusual Use to Permit a  
Lake Excavation  
(AU) (10 Acres)  
30-56-39

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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.

Water Supply and Wastewater Disposal

Public water and public sanitary sewer systems are not available in this general area; furthermore, since the site is located outside the Urban Development Boundary, neither public water nor public sanitary sewers can be extended to serve the site. Consequently, the proposed development would have to be served by an on-site drinking water supply well, as source of potable water, and by a septic tank and drainfield system as a means for the disposal of the domestic liquid waste.

DERM has no objection to the interim use of a septic tank and drainfield provided that the maximum sewage loading allowed by Section 24-43.1(3) of the Code is not exceeded. In accordance with the Code, the minimum lot size for a single family residence served by on-site water supply potable water well and a septic tank shall be 20328 square feet (gross), respectively.

Stormwater Management

The Water Control Section has no objection to the approval of this application.

Wetlands

The Wetland Resources Section has reviewed the revised site plan submitted with this zoning application entitled "Bass Residence-Old Florida Native Tree and Fish Farm Lake Plan", dated October 11, 2010 (revised January 31, 2011), Sheet C-01 and prepared by Develotec Inc, signed and sealed by Ricardo Herrera on February 25, 2011. The applicant is requesting a district boundary change (AU to EU-2) and an unusual use to permit a lake excavation. The subject property does not contain wetlands as defined by Section 24-5 of the Code; therefore, a DERM Class IV Wetland Permit will not be required.

DERM notes that the calculated slopes and cross sections are provided on the revised site plans, also the plans state that the maximum depth achieved to date is 20 feet and that no deeper excavation is proposed. Therefore, the Wetland Resources Section has no objections to this application. However, please be advised that DERM notes that the proposed lake excavation is within the agricultural designation of the Comprehensive Development Master Plan (CDMP). Excess fill is being generated and leaving the site. This appears to be a new commercial use within the Agricultural area. DERM recommends that Planning carefully evaluate appropriateness of this use under the CDMP.

#### Natural Forest Communities

The subject property is located adjacent to a county designated Natural Forest Community. Natural Forest Communities (NFC's) are upland natural areas (Pine Rockland and Hardwood Hammocks) that meet one or more of the following criteria: the presence of endangered, threatened, rare or endemic species; low percentage of site covered by exotic plant species; high overall plant diversity; wildlife habitat values; and geological features. Due to the quality of these habitats, the County recommends maintaining these globally imperiled NFC areas as a natural preserve. Development on parcels containing or adjacent to NFC's must avoid adverse impacts to the preserve associated with the placement of buildings, construction of infrastructure, storage of construction materials and equipment, final grade, drainage and erosion. Also, in order to avoid damage to protected plants and substrate, the parking of heavy machinery, staging of construction materials and/or any other development related activities shall not be allowed inside or adjacent to the NFC property. A protective barrier approved by DERM through a NFC barrier permit shall be placed along the NFC prior to the commencement of any work, in order to protect the NFC from potential impacts and shall remain in place until DERM authorizes its removal.

Please be advised that in order to ensure that all future landscaping on the site is compatible with the adjacent NFC, DERM requests that all landscaping plans for the site be subject to DERM approval. In addition, pursuant to Section 24-49.9 of the Code, all exotic pest plant species listed in the CDMP, which are on the site, shall be removed prior to development. DERM recommends that no approvals be granted by the Building Department or the Planning and Zoning Department for work at this site unless it prohibits the planting of all controlled species as well as prohibited species in accordance with the Miami-Dade County Landscape Manual, the CDMP, and Chapters 24 and 33 of the Code.

#### Tree Preservation

There are no tree resources issues on the subject property.

#### Enforcement History

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

#### Concurrency Review Summary

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

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

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

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

**PUBLIC WORKS DEPARTMENT COMMENTS**

Applicant's Names: A & J & B GROUP, LLC

This Department has no objections to this application.

Lake slopes are to comply with Miami-Dade County Code requirements and the Public Works Manual of Miami-Dade County.

Additional improvements may be required at time of permitting.

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.

10-MAR-11

# Memorandum



**Date:** 23-MAR-11  
**To:** Marc LaFerrier, Director  
 Department of Planning and Zoning  
**From:** Herminio Lorenzo, Fire Chief  
 Miami-Dade Fire Rescue Department  
**Subject:** Z2010000183

**Fire Prevention Unit:**

This memo supersedes MDFR memorandum dated November 18, 2010.  
 APPROVAL  
 No objections to site plan date stamped March 7, 2011.

**Service Impact/Demand:**

Development for the above Z2010000183  
 located at lying NORTH OF S.W. 264 ST AND approx. 1,008.89' WEST OF S.W. 167 AVENUE, MIAMI-DADE  
 COUNTY, FLORIDA.

in Police Grid 2455 is proposed as the following:

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

Based on this development information, estimated service impact is: N/A alarms-annually.  
 The estimated average travel time is: 7:00 minutes

**Existing services**

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

Station 6 - Modello - 15890 SW 288 Street  
 Rescue, BLS Tanker, Battalion 10.

**Planned Service Expansions:**

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

None.

**Fire Planning Additional Comments**

Not applicable to service impact analysis.

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

15

BUILDING AND NEIGHBORHOOD  
COMPLIANCE DEPARTMENT

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

A & J & B GROUP, LLC

Lying North OF S.W. 264 ST AND  
approx. 1,008.89' WEST OF S.W.  
167 AVENUE, MIAMI-DADE  
COUNTY, FLORIDA.

---

APPLICANT

---

ADDRESS

Z2010000183

---

HEARING NUMBER

**HISTORY:**

FOLIO: 30-6930-000-0351

NC OPEN:

CASE #201001002348, WAS OPENED ON MARCH 26, 2010, FOR FAILURE TO OBTAIN A PERMIT FOR EXCAVATION. CIVIL VIOLATION NOTICE #T007596, WAS ISSUED ON THE SAME DAY. FURTHER ENFORCEMENT IS PENDING THE OUTCOME OF PUBLIC HEARING #Z2010-183, WHICH IS SCHEDULED FOR JANUARY 2013.

CASE #201001002824, WAS OPENED ON APRIL 13, 2010, FOR FAILURE TO COMPLY WITH A STOP WORK ORDER, UNDER CODE SECTION 33-38 [CONDUCTING ILLEGAL EXCAVATION]. A WARNING LETTER WAS ISSUED THE SAME DAY. CIVIL VIOLATION NOTICE #T008231, WAS ISSUED ON MAY 6, 2010 FOR NON-COMPLIANCE. FURTHER ENFORCEMENT IS PENDING THE OUTCOME OF PUBLIC HEARING #Z2010-183, WHICH IS SCHEDULED FOR JANUARY 2013.

NC CLOSED: THERE ARE NO CURRENT CLOSED REGULATIONS CASES.

BLDG SUPPORT: THERE ARE NO CURRENT OPEN OR CLOSED REGULATIONS CASES

A & J & B GROUP, LLC

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

**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: A & J & B Group, LLC, a Florida limited liability company

NAME AND ADDRESS	Percentage of Stock
Adam Bass, Manager, 100 N.E. 15 <sup>th</sup> Street, #201 Homestead, FL 33030	100%

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: N/A

NAME AND ADDRESS	Percentage of Interest
210-183	
JSA	

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: N/A

NAME AND ADDRESS	Percentage of Ownership

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

NAME OF PURCHASER: N/A

NAME AND ADDRESS (if applicable) Percentage of Interest

210-183  
J&B

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

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

N/A

**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.

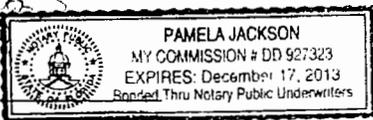
**A & J & B Group, LLC, a Florida limited liability company**

By: [Signature]  
Adam Bass, Manager

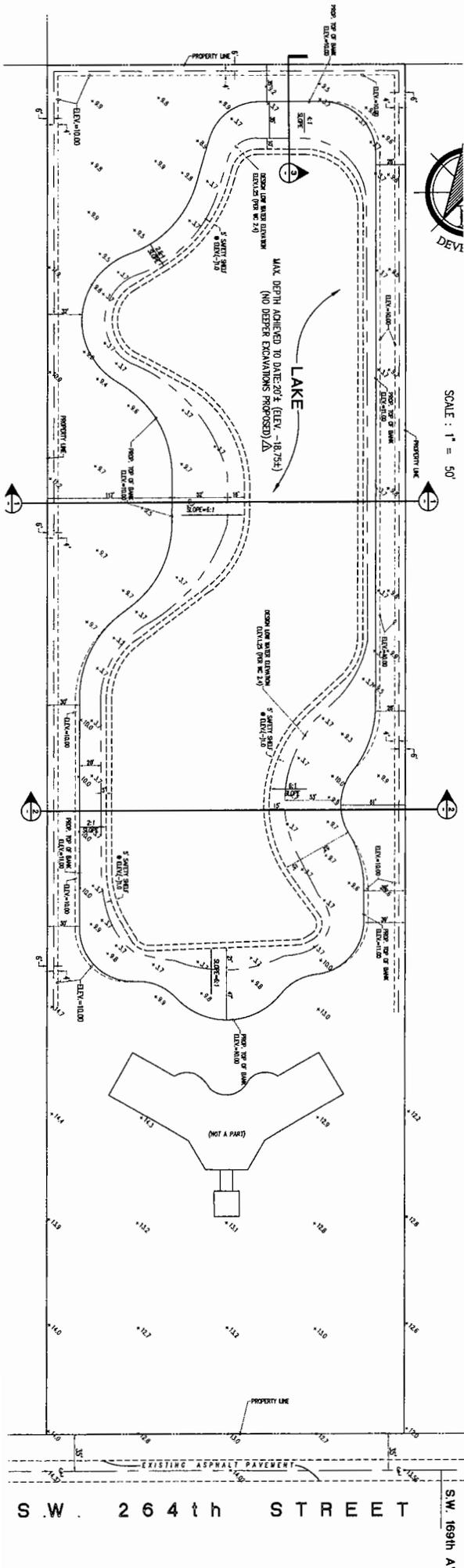
Sworn to and subscribed before me this 19 day of October, 2010. Affiant is personally known to me or has produced FLORIDA DRIVER LICENSE as identification.

[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.



ENLARGED SITE

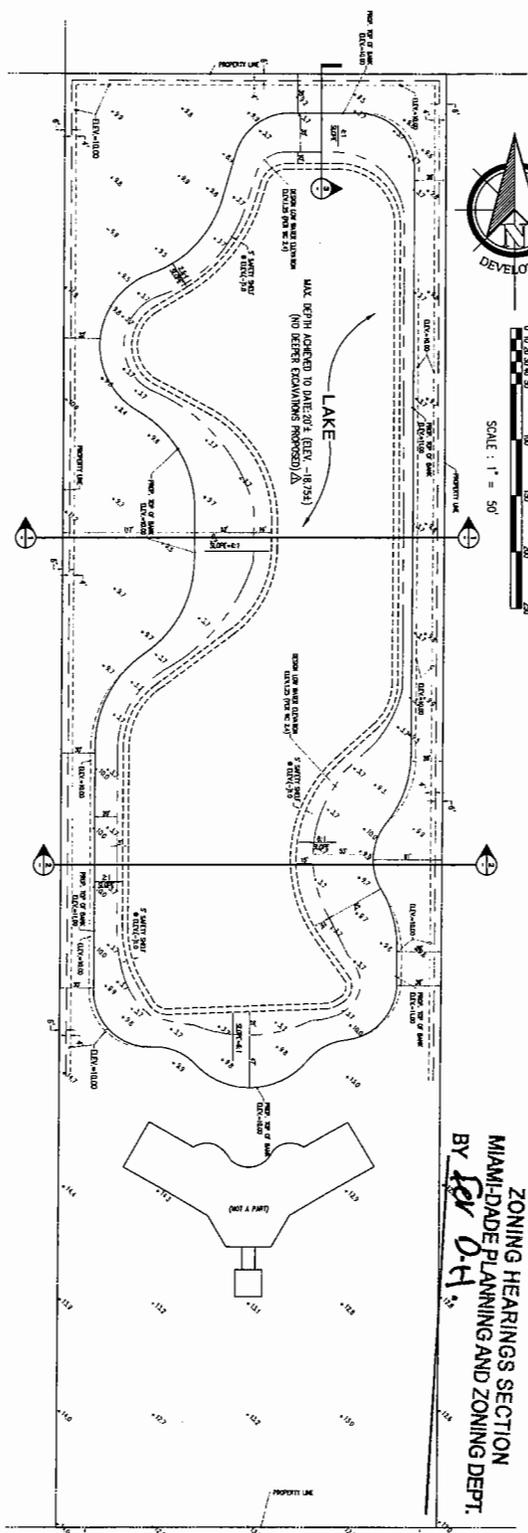
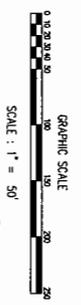
ZONING HEARINGS SECTION  
 MIAMI-DADE PLANNING AND ZONING DEPT.  
 BY DCY O.H.

**RECEIVED**  
 210-1133  
 MAR 07 2011

S.W. 264th STREET

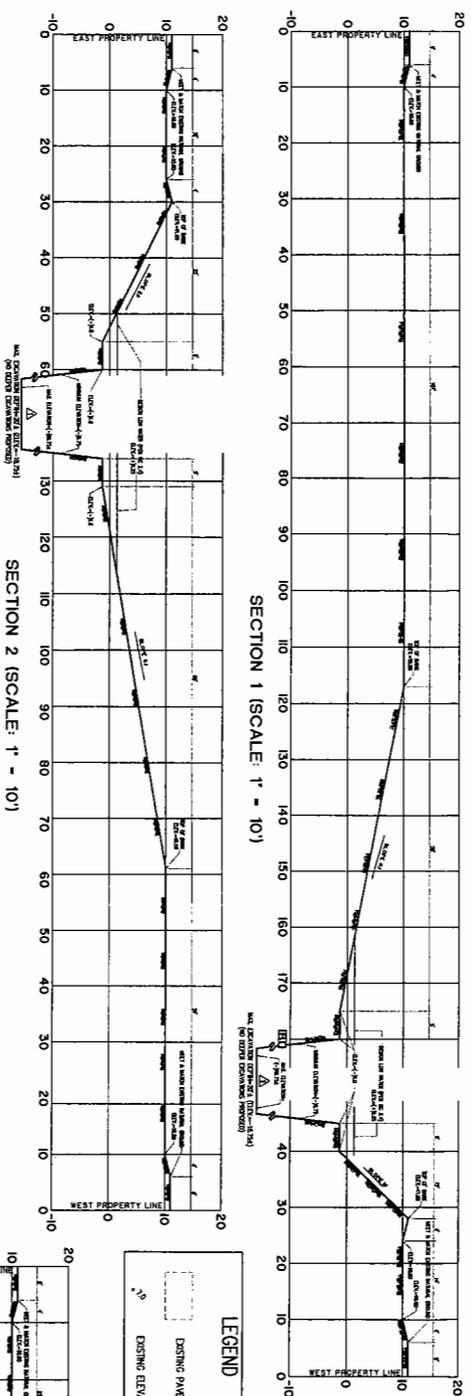
S.W. 169th A.

RECEIVED  
 MIAMI COUNTY  
 PLANNING DEPT.  
 MAR 07 2011



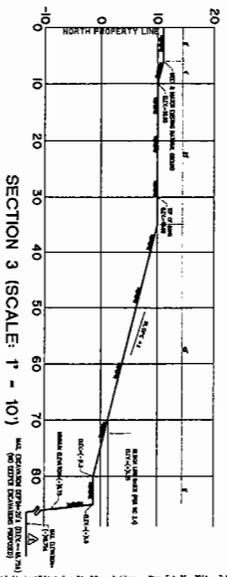
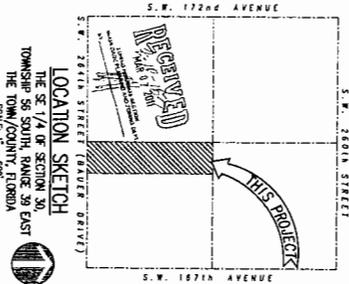
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 MIAMI-DADE PLANNING AND ZONING DEPT.  
 BY *Per 0.4*

**RECEIVED**  
 MAR 07 2011



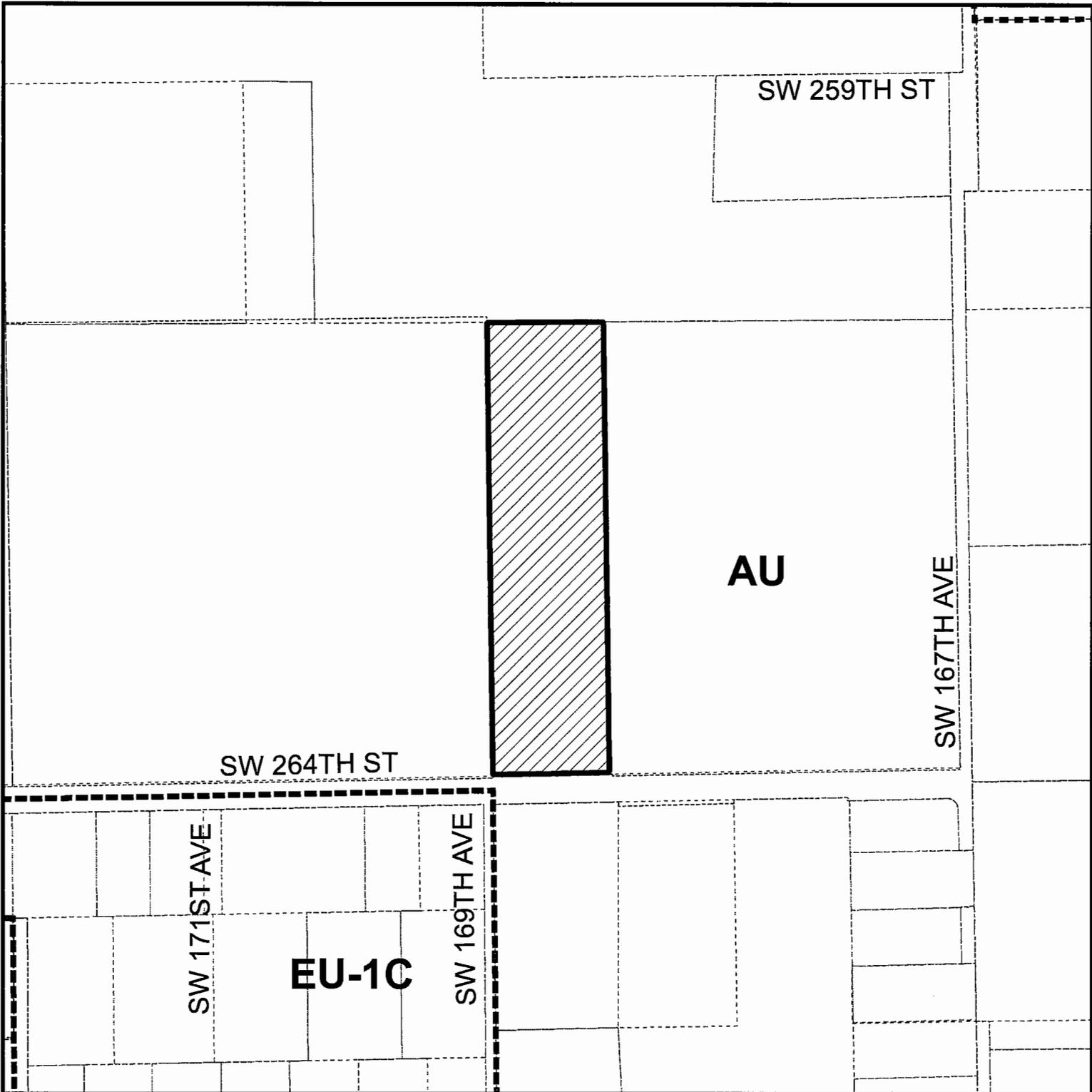
**LEGEND**

	EXISTING PARADISE
	EXISTING ELEVATION



DEVELOTEC, INC. Consulting Engineers - Land Planners 6484 Coral Way, Miami, FL 33155 Tel: 305.663.9850 - Fax: 305.663.9840	BASS RESIDENCE & OLD FLORIDA NATIVE TREE & FISH FARM LAKE PLAN	DESIGNER: [Signature] DATE: 11-10-10	PER EGM COMMENTS: PER: [Signature] DATE: 11-10-10
		REVISIONS	





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

Process Number  
**Z2010000183**



Section: 30 Township: 56 Range: 39  
 Applicant: A&J&B GROUP, LLC  
 Zoning Board: C14  
 Commission District: 8  
 Drafter ID: KEELING  
 Scale: NTS

**Legend**

-  Subject Property Case
-  Zoning



SKETCH CREATED ON: Monday, October 25, 2010

REVISION	DATE	BY
		22



**MIAMI-DADE COUNTY**  
**AERIAL YEAR 2009**

Process Number  
**Z2010000183**



Section: 30 Township: 56 Range: 39  
 Applicant: A&J&B GROUP, LLC  
 Zoning Board: C14  
 Commission District: 8  
 Drafter ID: KEELING  
 Scale: NTS

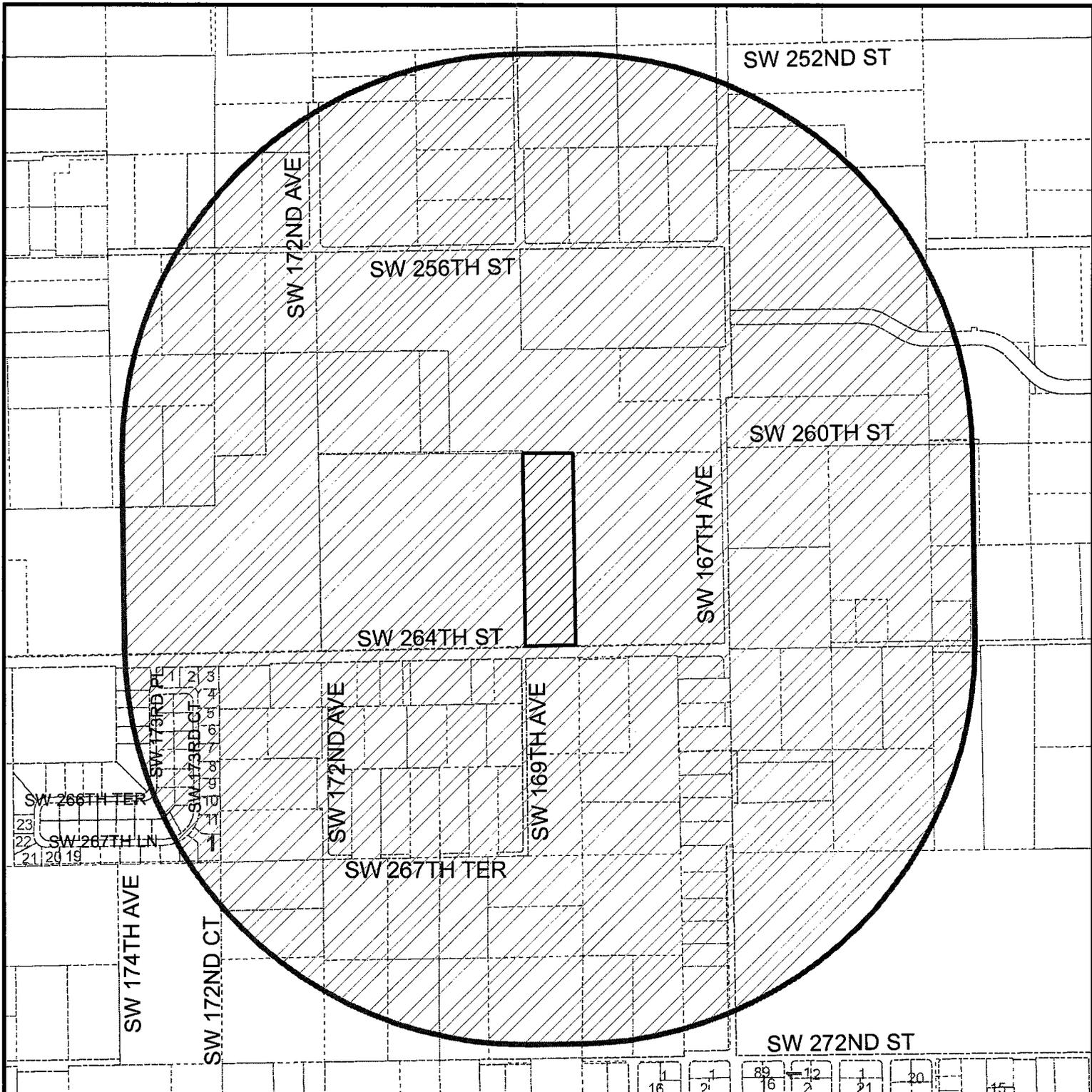
**Legend**

 Subject Property



SKETCH CREATED ON: Monday, October 25, 2010

REVISION	DATE	BY
		23



**MIAMI-DADE COUNTY  
RADIUS MAP**

Section: 30 Township: 56 Range: 39  
 Applicant: A&J&B GROUP, LLC  
 Zoning Board: C14  
 Commission District: 8  
 Drafter ID: KEELING  
 Scale: NTS

Process Number  
**Z2010000183**  
 RADIUS: 2640

**Legend**

-  Subject Property
-  Buffer
-  Property Boundaries

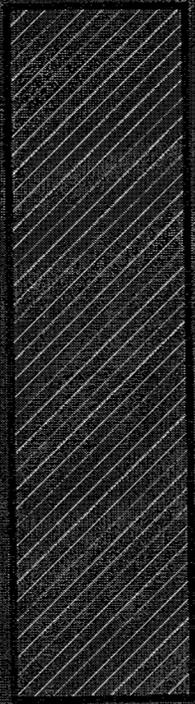


SKETCH CREATED ON: Monday, October 25, 2010

REVISION	DATE	BY
		24

SW 259TH ST

PARKS AND RECREATION



AGRICULTURE

SW 167TH AVE

SW 264TH ST

SW 171ST AVE

SW 169TH AVE

**MIAMI-DADE COUNTY**  
CDMP MAP

Process Number  
**Z2010000183**



Section: 30 Township: 56 Range: 39  
Applicant: A&J&B GROUP, LLC  
Zoning Board: C14  
Commission District: 8  
Drafter ID: KEELING  
Scale: NTS

**Legend**

 Subject Property Case



SKETCH CREATED ON: Monday, October 25, 2010

REVISION	DATE	BY

**Miami-Dade County Department of Regulatory and Economic Resources  
Staff Report to Community Council No. 14**

**PH: Z12-013 (13-1-CZ14-2)**

**January 9, 2013**

Item No. 2

<b>Recommendation Summary</b>	
<b>Commission District</b>	9
<b>Applicants</b>	Yosmany Mendez and Daimit Pena
<b>Summary of Requests</b>	The applicants are seeking to permit existing additions to a single-family residence that encroach into the rear (north) and interior side (west) setback areas. The applicants also seek to permit an existing accessory structure encroaching into the interior side (west) setback area and spaced less than required from the principal residence.
<b>Location</b>	10801 SW 172 Street, Miami-Dade County, Florida.
<b>Property Size</b>	90' x 100'
<b>Existing Zoning</b>	RU-1, Single-family Residential District
<b>Existing Land Use</b>	Single-family residence
<b>2015-2025 CDMP Land Use Designation</b>	Low Density Residential, 2.5 to 6 dua <i>(see attached Zoning Recommendation Addendum)</i>
<b>Comprehensive Plan Consistency</b>	Consistent with interpretative text, goals, objectives and policies of the CDMP
<b>Applicable Zoning Code Section(s)</b>	Section 33-311(A)(4)(b), Non-Use Variance Standards <i>(see attached Zoning Recommendation Addendum)</i>
<b>Recommendation</b>	<b>Approval with conditions.</b>

**REQUESTS:**

1. NON-USE VARIANCE to permit a single-family residence setback 22.31' (25' required) from the rear (north) property line and setback 7.45' (7.5' required) from the interior side (west) property line.
2. NON-USE VARIANCE to permit an accessory building setback 3.15' (7.5' required) from the interior side (west) property line and spaced 7.80' (10' required) from the existing single-family residence.

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "Utility and Gazebo" as prepared by Vicente Franco, P.E. and dated stamped received 2/6/12 for a total of 3 sheets.

**PROJECT DESCRIPTION:**

The plan submitted depicts the existing 2,193 sq. ft. single family residence and a 355.4 sq. ft. gazebo structure with encroachments into the rear (north) and interior side (west) setback areas.

<b>NEIGHBORHOOD CHARACTERISTICS</b>		
	<b>Zoning and Existing Use</b>	<b>Land Use Designation</b>
<b>Subject Property</b>	RU-1; single-family residence	Low Density Residential (2.5 to 6 dua)

<b>North</b>	RU-1;single-family residence	Low Density Residential (2.5 to 6 dua)
<b>South</b>	RU-1;single-family residence	Low Density Residential (2.5 to 6 dua)
<b>East</b>	RU-1; single-family residence	Low Density Residential (2.5 to 6 dua)
<b>West</b>	RU-1; single-family residence	Low Density Residential (2.5 to 6 dua)

**NEIGHBORHOOD COMPATIBILITY:**

The subject property is corner lot, in an RU-1, Single-Family Residential District located at the northwest corner of SW 108 Avenue and SW 172 Street. The area surrounding the subject property is primarily characterized by single-family residences.

**SUMMARY OF THE IMPACTS:**

Approval of this application will allow the applicants to permit the existing additions to the residence. Although the existing additions provide the applicant with additional living area and a covered storage and entertainment area, staff opines that they may have a visual impact on the surrounding area.

**COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:**

The Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map designates the site for **Low Density Residential**. *This category allows a range in density from a minimum of 2.5 to a maximum of 6 dwelling units per gross acre and is characterized by single family housing, e.g., single-family detached, cluster, zero lot line and townhouses.* The approval of the request sought in the application will not add additional dwelling units to the site beyond what is allowed by the LUP map of the CDMP, and will not change the single-family detached use. Since the applicant is not requesting to add dwelling units or change the single-family detached use, approval of the application with conditions is **consistent** with the density threshold of Low Density Residential Communities map of the CDMP LUP map designation and the CDMP Land Use Element interpretative text for Residential Communities.

**ZONING ANALYSIS:**

When the applicants' requests to permit the single-family residence with an existing addition to the residence setback 22.31' (25' required) from the rear (north) property line and setback 7.45' where 7.5' is required from the interior side (west) property line (request #1) and to permit an existing accessory building setback 3.15' (7.5' required) from the interior side (west) property line and spaced 7.80' (10' required) from the residence (request #2) are analyzed under the Section 33-311(A)(4)(b), Non-Use Variance Standards, staff opines that approval with conditions of these requests would maintain the basic intent and purpose of the zoning, subdivision and other land use regulations and would be **compatible** with the area for the reasons stated below. Staff opines that subject to the condition that the porch remains open sided and not be enclosed except by the approved insect screen material, the 2.69' encroachment of the existing porch addition into the rear (north) setback area will not have a negative visual impact on the abutting property located to the north. Further, staff opines that the existing 0.05' encroachment of the residence into the interior side (west) setback area is

minimal, is likely due to a construction error and will not create a noticeable visual impact on the abutting property located to the west.

Similarly, staff opines that approval of the request to permit the existing accessory structure (request #2) encroaching into the interior side (west) setback area and spaced less than required from the principal residence will not have a negative visual impact on the abutting properties to the west. Staff notes that the plans and survey submitted by the applicants indicate that there is a 6' high wood fence along the rear (north) and interior side (west) property lines which in staff's opinion provides a visual buffer that mitigates any negative visual impact of the encroachments and reduced spacing on the abutting properties to the north and west. As such, as a condition for approval of the application, staff recommends that said fence be maintained by the applicants and not be replaced except by a similar opaque fence, wall or hedge.

Staff notes that the requests are not out of character with previous approvals of variances to the setback regulations in this area. For example, pursuant to Administrative Variance #V1993000238, a property located west of the subject property at 10711 SW 172 Street was approved to allow the residence to setback 13' (25' required) from the rear (north) property line. Additionally, pursuant to Resolution #CZAB14-17-10, a property located southwest of the subject property, at 17421 SW 109 Avenue, was approved to allow a proposed covered terrace addition to the residence setback 11.89' (25' required) from the rear (east) property line and to allow the existing residence setback 7.3' (7.5' required) from the interior side (north) property line.

However, staff notes that the Public Works and Waste Management indicate in their memorandum that there should be no ingress/egress drive from the property at the intersection of SW 108 Avenue and SW 172 Street as indicated in the plans and that it should be removed. Therefore, staff recommends that as a condition for approval of the application, the gate from the aforementioned ingress/egress drive be removed and replaced with the continuation of the fence. Additionally, staff opines that the existing floor plan for the gazebo and storage building could be easily converted by future owners to allow multiple residential uses on the property. Therefore, staff recommends as a condition for approval that the applicant provide a Declaration of Use that would restrict the property to a single family use only. Further, staff notes that the applicant has been cited by the Building and Neighborhood Compliance (BNC) Section of the Department of Regulatory and Economic Resources for construction without the required permits. As such, as a condition for approval of the application, staff recommends that the applicant obtain the applicable permits for the additions and that the applicant complies with all the requirements set forth in the attached Departments' memoranda. **Staff therefore, recommends approval with conditions of requests #1 and #2 under the Section 33-311(A)(4)(b), Non-Use Variance standards.**

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

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

**OTHER:** Not applicable.

**RECOMMENDATION:**

**Approval with conditions.**

**CONDITIONS FOR APPROVAL:**

1. That a site plan be submitted to and meet with the approval of the Department of Regulatory and Economic Resources upon the submittal of an application for a building permit and/or Certificate of Use; said plan must include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Utility and Gazebo" as prepared by Vicente Franco, P.E. and dated stamped received 2/6/12 for a total of 3 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 porch addition and gazebo remain open sided and not be enclosed in any manner except for approved insect screen materials.
5. That the existing 6' high wood fence remain and be maintained along the interior side (west) and rear (north) property lines as a visual buffer.
6. That the applicants remove the 154 sq. ft. aluminum canopy addition along the interior side (west) property line as indicated in the submitted plans.
7. That the applicants obtain a building permit for all non-permitted additions on the property where applicable from the Department of Regulatory and Economic Resources.
8. That the applicants submit a Declaration of Use to the Department of Regulatory and Economic Resources restricting the use of the subject property only to a single family residence prior to the issuance of a building permit.
9. That the gate and the ingress/egress driveway at the intersection of SW 108 Avenue and SW 172 Street be removed as indicated in the Public Works and Waste Management memorandum.

ES:MW:NN:AN:CH

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

NON

# ZONING RECOMMENDATION ADDENDUM

*Mendez and Pena*  
Z12-013

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

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

<p><b>Low-Density Residential (Pg. 1-31)</b></p>	<p><i>The residential densities allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 units per gross acre. This density category is generally characterized by single family housing, e.g., single-family detached, cluster, zero lot line and townhouses. It could include low-rise apartments with extensive surrounding open space or a mixture of housing types provided that the maximum gross density is not exceeded.</i></p>
--	--

## PERTINENT ZONING REQUIREMENTS/STANDARDS

<p><b>Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations.</b></p>	<p><i>Upon appeal or direct application in specific cases, the Board shall hear and grant applications for <b>non-use variances</b> 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</i></p>
--	--

**2. YOSMANY MENDEZ & DAIMIT PENA**  
**(Applicant)**

**13-1-CZ14-2 (12-013)**  
**Area 14/District 09**  
**Hearing Date: 01/09/13**

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

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

Disclosure of interest form attached? Yes  No

**Previous Zoning Hearings on the Property:**

<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.

# Memorandum

**Date:** March 6, 2012

**To:** Jack Osterholt, Interim Director  
Sustainability, Planning and Economic Enhancement

**From:** Jose Gonzalez, P.E., Assistant Director  
Permitting, Environment and Regulatory Affairs

**Subject:** BC #Z2012000013  
Yosmany Mendez  
10801 SW 172<sup>nd</sup> Street  
Non-Use Variance of Setbacks Less than Required  
(RU-1) (0.21 Acres)  
31-55-40



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

#### Potable Water Service and Wastewater Disposal

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

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

The storm water runoff from the shed and gazebo must be retained on-site, without causing any runoff into the abutting properties. Applicant may be required at the time of construction permit application, to demonstrate by calculation or grading details that there is adequate green area within the property to provide drainage to the shed and gazebo without causing any runoff into the adjacent properties.

Wetlands

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

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

Tree Preservation

The proposal to permit the existing structures will not impact tree resources. Please be advised that a Miami-Dade County Tree Removal/Relocation Permit is required prior to the removal and/or relocation of any tree that is subject to the Tree Preservation and Protection provisions of the Code.

Enforcement History

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

Concurrency Review Summary

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

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

This memorandum shall constitute written approval as required by Chapter 24 of the Code.

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

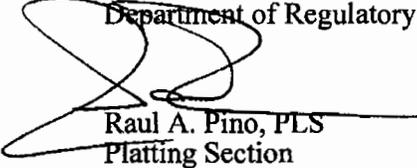
cc: Eric Silva, Sustainability, Planning and Economic Enhancement

# Memorandum



**Date:** November 28, 2012

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

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

**Subject:** Z2012000013  
Name: Yosmany Mendez & Daimit Pena  
Location: 10801 SW 172 St.  
Section 31 Township 55 South Range 40 East

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The Department of Regulatory and Economic Resources/Platting Section has reviewed the subject application and has no objections subject to the following:

Driveway connection along the radius does not comply with County Code and must be removed.

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

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.

# Memorandum



**Date:** 14-MAY-12  
**To:** , Director  
Department of Sustainability, Planning and Economic Enhancement  
**From:** William W. Bryson, Fire Chief.  
Miami-Dade Fire Rescue Department  
**Subject:** Z2012000013

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## **Fire Prevention Unit:**

Not applicable to MDFR site requirements.

## **Service Impact/Demand**

Development for the above Z2012000013  
located at 10801 SW 172 ST, MIAMI-DADE COUNTY, FLORIDA.  
in Police Grid 2145 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: 7:24 minutes

## **Existing services**

The Fire station responding to an alarm in the proposed development will be:  
Station 50 - Perrine - 9798 Hibiscus Street  
Rescue

## **Planned Service Expansions:**

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

## **Fire Planning Additional Comments**

Not applicable to service impact analysis.

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

# Memorandum



**Date:** February 29, 2012  
**To:** Jack Osterholt, Interim Director  
Sustainability, Planning and Economic Enhancement  
**Thru:** Maria I. Nardi, Chief *M-I*  
Planning and Research Division  
Parks, Recreation and Open Spaces Department  
**Subject:** Z2012000013: YOSMANY MENDEZ & DAIMIT PENA

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**Application Name:** YOSMANY MENDEZ & DAIMIT PENA

**Project Location:** The site is located at 10801 SW 172 ST, Miami-Dade County.

**Proposed Development:** The applicant is requesting a non-use variance of setbacks.

**Impact and demand:** Because the request in this application does not generate any additional residential population, the CDMP Open Space Spatial Standards do not apply and this Department has no objection to this application.

We have no comments concerning impact or demand on existing County parks, proposed or budgeted service expansion, nor do we perform a concurrency review.

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

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

MN:jb

Cc: John M. Bowers, RLA/AICP, Parks Property Management Supervisor

DATE: 17-DEC-12  
REVISION 1

**BUILDING AND NEIGHBORHOOD  
COMPLIANCE DEPARTMENT**

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

YOSMANY MENDEZ & DAIMIT  
PENA

10801 SW 172 ST, MIAMI-DADE  
COUNTY, FLORIDA.

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**APPLICANT**

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**ADDRESS**

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Z2012000013

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**HEARING NUMBER**

**HISTORY:**

NC: THERE ARE NO CURRENT OPENED OR CLOSED CASES

**BLDG OPEN:**

BUILDING SUPPORT CASE #20110144941-B, WAS OPENED ON MAY 12, 2011 FOR FAILURE TO OBTAIN A REQUIRED BUILDING PERMIT(S) PRIOR TO COMMENCING WORK ON A DETACHED STRUCTURE AND TWO ALUMINUM TERRACES. A NOTICE OF VIOLATION WAS ISSUED THE SAME DAY. CIVIL VIOLATION NOTICE #s P009110, P009111, P009112, AND P009113, WAS ISSUED ON FEBRUARY 12, 2012 FOR NON-COMPLIANCE. THE CASE IS PENDING REVIEW FOR A POSSIBLE LIEN.

BLDG CLOSED: THERE ARE CURRENT CLOSED REGULATIONS CASES.

YOSMANY MENDEZ & DAIMIT PENA

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

**REPORTER NAME:**

# Building Photographs

11-0000765-1

Continuation Page

For Insurance Company Use:

Building Street Address (including Apt., Unit, Suite and/or Bldg. No.) or P.O. Route and Box No.

Policy Number

10801 SW 172 ST

City  
MIAMI

State  
FL

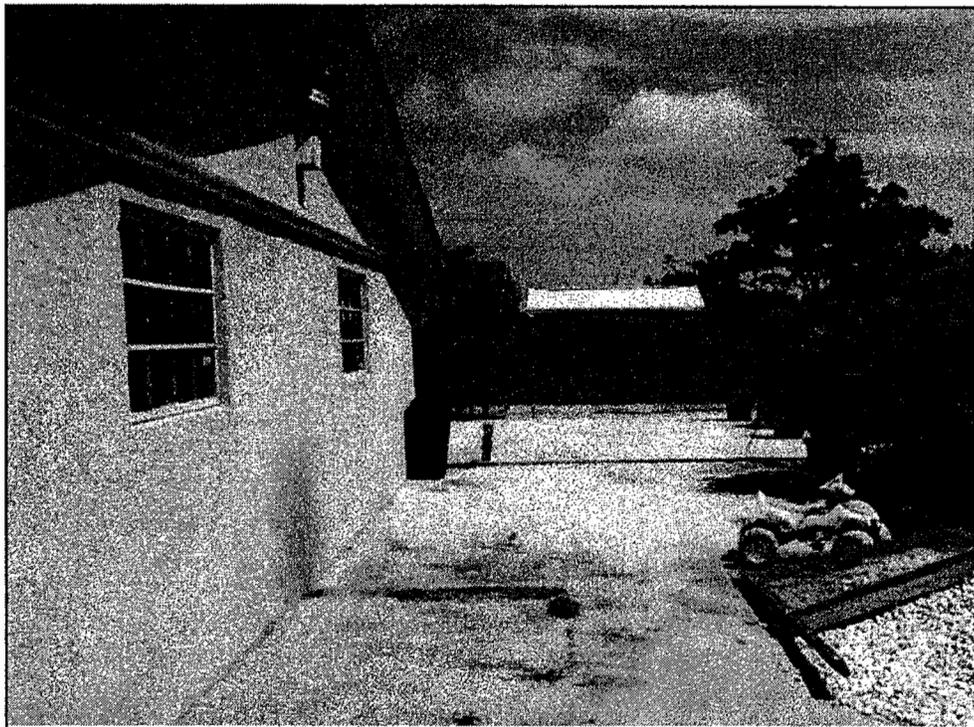
ZIP Code  
33157

Company NAIC Number



Left Side View

Date of Photograph: 08/17/2011



Right Side View

Date of Photograph: 08/17/2011

# Building Photographs

11-0000765-1

See Instructions for Item A6.

For Insurance Company Use:

Building Street Address (including Apt., Unit, Suite and/or Bldg. No.) or P.O. Route and Box No.

Policy Number

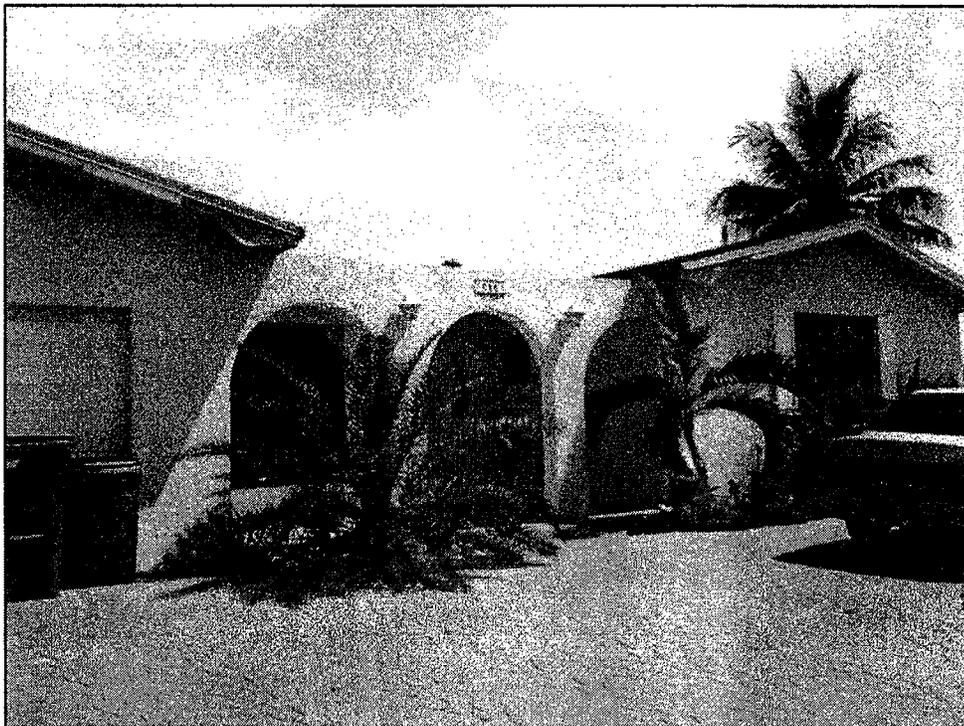
10801 SW 172 ST

City  
MIAMI

State  
FL

ZIP Code  
33157

Company NAIC Number



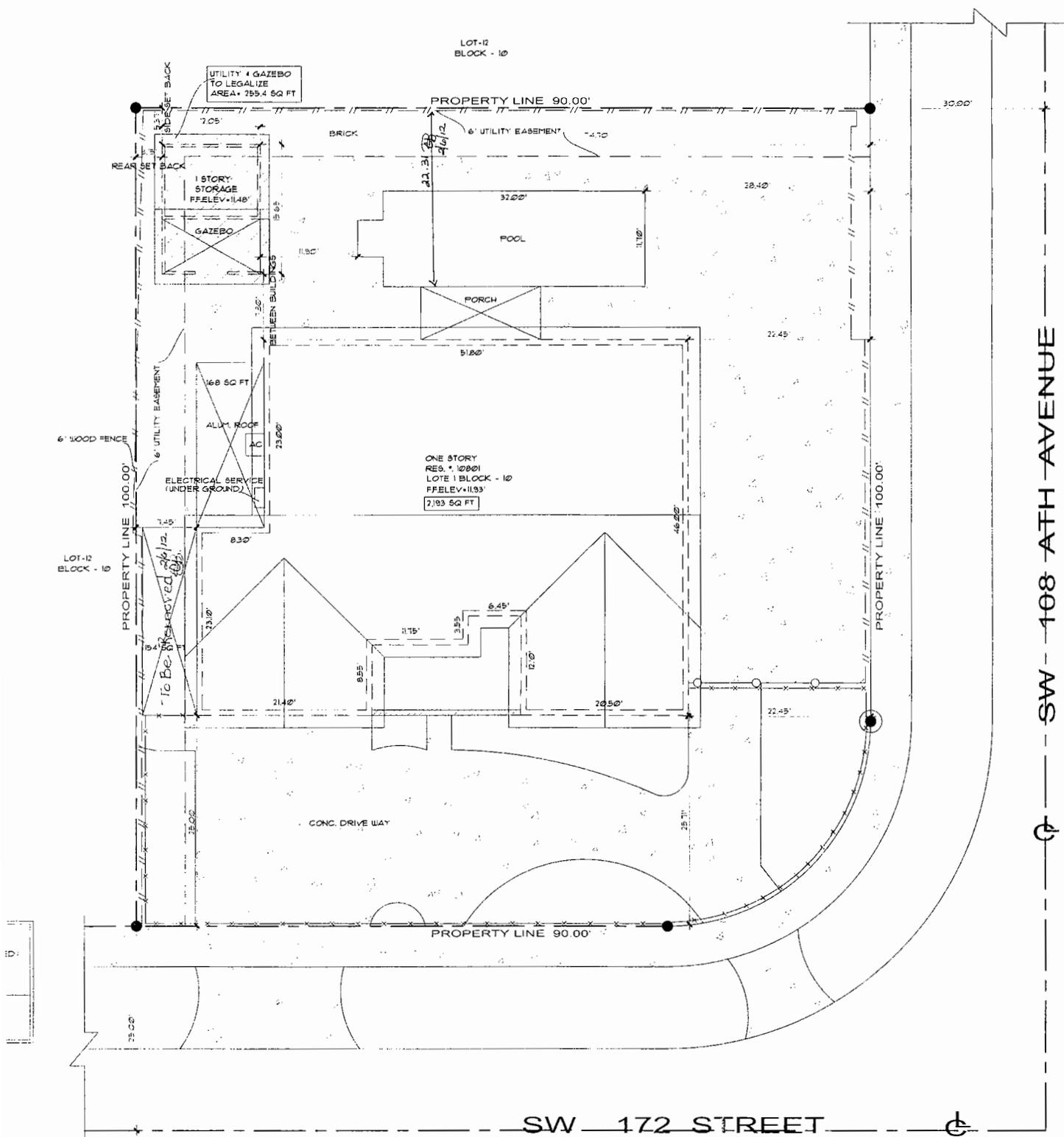
Front View

Date of Photograph: 08/17/2011



Rear View

Date of Photograph: 08/17/2011



SW 108 ATH AVENUE

SITE PLAN 1/8"=1'

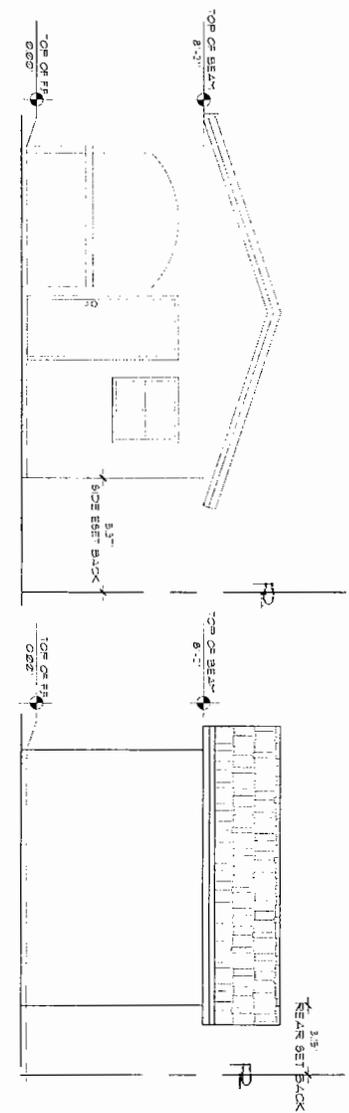


**RECEIVED**  
2/20/13  
FEB 06 2012

ZONING HEARINGS SECTION  
MIAMI-DADE PLANNING AND ZONING DEPT.  
BY for F.E.

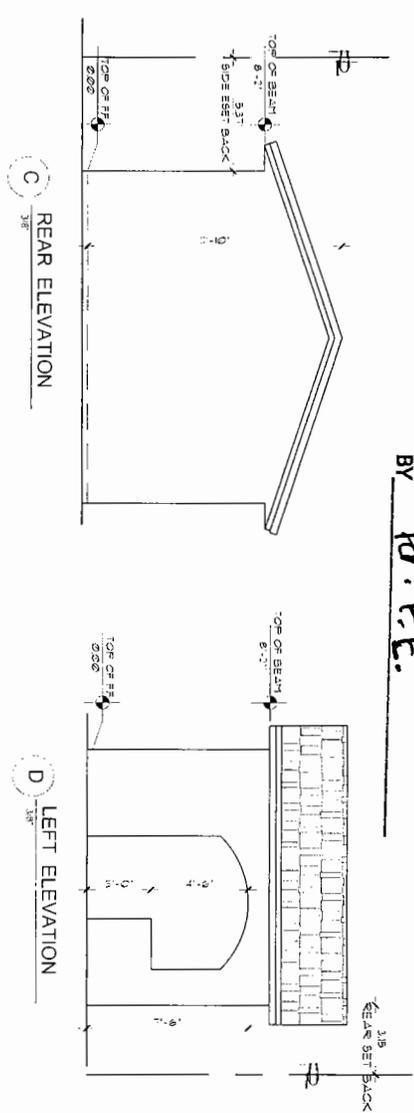
ENLARGED SITE





A FRONT ELEVATION

B RIGHT ELEVATION

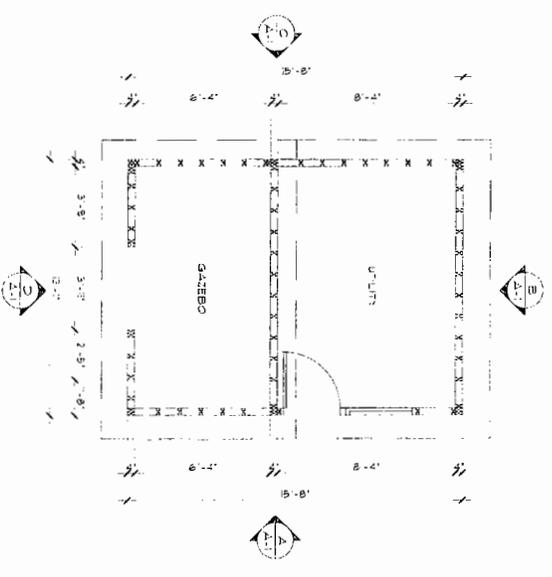


C REAR ELEVATION

D LEFT ELEVATION

ZONING HEARINGS SECTION  
 MIAMI-DADE PLANNING AND ZONING DEPT.  
 BY R. E.E.

**RECEIVED**  
 FEB 06 2012  
 12-013



EXISTING FLOOR PLAN  
 3/8"

- WALL LEGEND:
- AREA "C" EQUALS 355.4 SQ FT
  - EXISTING 3/4" UDC
  - EXISTING PARTITION WALL 4" IT

DATE: 05/7/2011  
 DRAWN BY: A.C.  
 CAD FILENAME:  
 PROJECT: RMD-10  
 SHEET No. **A-1**

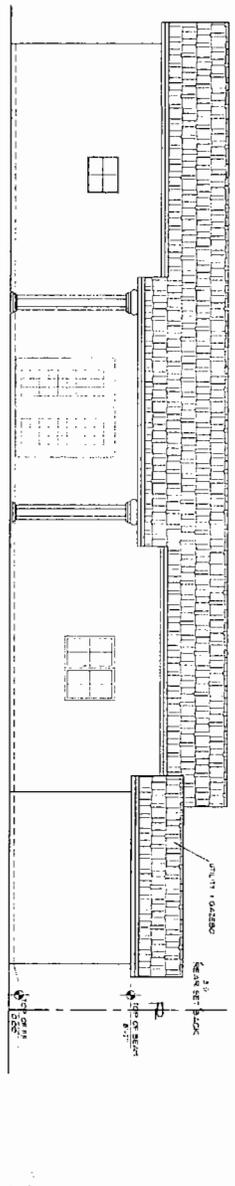
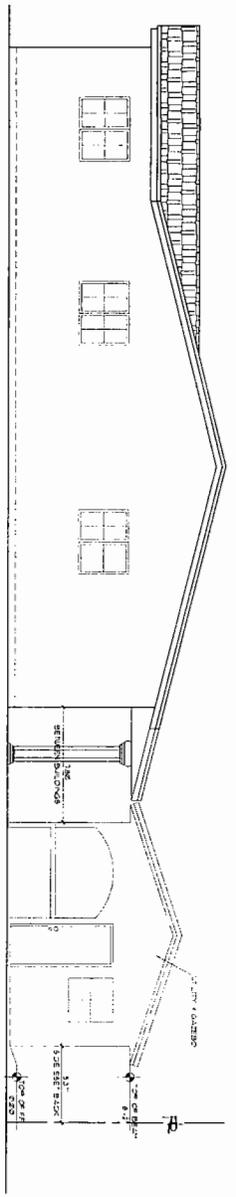
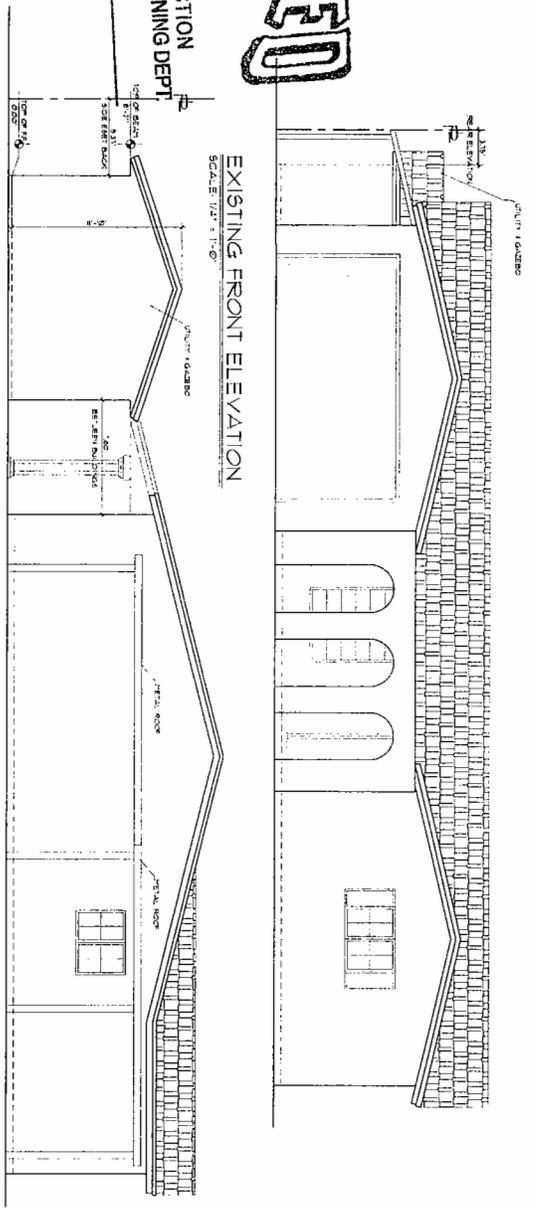
PROCESS FOR UTILITY & GAZBO SIT-BACKS  
 APPROVAL  
 OWNER: YOSMARY MENDEZ  
 ADDRESS: 1080' SW 172 ST, MIAMI, FL 33157

VICENTE FRANCO, PE STATE OF FLORIDA  
 LIC # 62531  
 10776 NW 84 LN # 5, MIAMI, FL 33178  
 PH: 305-300-8055

SEAL: [Professional Engineer Seal for Vicente Franco, License # 62531, State of Florida]

**RECEIVED**  
 FEB 06 2012

ZONING HEARINGS SECTION  
 MIAMI-DADE PLANNING AND ZONING DEPT  
 BY *W.F.E.*



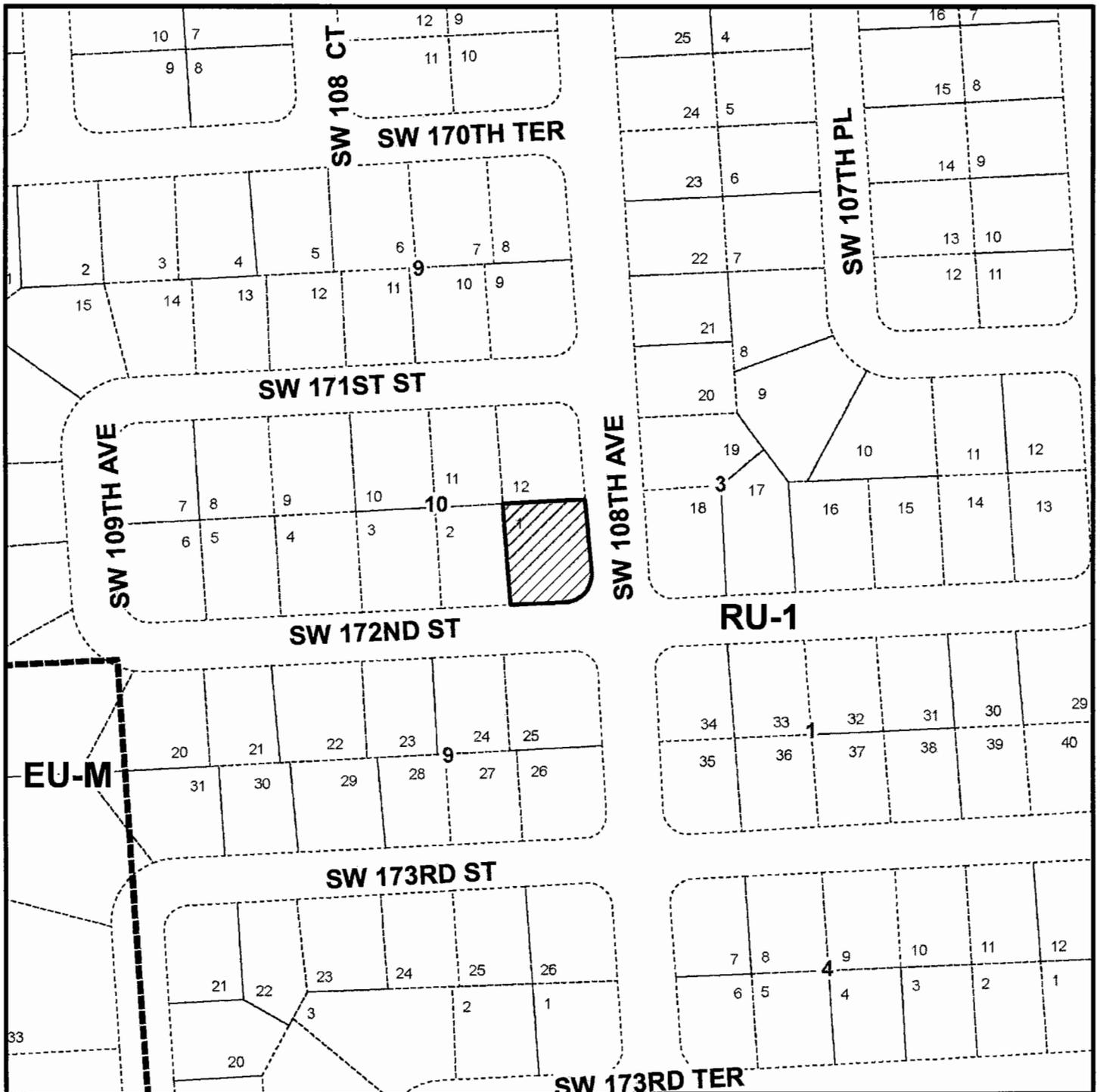
REVISIONS

18

PROCESS FOR UTILITY & GAZEBO SET-BACKS APPROVAL OWNER: YOSMANY MENDEZ ADDRESS: 10801 SW 172 ST. MIAM, FL. 33157	VICENTE FRANCO, PE STATE OF FLORIDA LIC # 62531 10776 NW 84 LN # 5, MIAMI, FL 33178 PH: 305-300-9055
--	---



DATE: 02/27/2012  
 DRAWN BY: A.C.  
 CAD FILE: YOSMANY  
 PROJECT: N10-10  
 SHEET: No. A-2



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

Process Number

**Z2012000013**



Section: 31 Township: 55 Range: 40  
 Applicant: YOSMANY MENDEZ & DAIMIT PENA  
 Zoning Board: C14  
 Commission District: 9  
 Drafter ID: JEFFER GURDIAN  
 Scale: NTS

**Legend**

 Subject Property Case



SKETCH CREATED ON: Friday, March 2, 2012

REVISION	DATE	BY
		19



**MIAMI-DADE COUNTY**

AERIAL YEAR 2009

Process Number

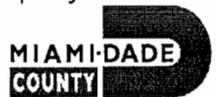
**Z2012000013**



Section: 31 Township: 55 Range: 40  
 Applicant: YOSMANY MENDEZ & DAIMIT PENA  
 Zoning Board: C14  
 Commission District: 9  
 Drafter ID: JEFFER GURDIAN  
 Scale: NTS

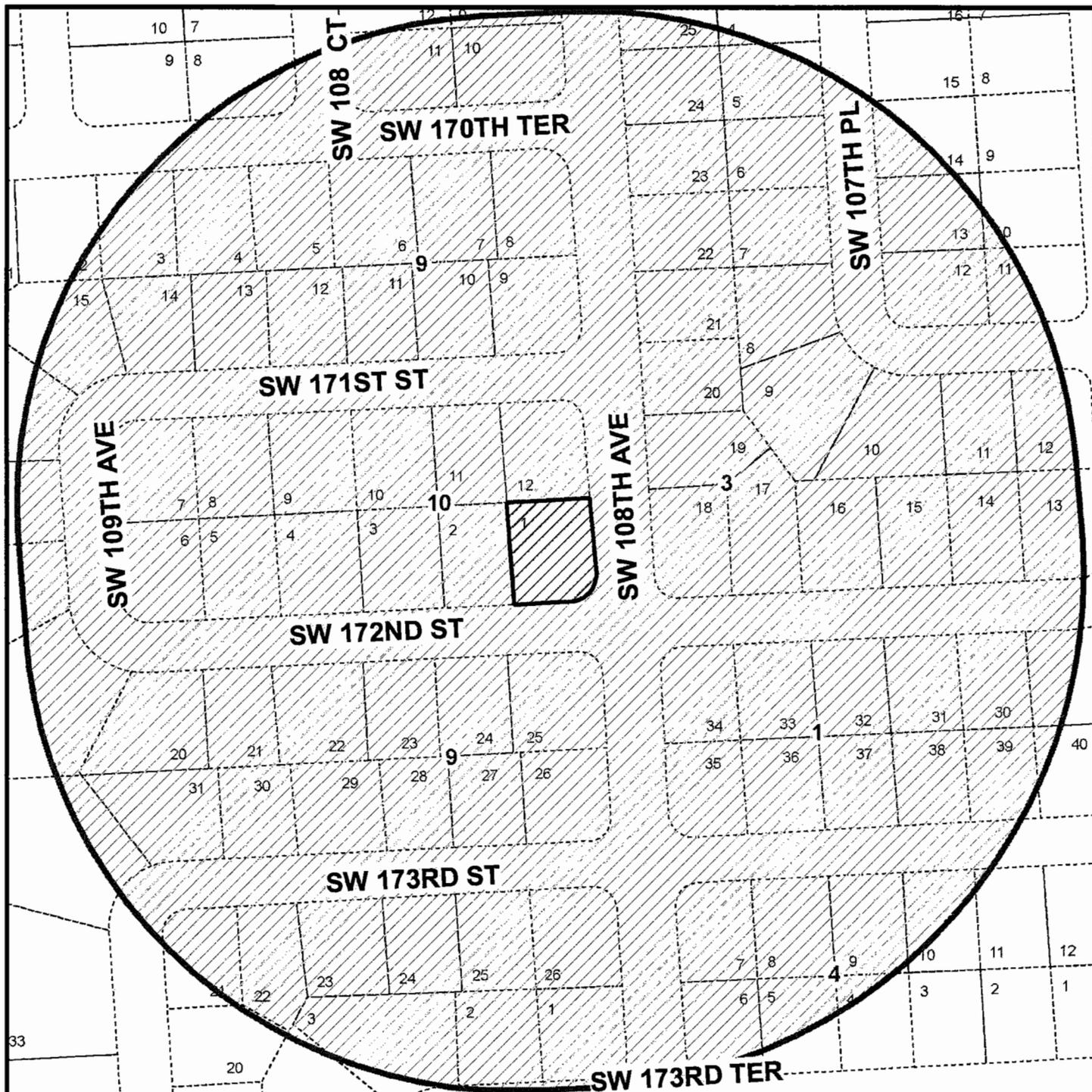
Legend

 Subject Property



SKETCH CREATED ON: Friday, March 2, 2012

REVISION	DATE	BY
		20



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

Process Number

**Z2012000013**

RADIUS: 500



Section: 31 Township: 55 Range: 40  
 Applicant: YOSMANY MENDEZ & DAIMIT PENA  
 Zoning Board: C14  
 Commission District: 9  
 Drafter ID: JEFFER GURDIAN  
 Scale: NTS

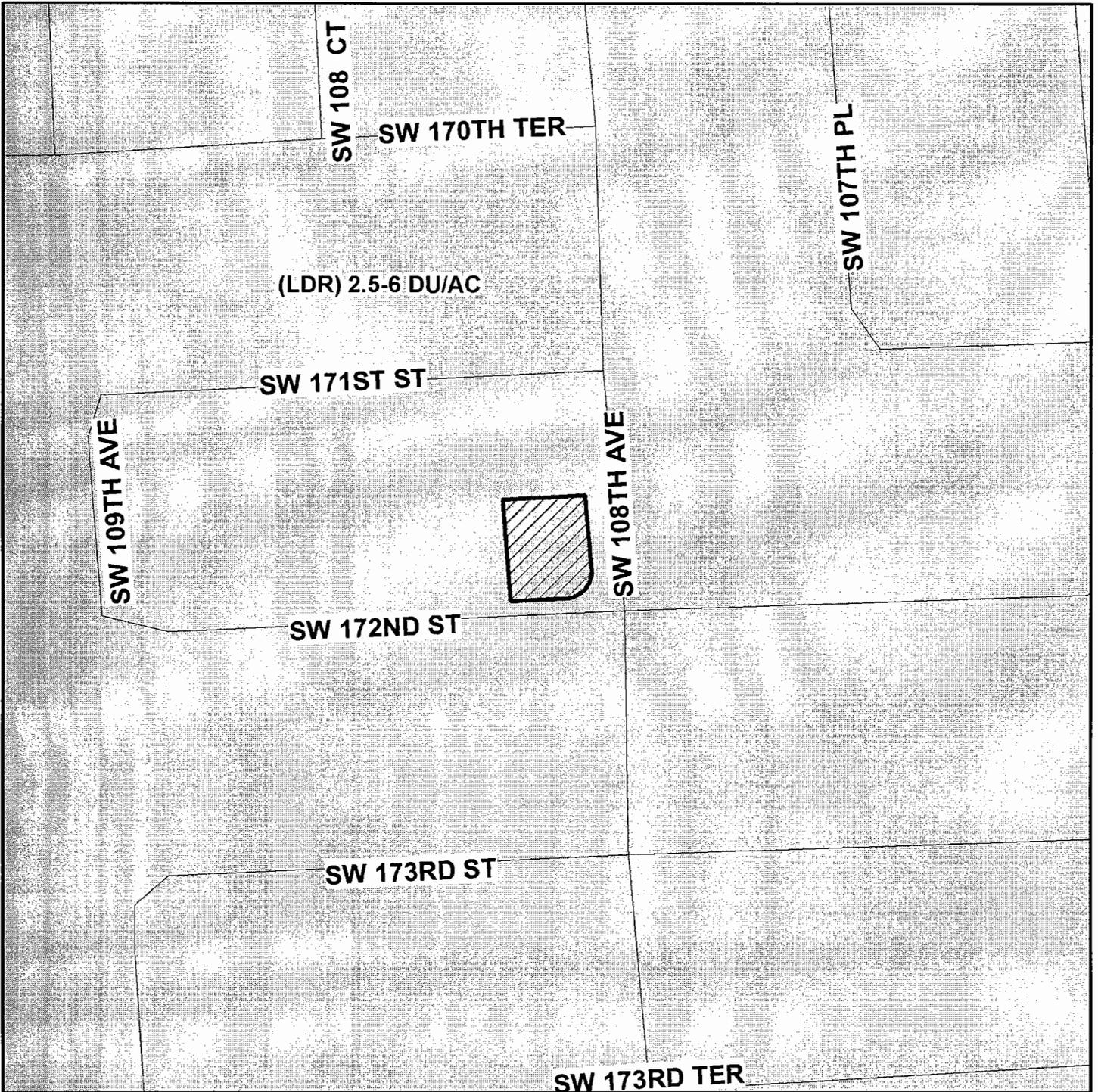
**Legend**

-  Subject Property
-  Buffer



SKETCH CREATED ON: Friday, March 2, 2012

REVISION	DATE	BY
		21



**MIAMI-DADE COUNTY**  
 CDMP MAP

Process Number

**Z2012000013**



Section: 31 Township: 55 Range: 40  
 Applicant: YOSMANY MENDEZ & DAIMIT PENA  
 Zoning Board: C14  
 Commission District: 9  
 Drafter ID: JEFFER GURDIAN  
 Scale: NTS

**Legend**

-  Subject Property Case
-  Zoning



SKETCH CREATED ON: Friday, March 2, 2012

REVISION	DATE	BY