

Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-22-07

WHEREAS, **EUREKA COVE L. L. C.** applied to Community Zoning Appeals Board 14 for the following:

AU to RU-TH

SUBJECT PROPERTY: A portion of the SW ¼ of Section 31, Township 55 South, Range 40 East, being bounded on the west by the E/ly right-of-way line of the Homestead Extension of Florida's Turnpike (State Road #821) as shown on the Florida Department of Transportation, Right-of-Way Map, §87005-2306, Sheet 11 of 25, dated May, 1970, and bounded on the east by the west line of the east ½ of the SW ¼ of said Section 31, also being the W/ly boundary line of TORRENT SUBDIVISION, Plat book 147, Page 77 and bounded on the north by the south line of the north 35' of the SW ¼ of said Section 31, all lying and being in the SW ¼ of Section 31, Township 55 South, Range 40 East.

LOCATION: South of S.W. 176 Street & lying approximately 112' west of S.W. 114 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of Community Zoning Appeals Board 14 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant proffered a Declaration of Restrictions, and

WHEREAS, upon due and proper consideration having been given to the matter it was the opinion of Community Zoning Appeals Board 14 that the requested district boundary change to RU-TH would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied and said application was denied by Resolution No. CZAB14-28-06, and

WHEREAS, **EUREKA COVE L. L. C.** appealed the decision of Community Zoning Appeals Board 14 to the Board of County Commissioners for the following:

- (1) AU to RU-1M(b)
- (2) Applicant is requesting to permit single-family residences setback 7' (15' required for 50% of the building width and the remainder at 25' unless a garage is provided, and then 20' required) from the front (west) property line.
- (3) Applicant is requesting to permit the single-family residences setback varying from 7'6" to 22'9" (15' required for 50% of the building width and the remainder at 25') from the rear (east) property line.
- (4) Applicant is requesting to waive the zoning and subdivision regulations requiring lots to have frontage on a public street; to permit 7 lots with 0' frontage on a public street (60' required) (Lots 1-7 varying from 85' to 132'3" provided on a private drive)

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 or Duplex Dwellings) and requests #2 - #4 under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance) and approval of request #4 may also be considered under Chapter 28 §19(A) of the Public Works Code.

Plans are on file and may be examined in the Zoning Department entitled "Eureka Cove L.L.C.," as prepared by Martin A. D. Yabor & Assoc., Inc., dated stamped received 6/5/07 and consisting of a total of 17 sheets. Plans may be modified at public hearing.

SUBJECT PROPERTY: A portion of the SW ¼ of Section 31, Township 55 South, Range 40 East, being bounded on the west by the E/ly right-of-way line of the Homestead Extension of Florida's Turnpike (State Road #821) as shown on the Florida Department of Transportation, Right-of-Way Map, §87005-23-6, Sheet 11 of 25, dated May, 1970, and bounded on the east by the west line of the east ½ of the SW ¼ of said Section 31, also being the W/ly boundary line of TORRENT SUBDIVISION, Plat book 147, Page 77 and bounded on the north by the south line of the north 35' of the SW ¼ of said Section 31, all lying and being in the SW ¼ of Section 31, Township 55 South, Range 40 East.

LOCATION: South of S.W. 176 Street & lying approximately 112' west of S.W. 114 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners was advertised and held, as required by the Zoning Procedure Ordinance, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant proffered a Declaration of Restrictions which among other things provided:

1. **Controlling Site Plan.** That the Property shall be developed substantially in accordance with that certain plan entitled "Eureka Cove Site Plan" as prepared by Martin A.D. Yabor & Associates, dated stamped received June 5, 2007 and consisting of seventeen (17) sheets (the "Plan"), as may be modified at the public hearing on the Zoning Application.

2. **Landscaping.** That the Owner shall provide additional landscaping along the East property line in the form of Live Oak, Green Bottonwood and sweet Viburnum tree specimens. Specifically, the Owner agrees to plant 12 foot high trees at planting, planted at a minimum of thirty-five (35) feet on center for the length of the Eastern portion of the property.
3. **Water Conservation Requirements.** That the Owner hereby agrees to develop the property and construct the proposed dwelling units in accordance with the "Florida Water Star Basic Qualification Checklist." A copy of which is attached to this Declaration as Exhibit "B".
4. **Private Drive.** That as depicted in the Plan, the Owner intends to serve the development of the Property by means of a private drive in lieu of the dedication and construction of S.W. 114th Avenue (the "Private Road"). The Private Road shall be designed, constructed and maintained in accordance with the standards established by the Miami-Dade County Public Works Department. The Owner shall not restrict ingress or egress into the development through the use of an access gate or other traffic-regulating device along the Private Road in order to ensure the efficient and unobstructed flow of traffic.

WHEREAS, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

WHEREAS, after reviewing the record and decision of the Metropolitan Dade County Zoning Appeals Board 14 and after having given an opportunity for interested parties to be heard, it was the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that that the grounds and reasons alleged by the appellants specified in the appeal were sufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. CZAB14-28-06, and that the appeal should be approved and the decision of Community Zoning Appeals Board 14 should be overruled, and that the requested district boundary change to RU-1M(b) (Item #1) would be compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that the requests to permit single-family residences setback 7' from the front (west) property line (Item #2), to permit the single-family residences setback varying from 7'6" to 22'9" from

the rear (east) property line (Item #3), and to waive the zoning and subdivision regulations requiring lots to have frontage on a public street; to permit 7 lots with 0' frontage on a public street (Lots 1-7 varying from 85' to 132'3" provided on a private drive) (Item #4) would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance, and that the proffered Declaration of Restrictions should be accepted, and

WHEREAS, a motion to grant the appeal, overrule the decision of Community Zoning Appeals Board 14, accept the proffered Declaration of Restrictions, and approve Items #1 through #4 was offered by Commissioner Dennis C. Moss, seconded by Commissioner Jose "Pepe" Diaz, and upon a poll of the members present the vote was as follows:

Jose "Pepe" Diaz	aye	Dennis C. Moss	aye
Audrey M. Edmonson	aye	Dorrin D. Rolle	aye
Carlos A. Gimenez	aye	Natacha Seijas	aye
Sally A. Heyman	aye	Katy Sorenson	aye
Barbara J. Jordan	aye	Rebecca Sosa	aye
Joe A. Martinez	absent	Sen. Javier D. Souto	aye
		Bruno A. Barreiro	aye

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Miami-Dade County, Florida, that the appeal be and the same is hereby approved/denied and that the decision of Community Zoning Appeals Board 14 is overruled.

BE IT FURTHER RESOLVED the requested district boundary change to RU-1M(b) (Item #1) be and the same is hereby approved and said property is hereby zoned accordingly.

BE IT FURTHER RESOLVED that requests to permit single-family residences setback 7' from the front (west) property line (Item #2), to permit the single-family residences setback varying from 7'6" to 22'9" from the rear (east) property line (Item #3), and to waive the zoning and subdivision regulations requiring lots to have frontage on a public

street; to permit 7 lots with 0' frontage on a public street (Lots 1-7 varying from 85' to 132'3" provided on a private drive) (Item #4) be and the same are hereby approved, subject to the following conditions:

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit and/or Certificate of Completion: said plan to include, but not 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 "Eureka Cove LLC," as prepared by Martin A. D. Yabor & Assoc., Inc., dated stamped received 6/5/07 and consisting of 17 sheets.
3. 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.
4. That the use be established and maintained in accordance with the approved plan.
5. That the applicant comply with all of the applicable conditions, requirements, recommendations, requests and other provisions of the various Departments as contained within this report.
6. That a home owners' association (or special taxing district) be established in accordance with applicable regulations to assure that all common areas and facilities for use of all residents shall be maintained in a continuous and satisfactory manner, and without expense to the general taxpayer of Miami-Dade County. The instrument incorporating such provisions shall be approved by the County Attorney as to form and legal sufficiency and shall be recorded in the public records of Miami-Dade County at the time of the recording of the subdivision plat.

BE IT FURTHER RESOLVED that Resolution No. CZAB14-28-06 is hereby null and void.

BE IT FURTHER RESOLVED that, pursuant to Section 33-6 of the Code of Miami-Dade County, Florida, the County hereby accepts the proffered covenant and does exercise its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations.

The Director is hereby authorized to make the necessary changes and notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning.

THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED this 26th day of July, 2007, and shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

No. 06-9CZ14-4

ej

HARVEY RUVIN, Clerk
Board of County Commissioners
Miami-Dade County, Florida

By **KAY SULLIVAN**
Deputy Clerk

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 10TH DAY OF AUGUST, 2007.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Deputy Clerk's Name, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-22-07 adopted by said Board of County Commissioners at its meeting held on the 26th day of July, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 10th day of, August 2007.



Earl Jones, Deputy Clerk (4149)
Miami-Dade County Department of Planning and Zoning

SEAL

