



**MIAMI-DADE COUNTY
FINAL OFFICIAL MINUTES
Board of County Commissioners Zoning Board**

Board of County Commissioners
Stephen P. Clark Government Center
111 NW 1st Street
Miami, Florida 33128

Thursday, January 28, 2010
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Diane Collins, Acting Division Chief
Clerk of the Board Division

Karen Harrison, Commission Reporter
(305) 375-1296



CLERK'S SUMMARY AND OFFICIAL MINUTES
BOARD OF COUNTY COMMISSIONERS ZONING HEARING
January 28, 2010

The Board of County Commissioners met in regular session in the County Commission Chambers on the Second Floor of the Stephen P. Clark Government Center, 111 NW First Street, Miami, Florida at 9:30 a.m., January 28, 2010, there being present upon roll call, Chairman Dennis Moss, and Commissioners Jose "Pepe" Diaz, Bruno A. Barreiro, Audrey Edmonson, Carlos A. Gimenez, Barbara J. Jordan, Sally Heyman, Joe A. Martinez, Katy Sorenson and Rebeca Sosa; (Commissioners, Dorrin D. Rolle, Javier Souto, and Natacha Seijas were absent); Assistant County Attorney Joni Armstrong-Coffey; Department of Planning & Zoning Director Marc LaFerrier, and Zoning Evaluation Supervisor Nicholas Nitti; and Deputy Clerks Doris Dickens and Karen Harrison.

Chairman Moss called the meeting to order at 10:07 a.m. and asked that a moment of silence be observed followed by the Pledge of Allegiance. He also asked that the people in Haiti be remembered as well as Mr. Dan Paul, a citizen of Miami Dade County, who recently passed.

ALL WITNESSES AND OFFICIAL INTERPRETER(S) WERE SWORN IN BY THE CLERK PRIOR TO PRESENTING TESTIMONIES BEFORE THE BOARD

Department of Planning and Zoning (DP&Z) Director Marc LaFerrier announced that in accordance with the Code of Miami-Dade County, all items on today's (1/28) zoning agenda were legally advertised, notices were mailed, and the properties were posted within the prescribed timeframe. He noted additional copies of the agenda were available in the Chambers and presented the procedure to be followed during today's proceedings.

Mr. LaFerrier presented the following application:

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

Mr. LaFerrier noted 257 protests were filed regarding the foregoing application; however, the department did not receive any waivers. He noted the applicant's request for a zoning change from RU-1 to BU-2 with variances was denied by the Community Zoning Appeals Board (CZAB) #12. Mr. LaFerrier noted the applicant was seeking to vacate that CZAB's decision and request that the property be rezoned to BU1-A with the submittal of a covenant and no site plan.

In response to Commissioner Gimenez' question as to the difference in the site plan before the Committee today and the plan heard by the CZAB, Mr. LaFerrier noted the application was different in that it did not include the site plan that was considered and was denied by the CZAB, nor did it include the request for a zoning change to BU-2 for the southern two properties.

Commissioner Gimenez questioned whether it would be appropriate for the Committee to remand this application to the CZAB; Assistant County Attorney Joni Armstrong noted the application could be remanded at the Board's (BCC) discretion.

Following further discussion, Mr. LaFerrier noted CZAB staff had no objection to the requested zoning change and would recommend approval. He also noted the covenant enunciated these changes and was included in today's agenda packet; however, the revised covenant was not submitted to staff in sufficient time to include it in the report.

Commissioner Gimenez recommended that the foregoing application remanded to the Community Council.

Mr. Juan Mayol, Holland and Knight, 701 Brickell Avenue, attorney representing the applicant, B and F Marine, Inc., appeared before the Board and requested an opportunity to explain the reason for this request. He noted surrounding neighbors were present in support of this request along with Mr. Antonio Veciana and Mr. Antonio Veciana Jr., who were principles of B and F Marine, Inc.

Mr. Mayol pointed out that 506 waivers were submitted in connection with this application. He noted this application was originally filed in 2006 and subsequently been heard on a number of occasions. Mr. Mayol explained how he worked with staff and the residents of the community to resolve their concerns regarding this application.

Mr. Mayol noted the request was to vacate the CZAB decision, to amend the application, and proceed with one request on a modified basis. He also noted the property restrictions were negotiated with staff and the surrounding neighbors, which would now be acceptable.

Mr. Mayol noted Ms. Eleanor Quigley, representing the Homeowners Association (HOA) was present in today's meeting and was in support of this application.

Mr. Mayol further noted the property was located on a busy commercial intersection. He noted the initial zoning request was BU-2 commercial designation with no height limits; however, since this was an 11 story building, a number of variances were required and were listed in the application. He noted that he met with representatives of the HOA who expressed concern regarding the height of the building and the applicant modified the site plan to reduce the height of the building to eight stories. Mr. Mayol explained that the request before the Board today was for a maximum four (4) stories.

Mr. Mayol noted he met with the representatives from the HOA again and they indicated that they would support a request to rezone a portion of the properties from RU-1 to BU-1A. He noted Mr. Mayol noted the applicant was seeking to vacate the CZAB's decision, to withdraw requests #2-8 and to submit a proffered covenant requiring future site plan approval in addition to screening, buffering, and incorporating certain usages, he noted.

Chairman Moss opened the public hearing and called for persons wishing to be heard in connection with this application.

Ms. Eleanor Quigley, Vice President of the Home Owners Association (HOA), 3470 SW 75 Avenue, appeared before the Board in connection with and in support of the foregoing application.

Attorney Juan Mayol emphasized the fact that the subject property needed to be developed in accordance to the code requirements.

Commissioner Sosa asked Mr. LaFerrier to ensure that the site plan submitted in connection with application addressed the traffic and parking problems on the corner of Bird Road and 72 Avenue.

After no other persons appeared wishing to speak in connection with this application and after hearing no other questions of comments from Commission members, Chairman Moss closed the public hearing and called for a motion.

It was moved by Commissioner Gimenez that the BCC would approve to vacate CZAB#12 decision and to approve application request #1 and withdraw application requests #2-8; rezoning the entire property to BU-1A with acceptance of the proffered covenant. This motion was seconded by Commissioner Sosa, and upon being put to a vote, the vote passed 10-0. (Commissioners, Dorrin D. Rolle, Javier Souto, and Natacha Seijas were absent.)

The foregoing resolution was adopted by the Board and set forth in the Record of Resolutions and assigned #Z-01-10.

There being no further business to come before the Board of County Commissioners, the zoning hearing was adjourned at 10:23 a.m.



Chairman Dennis C. Moss

ATTEST: HARVEY RUVIN, Clerk



Diane Collins
Deputy Clerk



Official Zoning Agenda

BOARD OF COUNTY COMMISSIONERS

COUNTY COMMISSION MEETING OF THURSDAY, JANUARY 28, 2010

NOTICE: THE FOLLOWING HEARING IS SCHEDULED FOR 9:30 A.M., AND

ALL PARTIES SHOULD BE PRESENT AT THAT TIME

ANY PERSON MAKING IMPERTINENT OR SLANDEROUS REMARKS OR WHO BECOMES BOISTEROUS WHILE ADDRESSING THE COMMISSION SHALL BE BARRED FROM FURTHER AUDIENCE BEFORE THE COMMISSION BY THE PRESIDING OFFICER, UNLESS PERMISSION TO CONTINUE OR AGAIN ADDRESS THE COMMISSION BE GRANTED BY THE MAJORITY VOTE OF THE COMMISSION 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 COMMISSION CHAMBER. PERSONS EXITING THE COMMISSION CHAMBER SHALL DO SO QUIETLY.

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

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

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

SWEARING IN OF WITNESSES

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

23-54-40
BCC/District 7

B and F MARINE, INC. is appealing the decision of Community Zoning Appeals Board #12 which denied without prejudice the following:

- (1) BU-1A and RU-1 to BU-2
- (2) Applicant is requesting to permit a proposed eleven story building setback 20' (39' required) from the front (north and south) property lines and setback a minimum of 15' (39' required) from the side street (west) property line.
- (3) Applicant is requesting to permit a lot coverage of 49.9% (40% maximum permitted).
- (4) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.50 (1.35 maximum permitted).

REQUESTS #2-#4 ON PLAN "A", OR IN THE ALTERNATIVE:

- (5) Applicant is requesting to permit a proposed eight story building setback 20' (33.2' required) from the front (north and south) property lines and setback a minimum of 15' (33.2' required) from the side street (west) property line.
- (6) Applicant is requesting to permit a lot coverage of 50.2% (40% maximum permitted).
- (7) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.50 (1.17 maximum permitted).

REQUESTS #5-#7 ON PLAN "B"

AND WITH EITHER GROUP OF REQUESTS, THE FOLLOWING:

- (8) Applicant is requesting to waive the required wall set in 10' from the right-of-way with a 10' wide landscape strip along portions of the rear (south) property line where said lot lies across the street from RU zoned property.

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Site Plan Study for Multiuse Project at: B & F Marine, Inc - Plan 'A'," as prepared by Tapia-Ruano Architect, Inc., consisting of 13 sheets and dated stamped received 1/22/08 and "Site Plan Study for Multiuse Project at: B & F Marine, Inc - Plan 'B'," as prepared by Tapia-Ruano Architect, Inc., consisting of 16 sheets and dated stamped received 12/1/08. Plans may be modified at public hearing.

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

SIZE OF PROPERTY: 1.03 Acres

Department of Planning and Zoning
Recommendation:

Partial approval of the appeal submitted by the applicant subject to conditions more specifically as approval of request #1, subject to the Board's acceptance of the proffered covenant and approval with condition of requests #2 through #4 and request #8 under Section 33-311(A)(4)(b) (NUV) and denial without prejudice of same under Section

33-311(A)(16) (ASDO) and under Section 33-311(A)(4)(c) (ANUV) and denial without prejudice of requests #5 through #7 under Sections 33-311(A)(4)(b) (NUV), 33-311(A)(16) (ASDO) and 33-311(A)(4)(c) (ANUV).

Protests: 257

Waivers: 506

DENIAL OF APPEAL (SUSTAIN C.Z.A.B.): _____

APPROVAL OF APPEAL (OVERRIDE C.Z.A.B.): _____

DEFERRED: _____

THE END

NOTICE OF APPEAL RIGHTS

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

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

KITS

12-23-2009 Version # 1



BOARD OF COUNTY COMMISSIONERS
ZONING HEARINGS

COUNTY COMMISSIONERS CHAMBERS OF THE STEPHEN P. CLARK CENTER -
2ND FLOOR

111 NW 1 Street, Miami

Thursday, January 28, 2010 at 9:30 a.m.

APPEALS

DISTRICT

1. 08-9-CZ12-1 B AND F MARINE, INC.

(APPEAL OF CZAB) 06-323

23-54-40 N 7

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

08-9-CZ12-1 (06-323)
Area BCC/District 7
Hearing Date: 01/28/10

Property Owner (if different from applicant) Same.

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

Disclosure of interest form attached? Yes No

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
1976	BUR and Corporation.	- Unusual use to permit non-comm. parking. - Variance of parking spaces. - Variance to permit ingress & egress easement. - Variance of wall requirement.	ZAB	Approved w/conds.
1987	Ana Veciana Suarez	- Special exception to permit the expansion of an existing non-conforming building. - Non-Use variance of setback requirements. - Zone change from BU-2 and RU-1 to BU-1A.	ZAB	Approved w/conds.

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

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

A

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

REPRESENTATIVE: Juan Mayol

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER		
08-9-CZ12-1/06-323	September 1, 2009	CZAB12	15	09

REC: Approval with conditions of request #1, subject to the Board's acceptance of the proffered covenant and approval with conditions of requests #2 through #4 and request #8 under Section 33-311(A)(4)(b) (NUV) and denial without prejudice of same under Section 33-311(A)(16) (ASDO) and under Section 33-311(A)(4)(c) (ANUV) and denial without prejudice of request #4 through #7 under Sections 33-311(A)(b) (NUV), 33-311(A)(16) (ASDO) and 33-311(A)(c) (ANUV).

<input type="checkbox"/> WITHDRAW:	<input type="checkbox"/> APPLICATION	<input type="checkbox"/> ITEM(S): _____
<input type="checkbox"/> DEFER:	<input type="checkbox"/> INDEFINITELY	<input type="checkbox"/> TO: _____ <input type="checkbox"/> W/LEAVE TO AMEND
<input checked="" type="checkbox"/> DENY:	<input type="checkbox"/> WITH PREJUDICE	<input checked="" type="checkbox"/> WITHOUT PREJUDICE
<input type="checkbox"/> ACCEPT PROFFERED COVENANT	<input type="checkbox"/> ACCEPT REVISED PLANS	
<input type="checkbox"/> APPROVE:	<input type="checkbox"/> PER REQUEST	<input type="checkbox"/> PER DEPARTMENT <input type="checkbox"/> PER D.I.C.
	<input type="checkbox"/> WITH CONDITIONS	
<input type="checkbox"/>		

TITLE	M/S	NAME	YES	NO	ABSENT
COUNCIL WOMAN	M	Peggy BRODEUR	X		
COUNCIL MAN		Jorge Luis GARCIGA		X	
VICE-CHAIRMAN	S	Alberto SANTANA	X		
COUNCIL WOMAN.		Carla Ascencio-SAVOLA		X	
COUNCIL MAN		Jose I. VALDES		X	
COUNCIL WOMAN		Angela VAZQUEZ	X		
CHAIRMAN		Elliot N. ZACK	X		
VOTE:			4	3	

EXHIBITS: YES NO

COUNTY ATTORNEY: EDUARDO SANCHEZ

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

B

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

REPRESENTATIVE: Juan Mayol

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER	
08-9-CZ12-1 (06-323)	November 5, 2008	CZAB12	08

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

<input type="checkbox"/> WITHDRAW:	<input type="checkbox"/> APPLICATION	<input type="checkbox"/> ITEM(S): _____
<input checked="" type="checkbox"/> DEFER:	<input checked="" type="checkbox"/> INDEFINITELY	<input type="checkbox"/> TO: _____ <input checked="" type="checkbox"/> W/LEAVE TO AMEND
<input type="checkbox"/> DENY:	<input type="checkbox"/> WITH PREJUDICE	<input type="checkbox"/> WITHOUT PREJUDICE
<input type="checkbox"/> ACCEPT PROFFERED COVENANT	<input type="checkbox"/> ACCEPT REVISED PLANS	
<input type="checkbox"/> APPROVE:	<input type="checkbox"/> PER REQUEST	<input type="checkbox"/> PER DEPARTMENT <input type="checkbox"/> PER D.I.C.
	<input type="checkbox"/> WITH CONDITIONS	
<input checked="" type="checkbox"/> OTHER:	Readvertisement at applicant's expense. At applicant's expense to further work with the homeowners association, revise the site plan, and to submit a revised covenant.	

TITLE	M/S	NAME	YES	NO	ABSENT
MS.		Peggy BRODEUR	X		
MR.		Edward D. LEVINSON	X		
MR.	S	Alberto SANTANA	X		
MR.	M	Jose I. VALDES (C.A.)	X		
VICE-CHAIRMAN		Robert W. WILCOSKY			X
MR.		Elliot N. ZACK	X		
MADAME CHAIRPERSON		Carla ASCENCIO-SAVOLA	X		
VOTE:			6	0	

EXHIBITS: YES NO

COUNTY ATTORNEY: TOM ROBERTSON

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

#1

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

REPRESENTATIVE: Juan Mayol

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER	
08-9-CZ12-1 9 (6-323)	September 3, 2008	CZAB12	08

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

WITHDRAW: APPLICATION ITEM(S): _____

DEFER: INDEFINITELY TO: Nov 5, 2008 W/LEAVE TO AMEND

DENY: WITH PREJUDICE WITHOUT PREJUDICE

ACCEPT PROFFERED COVENANT ACCEPT REVISED PLANS

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

WITH CONDITIONS

OTHER: At applicant's request to submit revised plans.

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

EXHIBITS: YES NO

COUNTY ATTORNEY: STEPHEN STIEGLITZ

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS**

APPLICANT: B and F Marine, Inc.

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

SECTION: 23-54-40

DATE: January 28, 2010

COMMISSION DISTRICT: 7

ITEM NO.: 1

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A. INTRODUCTION

o **REQUESTS:**

B and F MARINE, INC. is appealing the decision of Community Zoning Appeals Board #12 which denied without prejudice the following:

- (1) BU-1A and RU-1 to BU-2
- (2) Applicant is requesting to permit a proposed eleven (11) story building to setback 20' (39' required) from the front (north and south) property lines and to setback 15' (39' required) from the side street (west) property line.
- (3) Applicant is requesting to permit a lot coverage of 49.90% (40% maximum permitted).
- (4) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.50 (1.35 maximum permitted).

Requests #2 through #4 on Plan "A"

- (5) Applicant is requesting to permit a proposed eight (8) story building to setback of 20' (33.2' required) from the front (north and south) property lines and to setback 15' (33.2' required) from the side street (west) property line.
- (6) Applicant is requesting to permit a lot coverage of 50.2% (40% maximum permitted).
- (7) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.50 (1.17 maximum permitted).

Requests #5 through #7 on Plan "B"

And with either requests (#2 through #4 or #5 through #7)

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

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 through #7 may be considered under §33-311(A)(16) (Alternative Site Development Option for the BU Zoning District) and approval of requests #2 through #8 may be considered under Section 33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Site Plan Study for Multiuse Project at: B & F Marine, Inc. - Plan 'A'," as prepared by Tapia-Ruano Architect, Inc., consisting of 13 sheets and dated stamped received 1/22/08 and "Site Plan Study for Multiuse Project at: B & F Marine, Inc. - Plan 'B'," as prepared by Tapia-Ruano Architect, Inc., consisting of 16 sheets and dated stamped received 12/1/08. Plans may be modified at public hearing.

o **SUMMARY OF REQUESTS:**

The applicant is appealing the decision of the Community Zoning Appeals Board #12 (CZAB-12) which denied without prejudice this application in its entirety. This application would allow the rezoning of the property from BU-1A, Limited Business District, and RU-1, Single-Family Residential District, to BU-2, Special Business District. The applicant has submitted two (2) sets of plans (Plan 'A' and Plan 'B') which reflect the development of the site with two alternative options. Both submitted plans indicate a reduction of setbacks requirements from the front, rear and side street property lines, a greater lot coverage than allowed by the Zoning Code and a greater floor area ratio than is permitted. Additionally, the applicant seeks approval to waive a required wall along the rear (south) property line on both plans.

o **LOCATION:**

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

o **SIZE:** 1.03 acres

B. ZONING HEARINGS HISTORY:

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

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Business and Office** use. This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes (also allowed in the institutional category), entertainment and cultural facilities, amusements and commercial recreation establishments such as private commercial marinas. Also allowed are telecommunication facilities (earth stations for satellite communication carriers, satellite terminal stations, communications telemetry facilities and satellite tracking stations). These uses may occur in self-contained centers, high-rise structures, campus parks, municipal central business districts or strips along highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly compatibility with both adjacent and adjoining uses, and availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be limited when necessary to protect both adjacent and adjoining residential use from such impacts as noise or traffic, and in most wellfield protection areas uses are prohibited that involved the use, handling, storage, generation or disposal of hazardous material or waste, and may have limitations as to the maximum buildable area, as defined in Chapter 24 of the County Code. When the land development regulations are amended pursuant to Land Use Element Policies LU-9P and LU-9Q, live-work and work-live developments shall be permitted on land designated as Business and Office, as transitional uses between commercial and residential areas.
2. **Uses and Zoning Not Specifically Depicted.** Existing lawful residential and non-residential uses and zoning are not specifically depicted on the LUP map. They are however reflected in the average Plan density depicted. All such lawful uses and zoning are deemed to be consistent with this Plan as provided in the section of this chapter titled "Concepts and Limitations of the Land Use Plan Map." The limitations referenced in this paragraph pertain to existing zoning and uses. All approval of new zoning must be consistent with the provisions of the specific category in which the subject parcel exists, including the provisions for density averaging and definition of gross density.
3. **Policy LU-4A.** When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.
4. **Policy LU-9J.** Miami-Dade County shall continue to use, but not be limited exclusively to, design guidelines established in its urban design manual as additional criteria for use in the review of all applications for new residential, commercial and industrial development in unincorporated Miami-Dade County.

5. Guidelines for Urban Form.

The following guidelines establish a generalized pattern for location of different uses, their intensity and density, and the interconnecting network of vehicular and pedestrian movement. The general pattern of land use in residential communities should conform to the following guidelines to the maximum extent consistent with the land use patterns and densities authorized and encouraged by the Land Use Plan (LUP) map, and future amendments to the LUP map should endeavor to promote this localized form within the metropolitan pattern of urban centers and transit corridors. Exceptions may occur (a) for Developments of Regional Impact and Developments of County Impact or (b) to conform the density, intensity, use, building envelope, traffic generation and demand on services and infrastructure of a proposed new use to such contextual elements as the general pattern of use, intensity and infrastructure which exists in an established neighborhood.

- 8. Pedestrian circulation shall be provided between activity nodes, all public places, and all subdivisions through connectivity of section, half-section and local roadways constructed with sidewalks and supplemented by pedestrian paths.
- 9. Along arterials, Major and high-speed roadways, pedestrian circulation should be accommodated by sheltering sidewalks from passing traffic by providing landscaping and trees at the street edge. In commercial areas, pedestrian access should be further accommodated by pedestrian pathways from the neighborhood to the business entrances as convenient as those from parking lots, and by providing awnings, overhangs or porticos for protection from the sun and weather.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

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

Business and Office

Surrounding Properties:

NORTH: RU-1; Doug Barnes Park
 BU-2 and BU-3; Commercial

Parks and Recreation
 Business and Office

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

Industrial and Office

EAST: BU-2; Gas station and storage facility

Business and Office

WEST: BU-1A; Commercial building

Business and Office

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

<u>E. SITE AND BUILDINGS:</u>	<u>PLAN 'A'</u>	<u>PLAN 'B'</u>
Site Plan Review:	(Site plan submitted)	(Site plan submitted)
Scale/Utilization of Site:	Acceptable*	Unacceptable
Location of Buildings:	Acceptable*	Unacceptable
Compatibility:	Acceptable*	Unacceptable
Landscape Treatment:	Acceptable*	Unacceptable
Open Space:	Acceptable*	Unacceptable
Buffering:	Acceptable*	Unacceptable
Access:	Acceptable*	Unacceptable
Parking Layout/Circulation:	Acceptable*	Unacceptable
Visibility/Visual Screening:	Acceptable*	Unacceptable
Urban Design:	Acceptable*	Unacceptable

*Subject to conditions and a proffered covenant.

F. PERTINENT REQUIREMENTS/STANDARDS:

In evaluating an application for a **district boundary change, Section 33-311** provides that the Board shall take into consideration, among other factors the extent to which:

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

- (5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

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

- (c) **Setbacks** for a principal or accessory building or structure shall be approved after public hearing upon demonstration of the following:
 - (1) the character and design of the proposed alternative development will not result in a material diminution of the privacy of adjoining property; and
 - (2) the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity, taking into account existing structures and open space; and
 - (3) the proposed alternative development will not reduce the amount of open space on the parcel proposed for alternative development by more than 20% of the landscaped open space percentage required by the applicable district regulations; and
 - (4) any area of shadow cast by the proposed alternative development upon an adjoining property will be no larger than would be cast by a structure constructed pursuant to the underlying district regulations, or will have no more than a de minimus impact on the use and enjoyment of the adjoining parcel of land; and
 - (5) the proposed alternative development will not involve the installation or operation of any mechanical equipment closer to the adjoining parcel of land than any other portion of the proposed alternative development, unless such equipment is located within an enclosed, soundproofed structure and if located on the roof of such an alternative development shall be screened from ground view and from view at the level in which the installations are located, and shall be designed as an integral part of and harmonious with the building design; and
 - (6) the proposed alternative development will not involve any outdoor lighting fixture that casts light on an adjoining parcel of land at an intensity greater than permitted by this code; and

- (7) the architectural design, scale, mass, and building materials of any proposed structure(s) or addition(s) are aesthetically harmonious with that of other existing or proposed structure(s) or building(s) on the parcel proposed for alternative development; and
- (8) the wall(s) of any building within a front, side street or double frontage setback area or within a setback area adjacent to a discordant use, required by the underlying district regulations, shall be improved with architectural details and treatments that avoid the appearance of a "blank wall"; and
- (9) the proposed alternative development will not result in the destruction or removal of mature trees within a setback required by the underlying district regulations, with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the same side of the lot, parcel or tract; and
- (10) any windows or doors in any building(s) to be located within an interior side or rear setback required by the underlying district regulations shall be designed and located so that they are not aligned directly across from facing windows or doors on building(s) of a discordant use located on an adjoining parcel of land; and
- (11) total lot coverage shall not be increased by more than ten percent (10%) of the lot coverage permitted by the underlying district regulations; or a total floor area ratio shall not be increased by more than ten percent (10%) of the floor area ratio permitted by the underlying district regulations; and
- (12) the area within an interior side or rear setback required by the underlying district regulations located adjacent to a discordant use will not be used for off-street parking except:
 - (A) in an enclosed garage where the garage door is located so that it is not aligned directly across from facing windows or doors on buildings of a discordant use located on an adjoining parcel of land; or
 - (B) if the off-street parking is buffered from property that abuts the setback area by a solid wall at least six (6) feet in height along the area of pavement and parking, with either:
 - (i) articulation to avoid the appearance of a "blank wall" when viewed from the adjoining property, or
 - (ii) landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement regarding its maintenance in recordable form from the adjoining landowner; and

- (13) any structure within an interior side setback required by the underlying district regulations:
 - (A) is screened from adjoining property by landscape material of sufficient size and composition to obscure at least eighty percent (80%) (if located adjoining or adjacent to a discordant use) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure(s) at time of planting; or
 - (B) is screened from adjoining property by an opaque fence or wall at least eight (8) feet, six (6) feet if located adjoining or adjacent to a discordant use, in height that meets the standards set forth in paragraph (g) herein; and
- (14) any structure not attached to a principal building and proposed to be located within a setback required by the underlying district regulations shall be separated from any other structure by at least 10 feet or the minimum distance to comply with fire safety standards, whichever is greater; and
- (15) when a principal or accessory building is proposed to be located within a setback required by the underlying district regulations, any enclosed portion of the upper floor of such building shall not extend beyond the first floor of such building within the setback; and
- (16) safe sight distance triangles shall be maintained as required by this code; and
- (17) the parcel proposed for alternative development shall continue to provide the required number of on-site parking spaces as required by this Code, except that off-site parking spaces may be provided in accordance with Section 33-128 of this Code; and
- (18) the parcel proposed for alternative development shall satisfy all other applicable underlying district regulations or, if applicable, prior zoning actions issued prior to the effective date of this ordinance (May 2, 2003), regulating setbacks, lot area and lot frontage, lot coverage, floor area ratio, landscaped open space and structure height; and
- (19) the proposed development will meet the following:
 - (A) interior side setbacks shall not be reduced by more than fifty percent (50%) of the side setbacks required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater when the adjoining parcel of land is a BU or IU district; interior side setbacks shall not be reduced by more than twenty-five (25%) percent of the interior side setbacks required by the underlying district regulations when the adjoining parcel of land allows a discordant use.
 - (B) side street setbacks shall not be reduced by more than twenty-five (25%) of the underlying district regulations;

- (B) front setbacks (including double-frontage setbacks) shall not be reduced by more than twenty-five (25%) percent of the setbacks required by the underlying district regulations; and
 - (D) rear setbacks shall not be reduced below fifty (50%) percent of the rear setback required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater, when the adjoining parcel of land is a BU or IU district; rear setbacks shall not be reduced below twenty-five (25%) percent of the rear setback required by the underlying district regulations when the adjoining parcel of land allows a discordant use.
 - (E) setbacks between building(s) shall not be reduced below 10 feet, or the minimum distance required to comply with fire safety standards, whichever is greater.
- (d) **An alternative lot coverage or floor area ratio** for a building shall be approved upon demonstration of the following:
- (1) total lot coverage or floor area ratio shall not be increased by more than ten percent (10%) of the lot coverage or floor area permitted by the underlying district regulations; and
 - (2) the proposed alternative development will not result in the destruction or removal of mature trees on the lot with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the lot; and
 - (3) the increase in lot coverage or floor area ratio will not result in a principal or accessory building(s) with an architectural design, scale, mass or building materials that are not aesthetically harmonious with that of other existing or proposed structures in the immediate vicinity; and
 - (4) the proposed alternative development will not result in an obvious departure from the aesthetic character of in the immediate vicinity.
- (h) **An alternative placement of a required perimeter wall** setback from the property line(s) of a parcel where said property line adjoins or lies across the street right-of-way from a residential district, shall be approved after public hearing upon demonstration of the following:
- (1) the setback of the wall is the minimum distance necessary so as not to encroach into an existing utility or landscape easement(s); and
 - (2) that visual screening for the wall by way of landscaping is included in the easement area to prevent graffiti vandalism in a manner provided by this Code; and

- (3) that a suitable mechanism for maintenance of the landscaped area by the property owner, tenant association or similar association be provided in the form of a covenant running with the land.
- (i) **An alternative opening in a wall** otherwise required by this code to be a solid, unbroken barrier when a parcel adjoins or lies adjacent to a residential district, shall be approved after public hearing upon demonstration of the following:
 - (1) the width of the wall opening is the minimum width necessary for pedestrians to access the parcel from adjoining or adjacent residential development(s); and
 - (2) the wall opening is immediately adjoining or adjacent to a residential lot, parcel or tract which is restricted in use as common open space.
- (k) **Notwithstanding the foregoing**, no proposed alternative development shall be approved upon demonstration that the proposed alternative development:
 - (1) will result in a significant diminution of the value of property in the immediate vicinity; or
 - (2) will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or
 - (3) will result in a materially greater adverse impact on public services and facilities than the impact that would result from development of the same parcel pursuant to the underlying district regulations.
- (l) **Proposed alternative development** under this subsection shall provide additional amenities or buffering to mitigate the impacts of the development as approved, where the amenities or buffering expressly required by this subsection are insufficient to mitigate the impacts of the development. The purpose of the amenities or buffering elements shall be to preserve and protect the economic viability of any commercial enterprises proposed within the approved development and the quality of life of residents and to her owners of property in the immediate vicinity in a manner comparable to that ensured by the underlying district regulations. Examples of such amenities include but are not limited to: active or passive recreational facilities, landscaped open space over and above that normally required by the code, additional trees or landscaping materials, the inclusion of residential use(s), convenient pedestrian connection(s) to adjacent residential development(s), convenient covered bus stops or pick-up areas for transportation services, sidewalks (including improvements, linkages, or additional width), bicycle paths, buffer areas or berms, street furniture, under grounding of utility lines, monument signage (where detached signs are allowed) or limited and cohesive wall signage, and decorative street lighting. In determining which amenities or buffering elements are appropriate, the following shall be considered:
 - (A) the types of needs of the residents or other owners immediate vicinity and the needs of the business owners and employees of the parcel proposed for development that would likely be occasioned by the development, including

but not limited to recreational, open space, transportation, aesthetic amenities, and buffering from adverse impacts; and

- (B) the proportionality between the impacts on the residents or other owners of property of parcel(s) in the immediate vicinity and the amenities or buffering required. For example, a reduction in setbacks for numerous lots or significantly large commercial buildings may warrant the provision of additional landscaped open space.

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

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

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

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

G. NEIGHBORHOOD SERVICES:

DERM	No objection to Plan 'A'	No comment to Plan 'B'
Public Works	No objection to Plan 'A'	No objection to Plan 'B'
Fire Rescue	No objection to Plan 'A'	No objection to Plan 'B'
Police	No objection to Plan 'A'	No comment to Plan 'B'
Schools	No comment	
Aviation	No objection to Plan 'A'	No comment to Plan 'B'

*Subject to conditions indicated in their memoranda.

H. ANALYSIS:

On September 1, 2009 the Community Zoning Appeals Board #12 (CZAB-12) denied without prejudice the applicant's requests under this application in its entirety by a vote of 4 to 3, pursuant to Resolution CZAB12-15-09. On September 13, 2009 the applicant appealed the CZAB-12 decision to the Board of County Commissioners (BCC) citing that the Board's decision to deny without prejudice the requests under this application was arbitrary and capricious, void of substantial competent evidence, and contrary to the recommendation of the Department of Planning and Zoning.

This applicant has appealed this application which, pursuant to Resolution #CZAB12-15-09, was denied without prejudice by the CZAB 12, on September 1, 2009. The subject property is located east of S.W. 72 Avenue, between S.W. 40 Street (Bird Road) and S.W. 41 Street in an area characterized by single-family residences, commercial and industrial uses. The applicant is seeking a zone change on the subject property from BU-1A, Limited Business District, and RU-1, Single-Family Residential District, to BU-2, Special Business District, (request #1) in order to construct an office and commercial development on the site. The Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) designates the subject property for **Business and Office** use. This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes, entertainment and cultural facilities, amusements and commercial recreation establishments. These uses may occur in self-contained centers, high-rise structures, campus parks, municipal central business districts or strips along highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly compatibility with both adjacent and adjoining uses, and availability of highway capacity, ease of access and availability of other public services and facilities. Staff notes that BU-2 zoning exists immediately to the east of the subject property where a storage facility was approved in 2001 along with several variances. Staff further notes that BU-1A zoning with a commercial building already exists to the west of the subject site and IU-1, Light Industrial District, zoning exists to the south of the subject site where the neighboring building is being utilized as an animal hospital. Staff further acknowledges that, although there are a few remnant RU-1 zoned lots to the south of the subject site, the area is designated Industrial and Office which permits uses that are more intense than the uses permitted in the BU-2 zone. The proposed BU-2 zoning permits uses such as convention halls, grocery stores, junior department stores, restaurants, supermarkets, liquor package stores, office parks, and regional shopping centers, among others, which are permitted uses in the Business and Office designation of the CDMP. The proposed BU-2 zoning is, therefore, **compatible** with zones in the area and **consistent** with the Business and Office LUP Map designation of the Master Plan. Additionally, the applicant has voluntarily proffered a covenant for each site plan option (Plan 'A' or Plan 'B') each restricting the development of the site to the site plans submitted for this application, additionally the covenants describe architectural details to the building elevations, minimum size trees, lighting restrictions, environmental development and restricting permitted uses on the site.

The Department of Environmental Resources Management (**DERM**) **does not object** to Plan 'A' and has provided no comments to Plan 'B', and indicates that Plan 'A' meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County. However, the applicant will have to comply with all DERM conditions as set forth in their memorandum pertaining to this application for Plan 'A'. Additionally, the **Public Works Department does not object** to this application (Plan 'A' or 'B'). Their memorandum nonetheless indicates that access to SW 40 Street must meet current F.D.O.T. access management requirements. Additionally, the subject property requires platting and, therefore, road dedications and improvements will be accomplished through the recording of a plat. The Fire Department offers **no objections** to this application (Plan 'A' or 'B') and has indicated in their memorandum that the response time to the site is approximately **6:01** minutes. The Miami-Dade Aviation Department (**MDAD**) also **does not object** to Plan 'A' and has provided no comments for 'B'. Their memorandum indicates that the proposed project will not require a Height Analysis or Letter of Determination as it does not meet their review criteria.

When considering district boundary changes, the Board shall hear and grant or deny applications by taking into consideration whether the proposed development will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts, the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment, and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development. Additionally, the Board shall consider whether the development will have a favorable or unfavorable impact on the economy of Miami-Dade County, if it will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education, public transportation facilities which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways. Further, the Board shall take into consideration whether the development conforms to the CDMP. As previously mentioned, the development of the subject property, if granted, would be consistent with the LUP Map designation of the Comprehensive Development Master Plan for Miami-Dade County. The applicant is requesting a zone change from BU-1A and RU-1 to BU-2 on the subject property in order to construct an office and commercial development. Staff recognizes that the proposed zoning of the subject property would uniformly zone the site, and that the proposed BU-2 zoning is consistent with the Business and Office land use category of the LUP Map of the CDMP. Furthermore, the proposed rezoning to BU-2 will not have an unfavorable impact on the environment as indicated in DERM's memorandum, which indicates that the application is acceptable. Additionally, staff notes that the proposal on the subject site is accessible by two major roadways, SW 72 Avenue and SW 40 Street, and as such, will be readily accessible to patrons. Staff further notes that a storage facility was approved in 2001 with a maximum height of 59'-9" on a neighboring property to the east. Staff is of the opinion that abundant landscaping elements in the form of trees and shrubs as illustrated on the submitted plans and 100' wide rights-of-way of SW 72 Avenue and SW 40 Street will effectively mitigate any negative visual or aural impacts the proposed retail and office uses may have on the adjoining properties. As such, staff is of the opinion that the proposed zone change and the accompanying submitted plans (Plan 'A') are **compatible** with the area and are **consistent** with the CDMP. Accordingly, staff recommends approval of the zone change request to BU-2 (request #1), subject to the Board's acceptance of the proffered covenant.

When requests #2 through #4 (Plan 'A') are analyzed under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards, staff is of the opinion that said requests maintain the basic intent and purpose of the zoning, subdivision and other land use regulations, would be **compatible** with the surrounding area and would not be detrimental to the neighborhood. Approval of request #2, to permit a setback of 20' (39' required) from the front (north and south) property lines and 15' (39' required) from the side street (west) property line, in staff's opinion, will serve to enhance the character of the site through Plan 'A' incorporation of sound urban design principles as enumerated in the Guidelines for Urban Form. **Policy LU-9J** of the CDMP indicates that Miami-Dade County shall continue to use, but not be limited exclusively to, design guidelines established in its urban design manual as additional criteria for use in the review of all applications for new residential, commercial and industrial development in unincorporated Miami-Dade County. Staff notes that the Guidelines for Urban Form specify that in commercial areas, pedestrian access should be further accommodated by pedestrian pathways from the neighborhood to the business entrances as convenient as those from parking lots, and by providing awnings, overhangs or porticos for protection from the sun and weather. Requests #3, to permit a lot coverage of 49.9% (40% maximum permitted), and request #4, to permit a floor area ratio (F.A.R.) of 1.5 (1.35 maximum permitted), in staff's opinion, are indicative and supportive of the urban design elements expressed above, and any negative visual or aural impacts generated by the proposed retail and office use building will be mitigated by abundant landscaping elements as illustrated on the submitted plans and by the 100' wide rights-of-way of SW 72 Avenue and SW 40 Street. As previously mentioned, the submitted plans depict street trees proposed for this development in the form of Live Oak and Sabal Palms which will accommodate pedestrian circulation along the perimeter of the proposed commercial development by sheltering the proposed pedestrian walkways from passing traffic along SW 72 Avenue and SW 40 Street. Additionally, staff notes that a self-storage facility located on a BU-2 zoned property already exists immediately to the east of the subject property where in 2001 this Board approved said use with several companion variances including a similar request to permit a lot coverage of 49.99% (40% permitted) and a more intense request to permit a floor area ratio of 1.95 (0.84 permitted), pursuant to Resolution #CZAB12-44-01. As such, based on all the aforementioned, staff recommends approval with conditions of requests #2 through #4 (Plan 'A') under Section 33-311(A)(4)(b) (NUV).

When requests #5 through #7 (Plan 'B') are analyzed under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards, staff is of the opinion that said requests do not maintain the basic intent and purpose of the zoning, subdivision and other land use regulations, would be **incompatible** with the surrounding area and would be detrimental to the neighborhood. Staff notes that Plan 'A' and Plan 'B' appear very similar. However, since the proposed building in Plan 'B' is much bulkier and exceeds the floor area ratio by 0.18 more than on Plan 'A'. Staff is of the opinion that such bulkiness and excessive floor area ration would be incompatible with the surrounding area and recommends that Plan 'B' (requests #5 through #7) be denied without prejudice under Section 33-311(A)(4)(b) (NUV).

Request #8, (Plans 'A' or 'B') to waive the required wall set in 10' from the right-of-way and portions of a 10' wide landscape strip along the rear (south) property line where said lot lies across the street from RU zoned property, to permit openings for ingress/egress drives, in staff's opinion, will not be detrimental to the residential properties located to the south of the subject site. Staff notes that ample landscaping is provided along this

southeastern portion of the site, which will mitigate any negative impact generated by this request. Therefore, staff is of the opinion that the approval of the proposal would not be out of character with the area and would be **compatible** with same. As such, based on all the aforementioned, staff recommends approval with conditions of requests #2 through #5 under Section 33-311(A)(4)(b) (NUV).

The Alternative Site Development Option (ASDO) Standards for the BU Zoning District, Section 33-311(A)(16), provide for the approval of a zoning application which can demonstrate at a public hearing that the development requested is in compliance with the applicable ASDO Standards and does not contravene the enumerated public interest standards as established. However, the applicant has not provided staff with the documentation required for analysis under same. As such, requests #2 through #4 (Plan 'A') or for requests #5 through #7 (Plan 'B') cannot be analyzed under the ASDO Standards and should be denied without prejudice under Section 33-311(A)(16) (ASDO).

When requests #2 through #4 (Plan 'A'), requests #5 through #7 (Plan 'B') and request #8 (with either request Plan 'A' or 'Plan 'B') are analyzed under the Alternative Non-Use Variance (ANUV) Standard, Section 33-311(A)(4)(c), the applicant would have to prove that the requests are due to an unnecessary hardship and that, should said requests not be granted, such denial would not permit the reasonable use of the premises. However, since this property can be developed under the proposed BU-2 or under the existing zoning regulations, staff is of the opinion that either requests #2 through #4 (Plan 'A'), requests #5 through #7 (Plan 'B') and request #8 (with either request Plan 'A' or 'Plan 'B') cannot be approved under the ANUV Standard and should be denied without prejudice under same.

Based on the foregoing, staff opines that the proposed office and commercial development is **compatible** with the area and is **consistent** with the Business and Office LUP Map designation of the CDMP. Therefore, staff recommends approval of request #1, subject to the Board's acceptance of the voluntarily proffered covenant; approval with conditions of requests #2 through #4 and request #8 under Section 33-311(A)(4)(b) (NUV) and denial without prejudice of same under Section 33-311(A)(16) (ASDO) and under Section 33-311(A)(4)(c) (ANUV) and denial without prejudice of requests #4 through #7 under Sections 33-311(A)(4)(b) (NUV), 33-311(A)(16) (ASDO) and 33-311(A)(4)(c) (ANUV).

I. RECOMMENDATION:

Partial approval of the appeal submitted by the applicant subject to conditions more specifically as approval of request #1, subject to the Board's acceptance of the proffered covenant and approval with condition of requests #2 through #4 and request #8 under Section 33-311(A)(4)(b) (NUV) and denial without prejudice of same under Section 33-311(A)(16) (ASDO) and under Section 33-311(A)(4)(c) (ANUV) and denial without prejudice of requests #5 through #7 under Sections 33-311(A)(4)(b) (NUV), 33-311(A)(16) (ASDO) and 33-311(A)(4)(c) (ANUV).

J. CONDITIONS: For requests #2 through #4 and request #8 only.

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit; said plan to include among other things but not be limited to,

location of structure or structures, types, sizes and location of signs, light standards, off-street parking areas, exits and entrances, drainage, walls, fences, landscaping, etc.

2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Site Plan Study for Multiuse Project at: B & F Marine, Inc. - Plan 'A'," as prepared by Tapia-Ruano Architect, Inc., consisting of 13 sheets and dated stamped received 1/22/08.
3. That the openings on the exterior facades of the parking garage, except openings designed to provide vehicular and pedestrian ingress and egress, be outfitted with an architectural mesh or grill screening material. Said screening material and design scheme shall be submitted to and meet the approval of the Director prior to the issuance of a building permit.
4. That street trees along the rear (south) property line shall be 18-feet in height at the time of planting.
5. That all outdoor lighting fixtures shall be located, oriented, adjusted and shielded such that the lighting is deflected, shaded and focused away from adjacent property in accordance with Section 33-4.1 of the Code.
6. That the use be established and maintained in accordance with the approved plan and the voluntarily proffered covenants.
7. 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.
8. That the applicant comply with all of the applicable conditions, requirements, recommendations, requests and other provisions of the various Departments as contained in the Departmental memoranda which are part of the record of this application and incorporated herein by reference.

DATE INSPECTED: 06/20/08
DATE TYPED: 07/02/08
DATE REVISED: 07/03/08; 07/11/08; 07/30/08; 08/25/08; 09/23/08; 07/02/09; 07/08/09
07/29/09; 12/02/09; 12/03/09
DATE FINALIZED: 12/03/09
MCL;GR:NN;TA


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

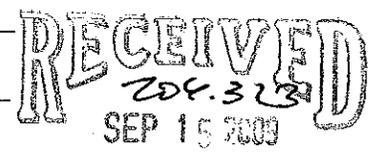
PETITION OF APPEAL FROM DECISION OF
MIAMI-DADE COUNTY COMMUNITY ZONING APPEALS BOARD
TO THE BOARD OF COUNTY COMMISSIONERS

CHECKED BY RC AMOUNT OF FEE _____

RECEIPT # _____

DATE HEARD: 09/01/2009

BY CZAB # 12



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

DATE RECEIVED STAMP

This Appeal Form must be completed in accordance with the "Instruction for Filing an Appeal" and in accordance with Chapter 33 of the Code of Miami-Dade County, Florida, and return must be made to the Department on or before the Deadline Date prescribed for the Appeal.

RE: Hearing No. 06-323

Filed in the name of (Applicant) B & F Marine, Inc.

Name of Appellant, if other than applicant Same

Address/Location of APPELLANT'S property: Lying east of S.W. 72nd Avenue, between S.W. 40th Street (Bird Road) and S.W. 41st Street, Miami-Dade County, Florida, a/k/a 4001 S.W. 72nd Avenue, Miami, Florida 33155.

Application, or part of Application being Appealed (Explanation): Entire Application

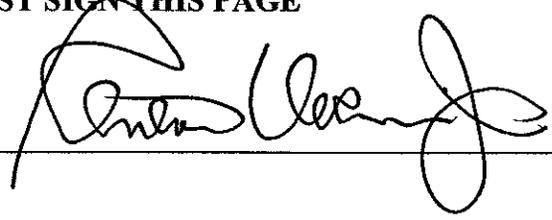
Appellant (name): B & F Marine, Inc. hereby appeals the decision of the Miami-Dade County Community Zoning Appeals Board with reference to the above subject matter, and in accordance with the provisions contained in Chapter 33 of the Code of Miami-Dade County, Florida, hereby make application to the Board of County Commissioners for review of said decision. The grounds and reasons supporting the reversal of the ruling of the Community Zoning Appeals Board are as follows:

(State in brief and concise language)

The decision by the Community Zoning Appeals Board 12 (CZAB 12) was not based on substantial competent evidence. Instead, the decision by the CZAB 12 was arbitrary and capricious.

APPELLANT MUST SIGN THIS PAGE

Date: 14 day of September, 2009

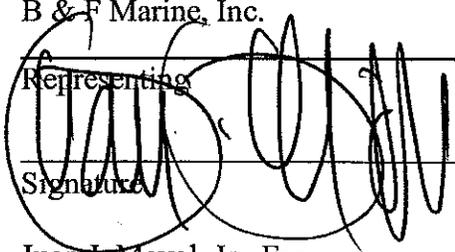
Signed 

Antonio Veciana, Jr.
Print Name

B & F Marine, Inc.
4001 S.W. 72nd Avenue, Miami, Florida 33155
Mailing Address

305-662-2858 305-662-2943
Phone Fax

REPRESENTATIVE'S AFFIDAVIT
If you are filing as representative of an association or other entity, so indicate:

B & F Marine, Inc.
Representing

Signature

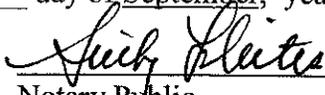
Juan J. Mayol, Jr., Esq.
Print Name

701 Brickell Avenue, Suite 3000
Address

Miami Florida 33131
City State Zip

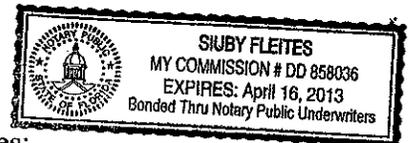
305-789-7787
Telephone Number

Subscribed and Sworn to before me on the 14th day of September, year 2009


Notary Public

(stamp/seal)

Commission expires:



22

APPELLANT'S AFFIDAVIT OF STANDING
(must be signed by each Appellant)

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

Before me the undersigned authority, personally appeared Antonio Veciana, Jr., President, B & F Marine, Inc. (Appellant) who was sworn and says that the Appellant has standing to file the attached appeal of a Community Zoning Appeals Board decision.

The Appellant further states that they have standing by virtue of being of record in Community Zoning Appeals Board matter because of the following:

(Check all that apply)

- 1. Participation at the hearing
- 2. Original Applicant
- 3. Written objection, waiver or consent

Appellant further states they understand the meaning of an oath and the penalties for perjury, and that under penalties of perjury, Affiant declares that the facts stated herein are true.

Further Appellant says not.

Witnesses:

Alberto J. Torres
Signature

ALBERTO J. TORRES
Print Name

Siuby Fleites
Signature

SIUBY FLEITES
Print Name

Antonio Veciana, Jr.
Appellant's signature

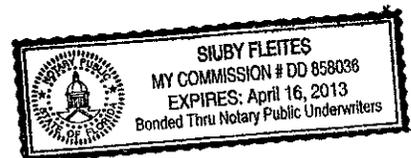
Antonio Veciana, Jr.
B & F Marine, Inc.

Sworn to and subscribed before me on the 14th day of September, 2009.

Appellant is personally know to me or has produced _____ as identification.

Siuby Fleites
Notary
(Stamp/Seal)
Commission Expires:

8822316_v1



RESOLUTION NO. CZAB12-15-09

WHEREAS, B & F MARINE, INC. applied for the following:

- (1) BU-1A and RU-1 to BU-2
- (2) Applicant is requesting to permit a proposed eleven (11) story building setback 20' (39' required) from the front (north and south) property lines setback a minimum of 15' (39' required) from the side street (west) property line.
- (3) Applicant is requesting to permit a lot coverage of 49.9% (40% maximum permitted).
- (4) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.50 (1.35 maximum permitted).

REQUESTS #2-#4 ON PLAN "A"

- (5) Applicant is requesting to permit a proposed eight (8) story building setback 20' (33.2' required) from the front (north and south) property lines setback a minimum of 15' (33.2' required) from the side street (west) property line.
- (6) Applicant is requesting to permit a lot coverage of 50.2% (40% maximum permitted).
- (7) Applicant is requesting to permit a floor area ratio (F.A.R.) of 1.50 (1.17 maximum permitted).

REQUESTS #5-#7 ON PLAN "B"

AND WITH EITHER GROUP OF REQUESTS, THE FOLLOWING:

- (8) Applicant is requesting to waive the required wall set in 10' from the right-of-way with a 10' wide landscape strip along portions of the rear (south) property line where said lot lies across the street from RU zoned property.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2-#7 may be considered under §33-311(A)(16) (Alternative Site Development Option for the BU Zoning District) and approval of requests #2-#8 may be considered under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Site Plan Study for Multiuse Project at: B & F Marine, Inc - Plan 'A'," as prepared by Tapia-Ruano Architect, Inc., consisting of 13 sheets and dated stamped received 1/22/08 and "Site Plan Study for Multiuse Project at: B & F Marine, Inc - Plan 'B'," as prepared by Tapia-Ruano Architect, Inc., consisting of 16 sheets and dated stamped received 12/1/08. Plans may be modified at public hearing.

SUBJECT PROPERTY: The west 112' of Tract 2, of AMENDED PLAT OF BIRD ROAD ESTATES, SECTION TWO, Plat book 33, Page 19, less the north 15' and less all that part of Tract 2 which lies within the external area formed by a 25' radius arc concave to the southeast tangent of the west line of said Tract 2, and tangent to the south line of the north

15' of said Tract 2. AND: PARCEL 1: All of QUEECK SUBDIVISION (A resubdivision of the south 110' of the east 100' of Tract 2, of the AMENDED PLAT OF BIRD ROAD ESTATES, SECTION 2, Plat book 33, Page 19), Plat book 66, Page 85, being the same property described in the warranty deed recorded under Clerk's File No. 77R-279948 in Official Records Book 9855, Page 1509. AND: PARCEL 2: The east 50' of the west 162' of the south 110' of Tract Two, of BIRD ROAD ESTATES, SECTION TWO, Plat book 33, Page 19. AND PARCEL 3: The east 50' of the west 212' of the south 110' of Tract 2, of BIRD ROAD ESTATES AMENDED, SECTION TWO, Plat book 33, Page 19.

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

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 12 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 two Declaration of Restrictions, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested district boundary change to BU-2 (Item #1) 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 that the requests to permit a proposed eleven (11) story building setback 20' from the front (north and south) property lines setback a minimum of 15' from the side street (west) property line (Item #2), to permit a lot coverage of 49.9% (Item #3), to permit a floor area ratio (F.A.R.) of 1.50 (Item #4), to permit a proposed eight (8) story building setback 20' from the front (north and south) property lines setback a minimum of 15' from the side street (west) property line (Item #5), to permit a lot coverage of 50.2% (Item #6), to permit a floor area ratio (F.A.R.) of 1.50 (Item #7), and to waive the required wall set in 10' from the right-of-way with a 10' wide landscape strip along portions of the rear (south) property line where said lot lies across the street from RU zoned property (Item #8) would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and

WHEREAS, a motion to deny Items #1 through 8 was offered by Peggy Brodeur, seconded by Alberto Santana, and upon a poll of the members present the vote was as follows:

Peggy Brodeur	aye	Carla Ascencio-Savola	nay
Jorge Luis Garciga	nay	Jose I. Valdes	nay
Alberto Santana	aye	Angela Vazquez	aye
Elliot N. Zack		aye	

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 12, that the requested district boundary change to BU-2 (Item #1) be and the same is hereby denied without prejudice.

BE IT FURTHER RESOLVED that the requests to permit a proposed eleven (11) story building setback 20' from the front (north and south) property lines setback a minimum of 15' from the side street (west) property line (Item #2), to permit a lot coverage of 49.9% (Item #3), to permit a floor area ratio (F.A.R.) of 1.50 (Item #4), to permit a proposed eight (8) story building setback 20' from the front (north and south) property lines setback a minimum of 15' from the side street (west) property line (Item #5), to permit a lot coverage of 50.2% (Item #6), to permit a floor area ratio (F.A.R.) of 1.50 (Item #7), and to waive the required wall set in 10' from the right-of-way with a 10' wide landscape strip along portions of the rear (south) property line where said lot lies across the street from RU zoned property (Item #8) be and the same are hereby denied without prejudice.

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

PASSED AND ADOPTED this 1st day of September, 2009.

Hearing No. 08-9-CZ12-1
ej

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

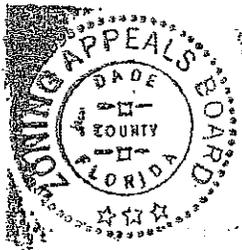
I, Earl Jones, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Miami-Dade County Community Zoning Appeals Board 12, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB12-15-09 adopted by said Community Zoning Appeals Board at its meeting held on the 1st day of September, 2009.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 14th day of September, 2009.



Earl Jones, Deputy Clerk (3230)
Miami-Dade County Department of Planning and Zoning

SEAL



Memorandum



Date: July 8, 2008

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

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

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

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

Potable Water Service and Wastewater Disposal

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

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

Notwithstanding the foregoing, and in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle the additional flows that this project would generate. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available at the point in time when the project will be contributing sewage to the system. Lack of adequate capacity in the system may require the approval of alternate means of sewage disposal. Use of an alternate means of sewage disposal may only be granted in accordance with Code requirements, and shall be an interim measure, with connection to the public sanitary sewer system required upon availability of adequate collection/transmission and treatment capacity.

Stormwater Management

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

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

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

Pollution Remediation

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

Air Quality Preservation

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

Hazardous Materials Management

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

Operating Permits

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

Fuel Storage Facilities

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

Wetlands

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

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

Tree Preservation

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

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

Enforcement History

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

B & F Marina
4001 SW 72nd Avenue

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

Concurrency Review Summary

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

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

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

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

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: B & F MARINE, INC.

This Department has no objections to this application.

This Department has no objections to either plan option.

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

Additional improvements may be required at time of platting.

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

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



Raul A Pino, P.L.S.

07-JUL-09



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

miamidade.gov

Commercial Airport:
Miami International Airport

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

August 4, 2008

Received by
Zoning Agenda Coordinator
AUG 08 2008

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

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

Dear Mr. Torres:

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

Airspace Review:

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

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

Delivering Excellence Every Day

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

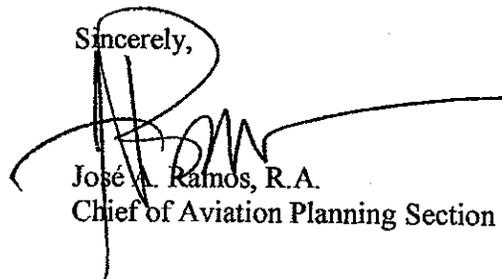
Please note that the airspace review process is governed by two different regulations: the Miami-Dade County Height Zoning Ordinances and Federal Regulation Title 14 Part 77. The FAA has its own airspace evaluation requirements, and issues airspace determinations for structures and cranes based on the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

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

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

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

Sincerely,



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

JR/AH/cf

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



Memorandum

Date: 06-JUL-09
To: Marc LaFerrier, Director
 Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
 Miami-Dade Fire Rescue Department
Subject: Z2006000323

Fire Prevention Unit:

This memo supersedes MDFR memorandum dated June 29, 2009.

APPROVAL:

Fire Engineering & Water Supply Bureau has no objection to site plan A date stamped January 22, 2008 and site plan B date stamped December 1, 2008. Any changes to the vehicular circulation must be resubmitted for review and approval.

Service Impact/Demand

Development for the above Z2006000323 located at LYING EAST OF SW 72 AVENUE, BETWEEN SW 40 STREET (BIRD ROAD) AND SW 41 STREET, in Police Grid 1596 is proposed as the following:

<u>N/A</u>	dwelling units	<u>N/A</u>	square feet
residential		industrial	
67,605	square feet	N/A	square feet
Office		institutional	
10,925	square feet	N/A	square feet
Retail		nursing home/hospitals	

Based on this development information, estimated service impact is: 17.98 alarms-annually.
 The estimated average travel time is: 6:01 minutes

Existing services

The Fire station responding to an alarm in the proposed development will be:
 Station 3 - Tropical Park - 3911 SW 82 Avenue
 Rescue, ALS Engine.

Planned Service Expansions:

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

Fire Planning Additional Comments

Current service impact calculated based on site plan A date stamped January 22, 2008 and site plan B date stamped December 1, 2008. Substantial changes to the plans will require additional service impact analysis.

TEAM METRO

ENFORCEMENT HISTORY

B AND F MARINE, INC.

LYING EAST OF SW 72 AVENUE,
BETWEEN SW 40 STREET (BIRD
ROAD) AND SW 41 STREET,

APPLICANT

ADDRESS

Z2006000323

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

No zoning violations observed

B AND F MARINE, INC

JOE MESLER

DISCLOSURE OF INTEREST*

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

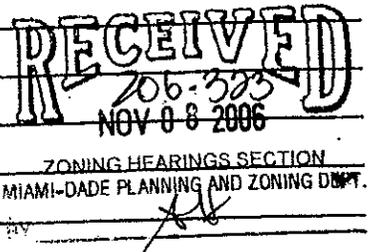
CORPORATION NAME: B&F MARINE, INC.

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

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

TRUST/ESTATE NAME: _____

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



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

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

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

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

NAME OF PURCHASER: BFF MARINE, INC.

NAME, ADDRESS AND OFFICE (if applicable)	Percentage of Interest

Date of contract: _____

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

RECEIVED
206-893
NOV 08 2006

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

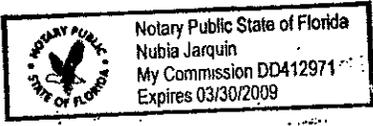
NOTICE: For changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required.

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

Signature: [Signature]
(Applicant)

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

[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.

CL SW 40th STREET (BIRD ROAD)

CL SW 72nd AVENUE

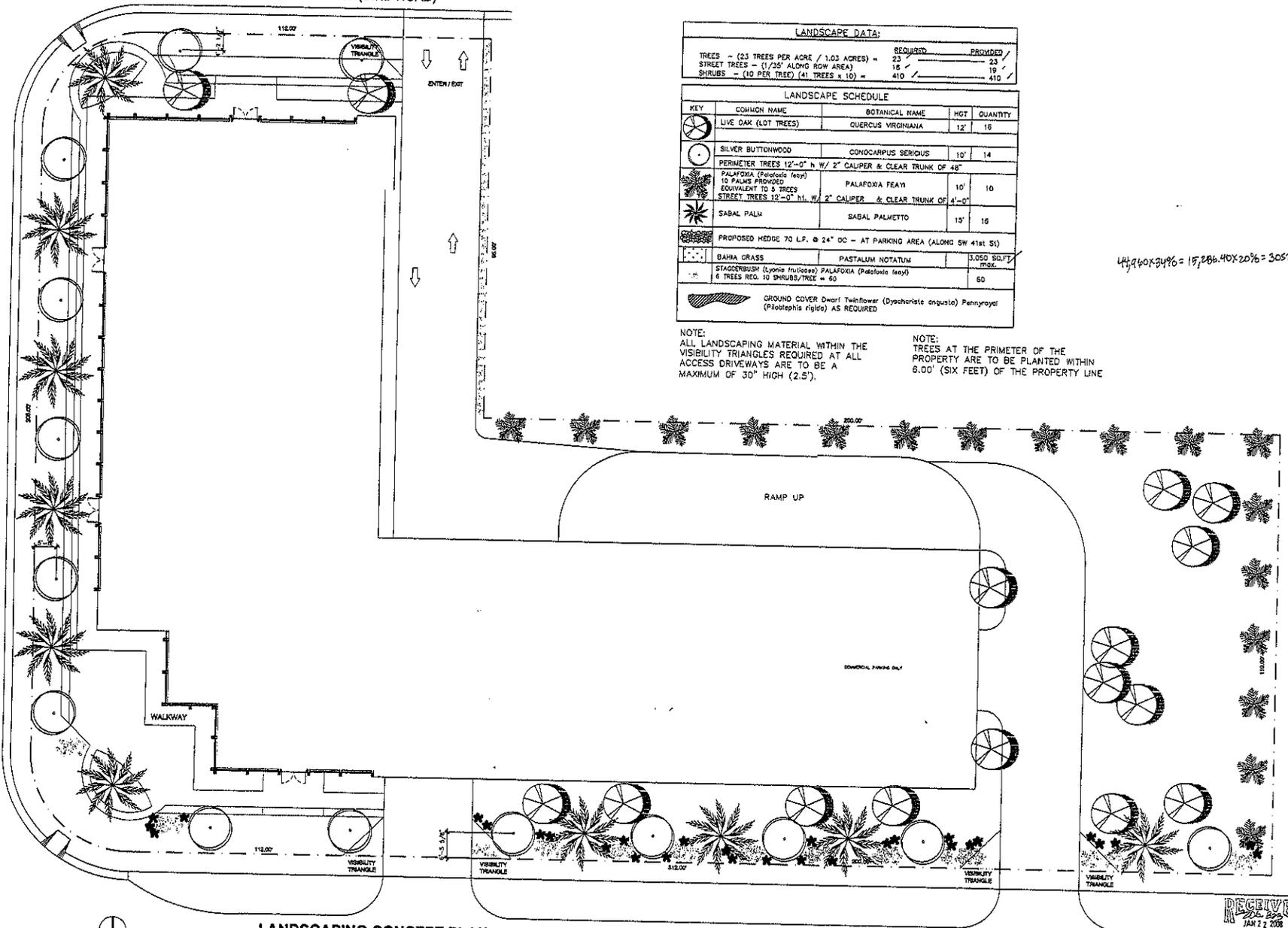
LANDSCAPE DATA:		REQUIRED	PROVIDED
TREES	~ (23 TREES PER ACRE / 1.03 ACRES) =	23	23
STREET TREES	~ (1/25' ALONG ROW AREA) =	16	19
SHRUBS	~ (10 PER TREE) (41 TREES @ 10') =	410	410

LANDSCAPE SCHEDULE				
KEY	COMMON NAME	BOTANICAL NAME	HGT	QUANTITY
	LIVE OAK (LOT TREES)	QUERCUS VIRGINIANA	12'	16
	SILVER BUTTONWOOD	CONYCARPUS SERIGUS	10'	14
PERIMETER TREES 12'-0" H. W/ 2" CALIPER & CLEAR TRUNK OF 48"				
	PALAFoxIA (Palafoxia leafy)	PALAFoxIA FEAYI	10'	10
10 PALMS PROVIDED EQUIVALENT TO 5 TREES				
	SABAL PALM	SABAL PALMETTO	15'	16
PROPOSED HEDGE 70 LF. @ 24" DC - AT PARKING AREA (ALONG SW 41st ST)				
	BAHIA GRASS	PASTALUM NOTATUM	3,050 SQ.FT.	1050
	STAGGERBUSH (Lyonia fluviensis)	PALAFoxIA (Palafoxia leafy)	60	60
6 TREES REQ. 10 SHRUBS/TREE = 60				
	GROUND COVER Dwarf Twinflower (Dyachostete angusta) Pennyroyal (Pliothephia rigida) AS REQUIRED			

$44,460 \times 24\% = 10,670.40 \times 20\% = 2134.08 \text{ MAX. sod.}$

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

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



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

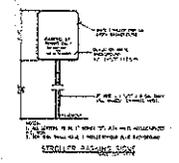
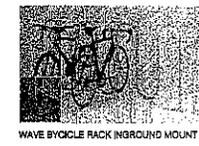
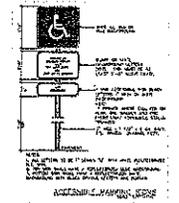
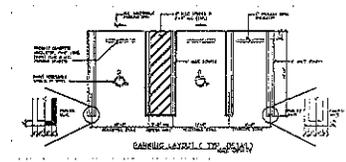
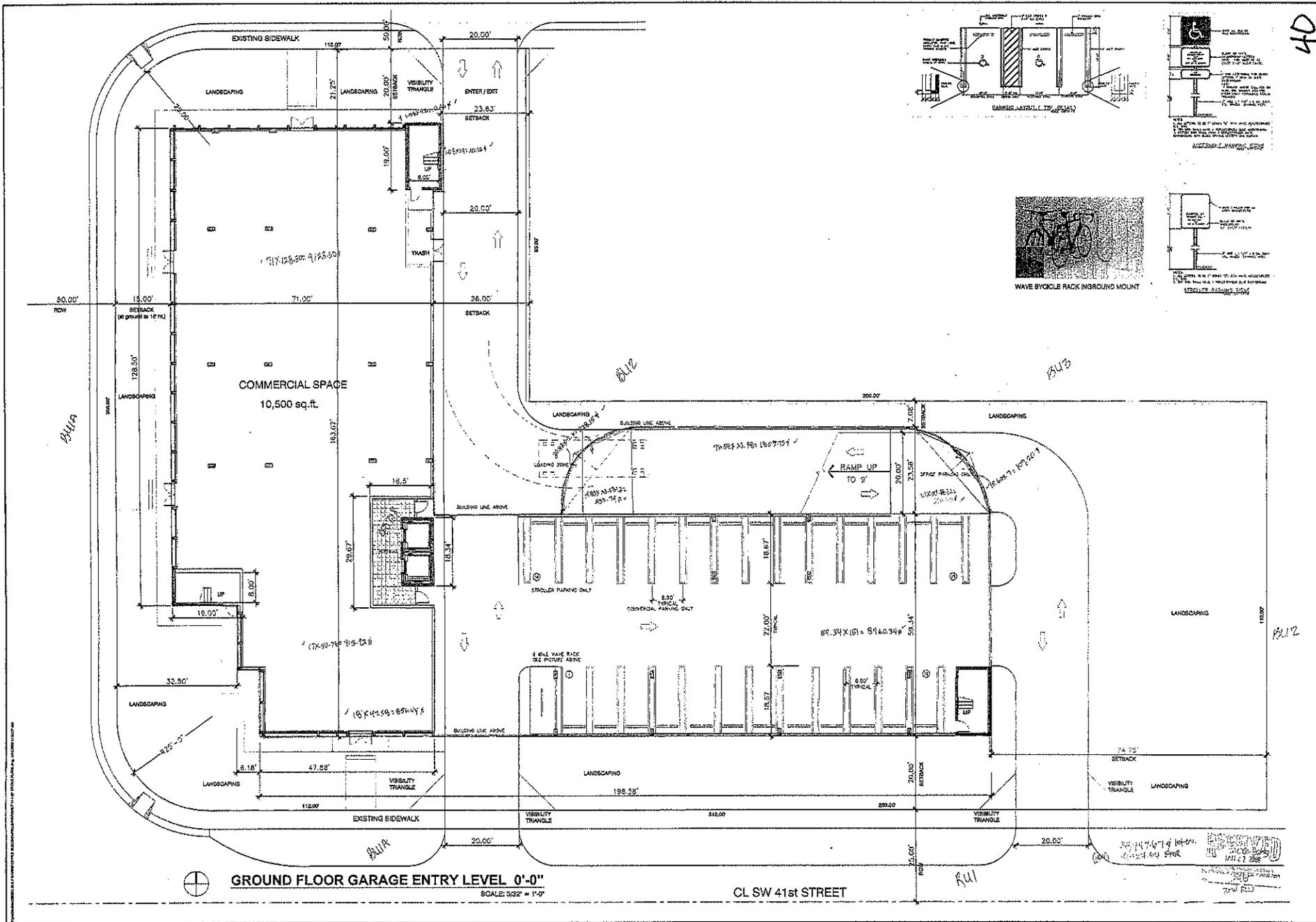
CL SW 41st STREET

RECEIVED
 JAN 22 2018
 B & F MARINE INC.
 4001 SW 72nd AVENUE
 MIAMI, FLORIDA 33166

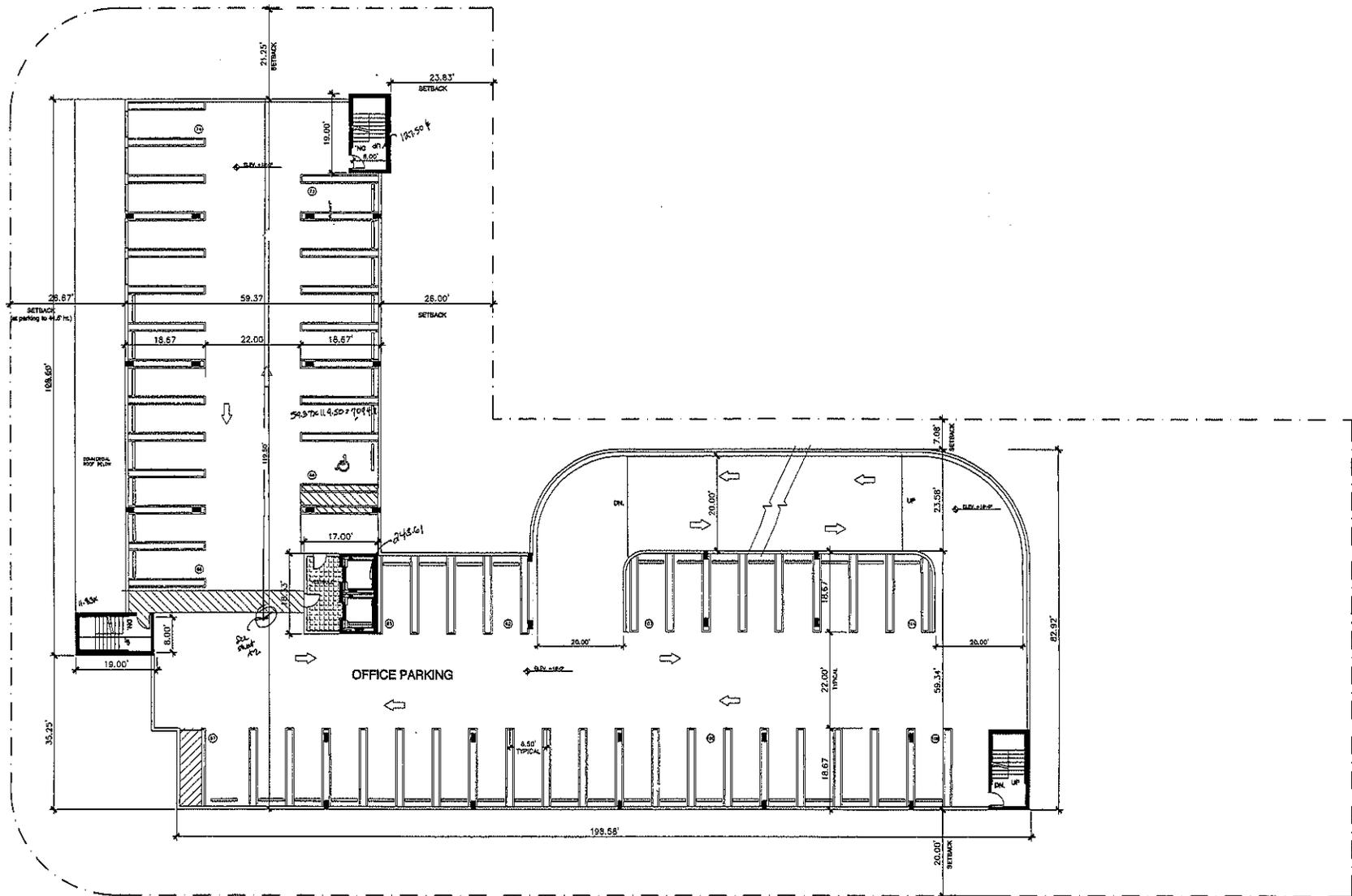
SITE PLAN STUDY FOR MULTIFAMILY PROJECT AT:
 B & F MARINE INC.
 4001 SW 72nd AVENUE
 MIAMI, FLORIDA 33166

PLAN 'A'

Date: 1-18-18
 Compt. No. 031027



40



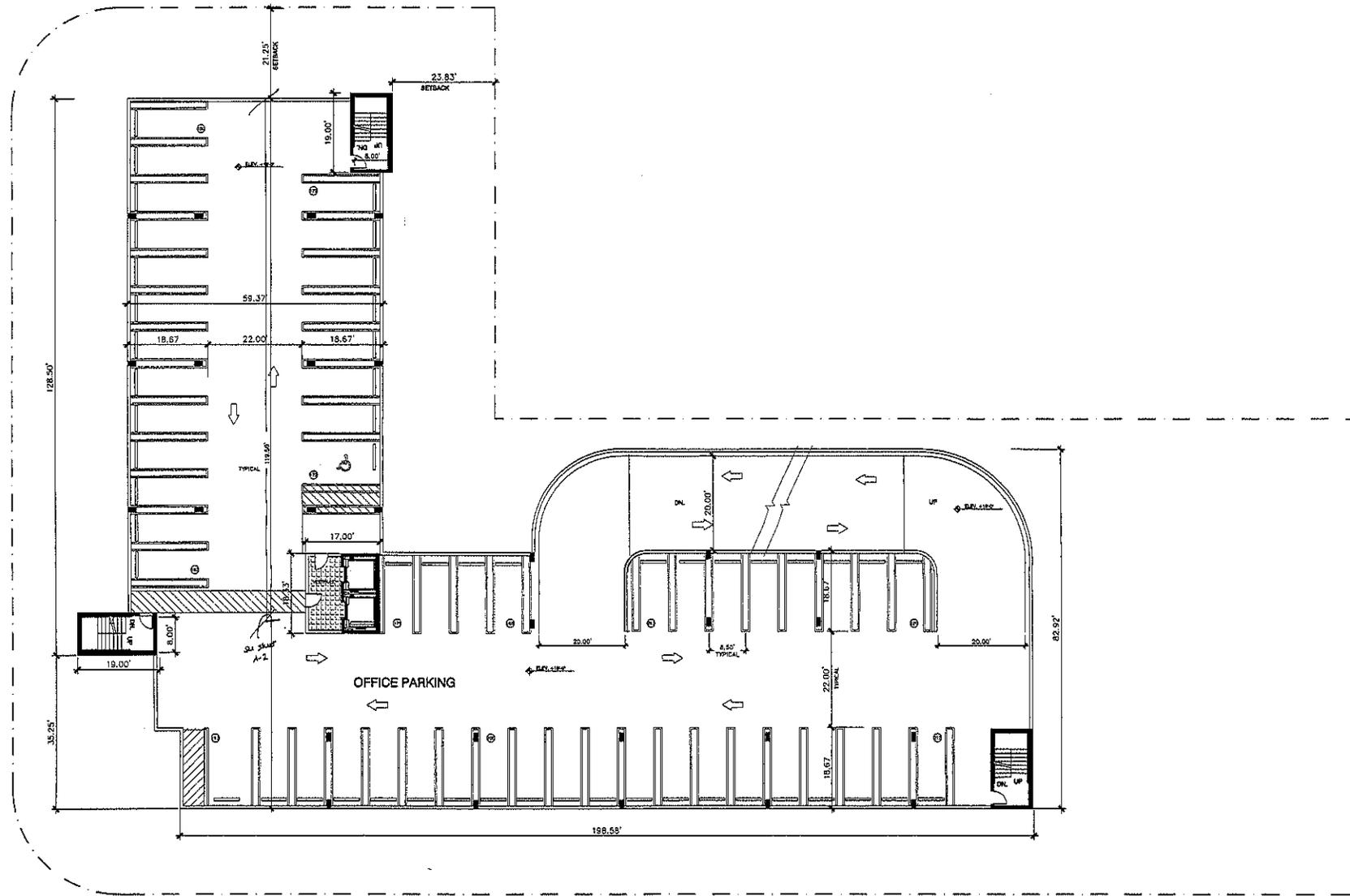

SECOND FLOOR GARAGE LEVEL +18'-0"
 SCALE: 3/32" = 1'-0"

~~7084~~
~~87~~
 6763.80 F

RECEIVED
 JAN 22 2008
 CIVIL ENGINEERING SECTION
 FLORIDA DEPARTMENT OF TRANSPORTATION
 TALLAHASSEE, FLORIDA

42

PLAN
 A-1




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

6720604

RECEIVED
 JAN 22 2008
 PROJECT NO. 080107

44

PLAN
A

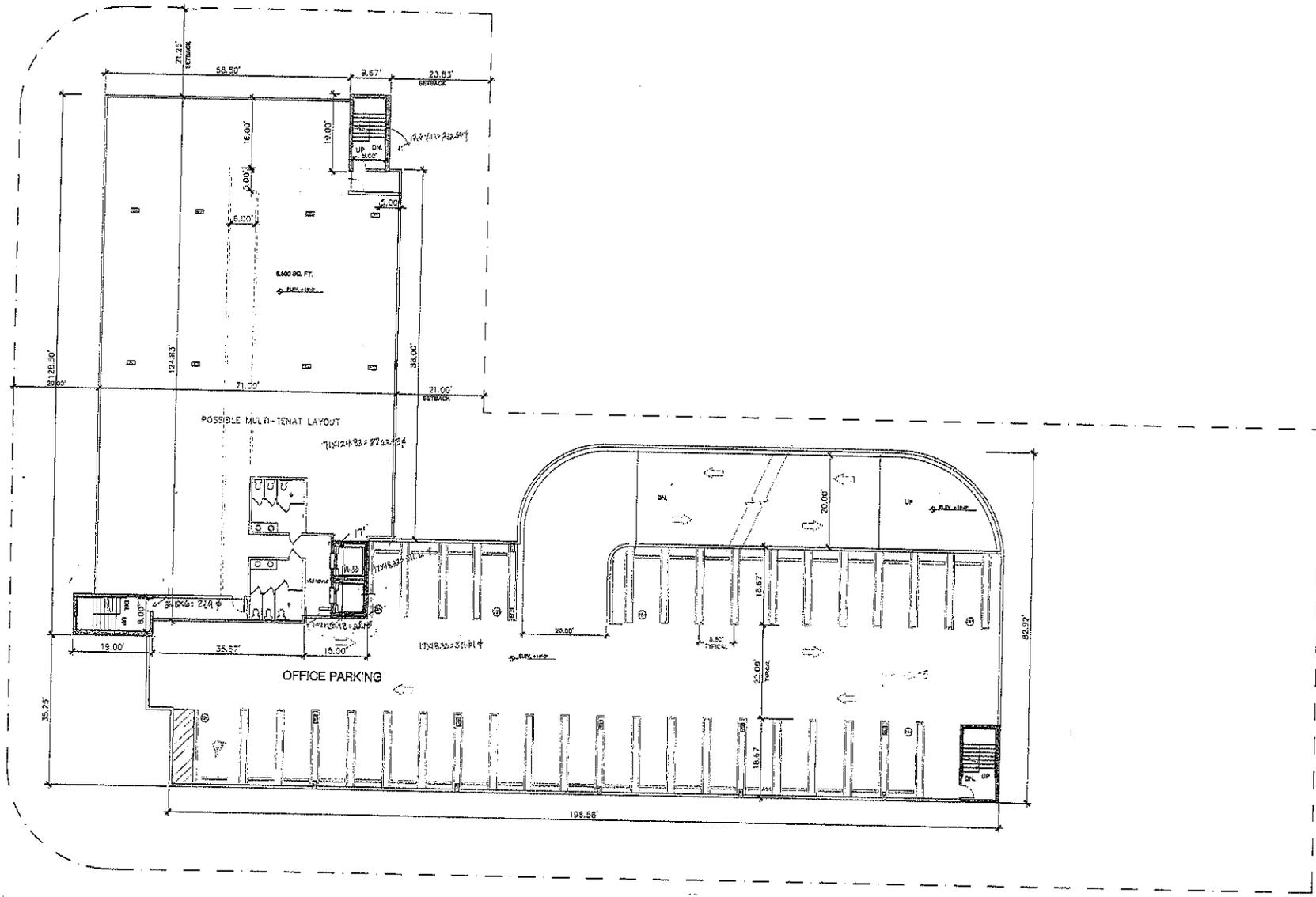
Date: 1-16-08
 Comm. No. 080107

A-5

Tapia-Ruano Architect Inc.
 170 NW 2nd Terrace
 Miami, Florida 33139

BITE PLAN STUDY FOR MULTITRIBE PROJECT AT:
B & F MARINE INC.
 4001 89th Avenue
 Miami, Florida 33185

AA 000008



⊕ FIFTH FLOOR GARAGE LEVEL & FIRST OFFICE FLOOR +46'-0"
SCALE: 3/32" = 1'-0"

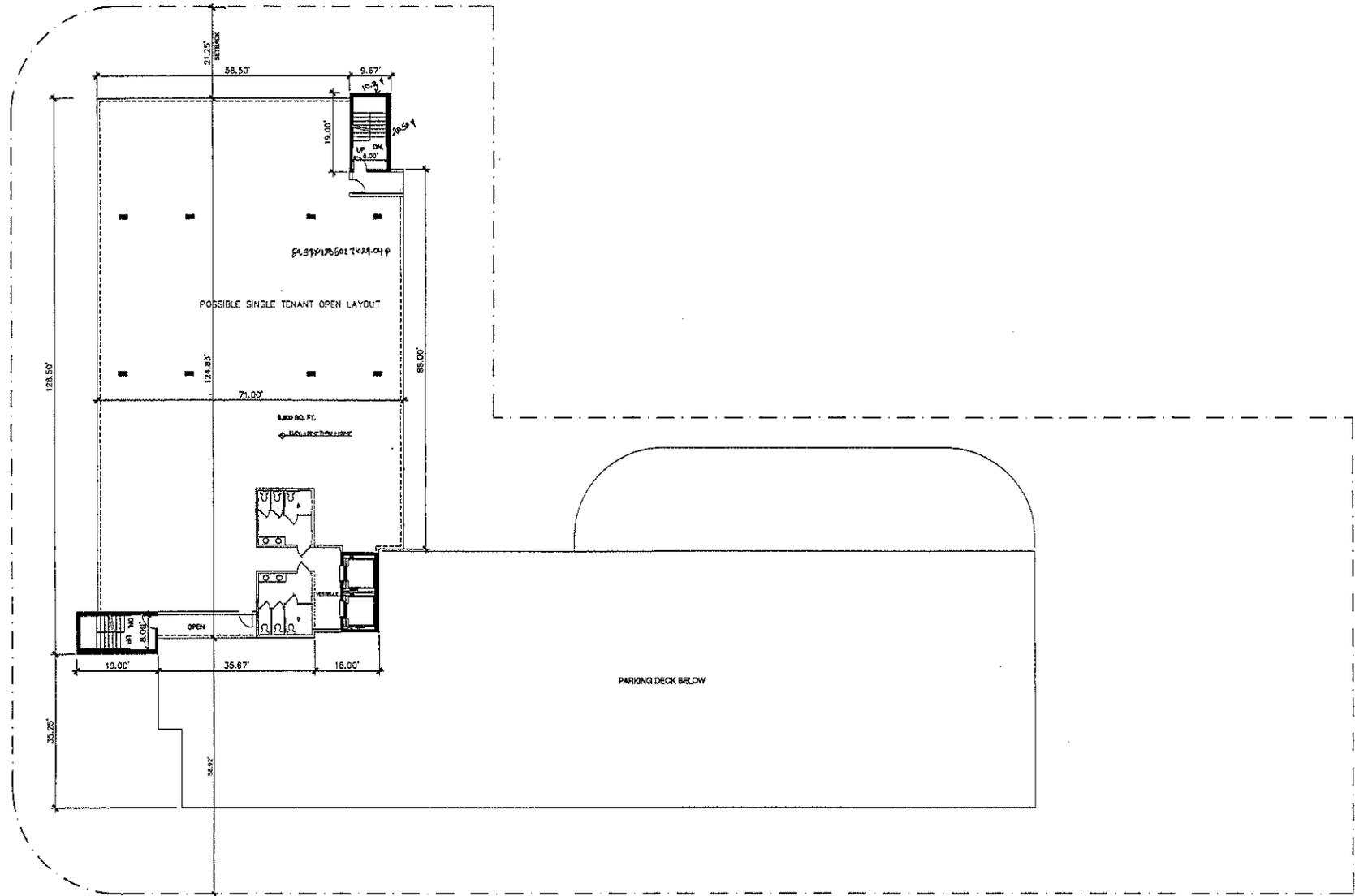
8842.45
769.26
8097.17



45

PLAN
A

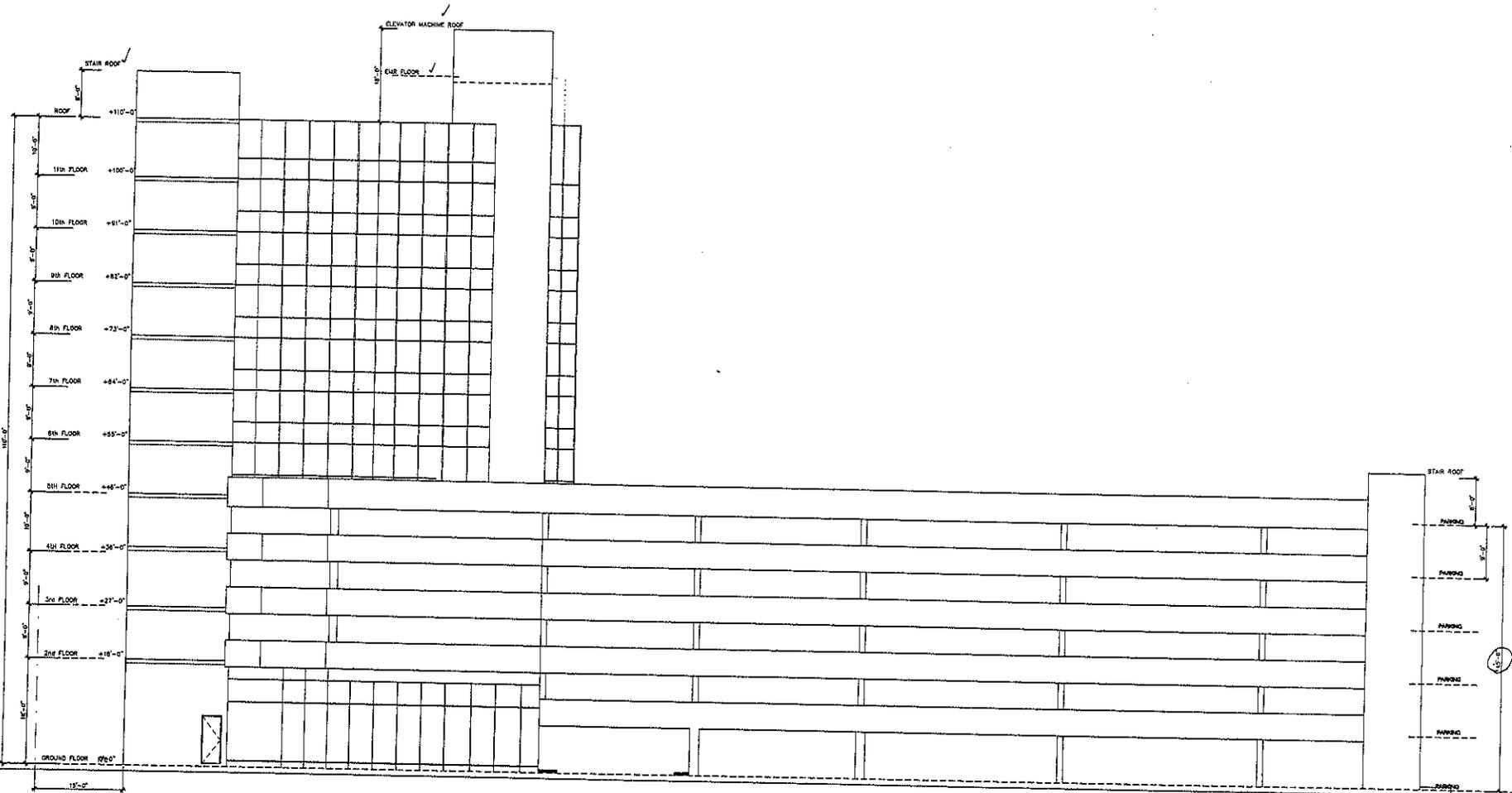
46



SIXTH FLOOR OFFICE LEVEL +55'-0" THRU 11th FLOOR +100'-0" *W.M. 1/24/08*
 SCALE: 3/32" = 1'-0"

8238.62(0) = 49,481.72

RECEIVED
 2008-01-22
 JAN 22 2008
 ARCHITECTURAL DEPARTMENT
 401 SW 72nd AVENUE
 MIAMI, FLORIDA 33156
grd



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

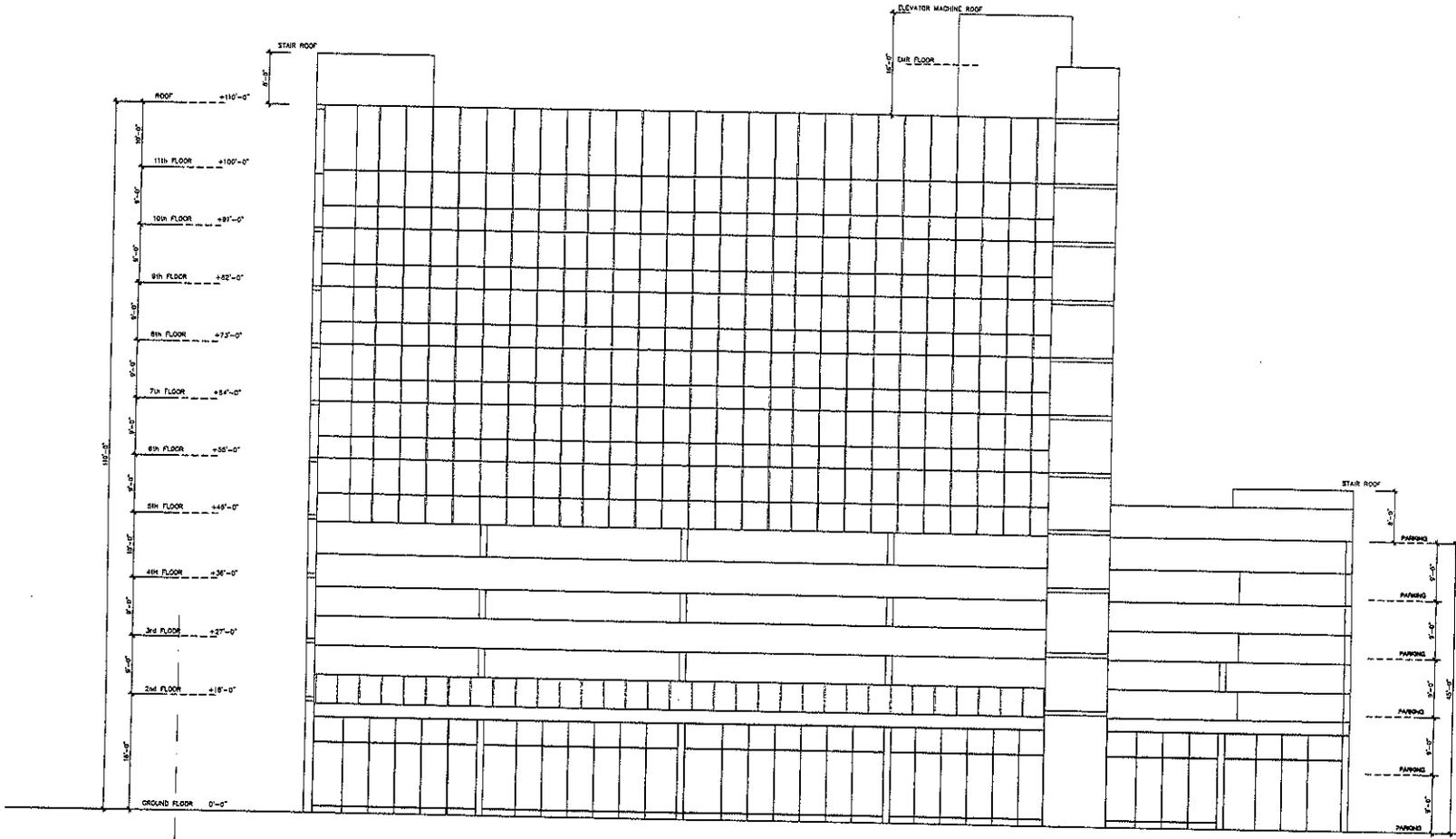
RECEIVED
JAN 22 2008
2008 ZONING SEVERANCE REGULATION
SURFACE PLUMBING TO ZONING DEPT.
BY [Signature]

SITE PLAN STUDY FOR MULTIFAMILY PROJECT AT:
B & F MARINE INC.
4001 SW 72nd AVENUE
MIAMI, FLORIDA 33168

PLAN
A

Date: 1-18-08
Contract No. 081007

49



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

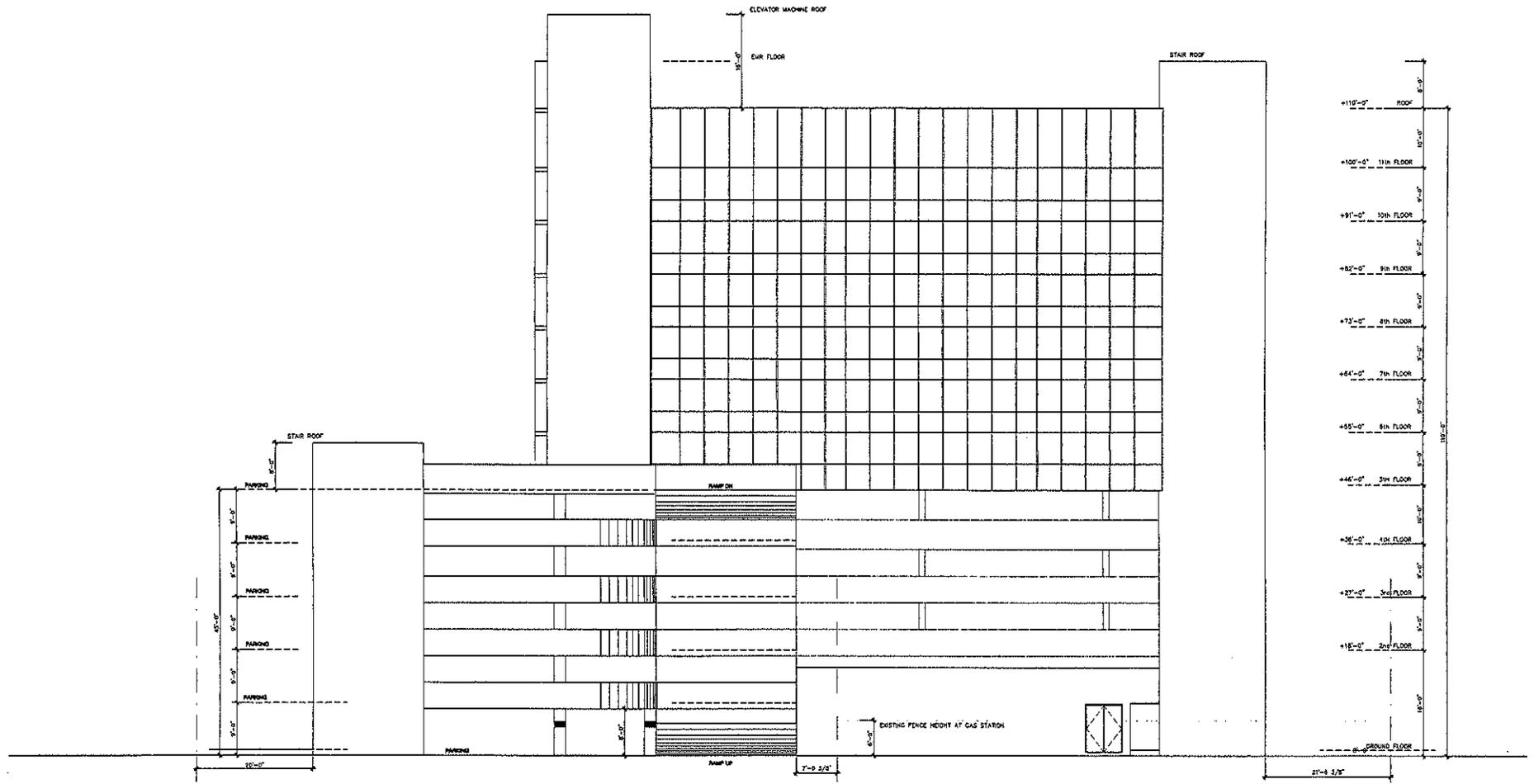
RECEIVED
 JAN 22 2008
 ZERULO ENGINEERING & ARCHITECTURE
 1100 NW 23RD STREET
 MIAMI, FL 33136
 BY: [Signature]
 2nd fl.

SITE PLAN STUDY FOR MULTIFAMILY PROJECT AT:
B & F MARINE INC.
 4001 SW 75th AVENUE
 MIAMI, FLORIDA 33156

PLAN
'A'

Date: 1-19-08
 Comm. No. 08007
 Sheet

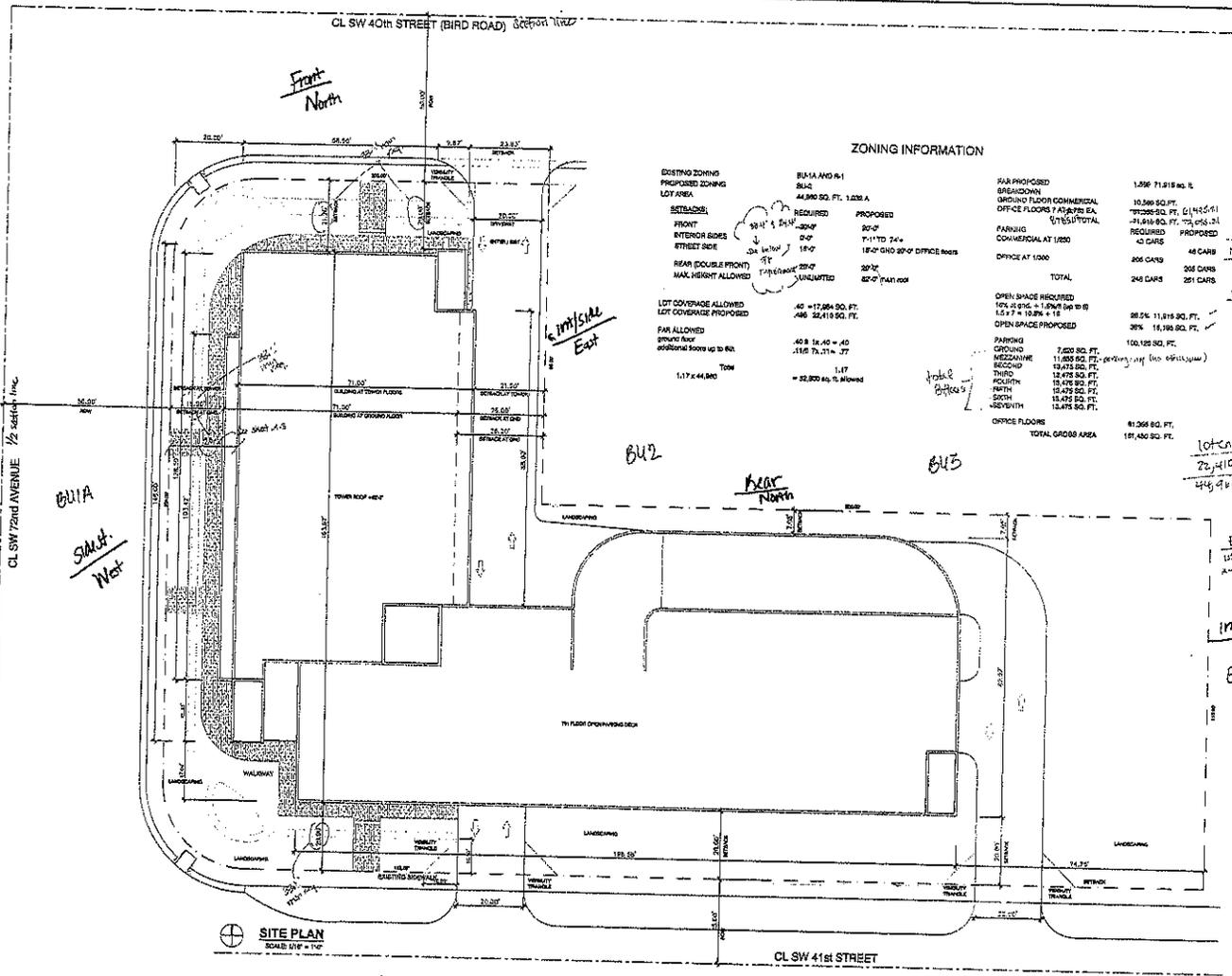
AA 000026
Tapia-Ruano Architect Inc.
 Miami, Florida, 33142
 PDR 0000102



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

RECEIVED
 2008-01-22
 JAN 22 2008
 ZIMING'S ARCHITECTURE SECTION
 1515 W. 10th AVENUE, SUITE 200, MIAMI, FL 33135
 [Signature]

lot 101
22,410
44,820
max permitted
1.17 max permitted



ZONING INFORMATION

EXISTING ZONING	BU1A AND R-1	MAX PROPOSED	1,000 71.81 sq. ft.
PROPOSED ZONING	26-2	BREAKDOWN	10,000 SQ. FT.
LOT AREA	44,820 SQ. FT. 1,228 A	GROUND FLOOR COMMERCIAL	10,000 SQ. FT. 6,145.6 A1
STREASDS:	REQUIRED	OFFICE FLOORS 7 AS 1075 EA	11,816 SQ. FT. 73,058.21
FRONT	30'-0"	PARKING	PROPOSED
INTERIOR SIDES	0'-0"	COMMERCIAL AT 1800	43 CARS
STREET SIDE	15'-0"	OFFICE AT 1000	206 CARS
REAR (DOUBLE FRONT)	15'-0"	TOTAL	249 CARS
MAX HEIGHT ALLOWED	35'-0" UNLIMITED		
		OPEN SHADE REQUIRED	10% OF 10,000 = 1,000 SQ. FT. @ 15' x 7' = 10,500 + 18
		LOT COVERAGE ALLOWED	40 = 17,928 SQ. FT.
		LOT COVERAGE PROPOSED	486 22,410 SQ. FT.
		PARKING	2,000 SQ. FT.
		MEZZANINE	11,800 SQ. FT.
		REAR	13,475 SQ. FT.
		THIRD	15,475 SQ. FT.
		FIFTH	15,475 SQ. FT.
		SIXTH	15,475 SQ. FT.
		SEVENTH	15,475 SQ. FT.
		OFFICE FLOORS	81,268 SQ. FT.
		TOTAL GROSS AREA	181,450 SQ. FT.

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

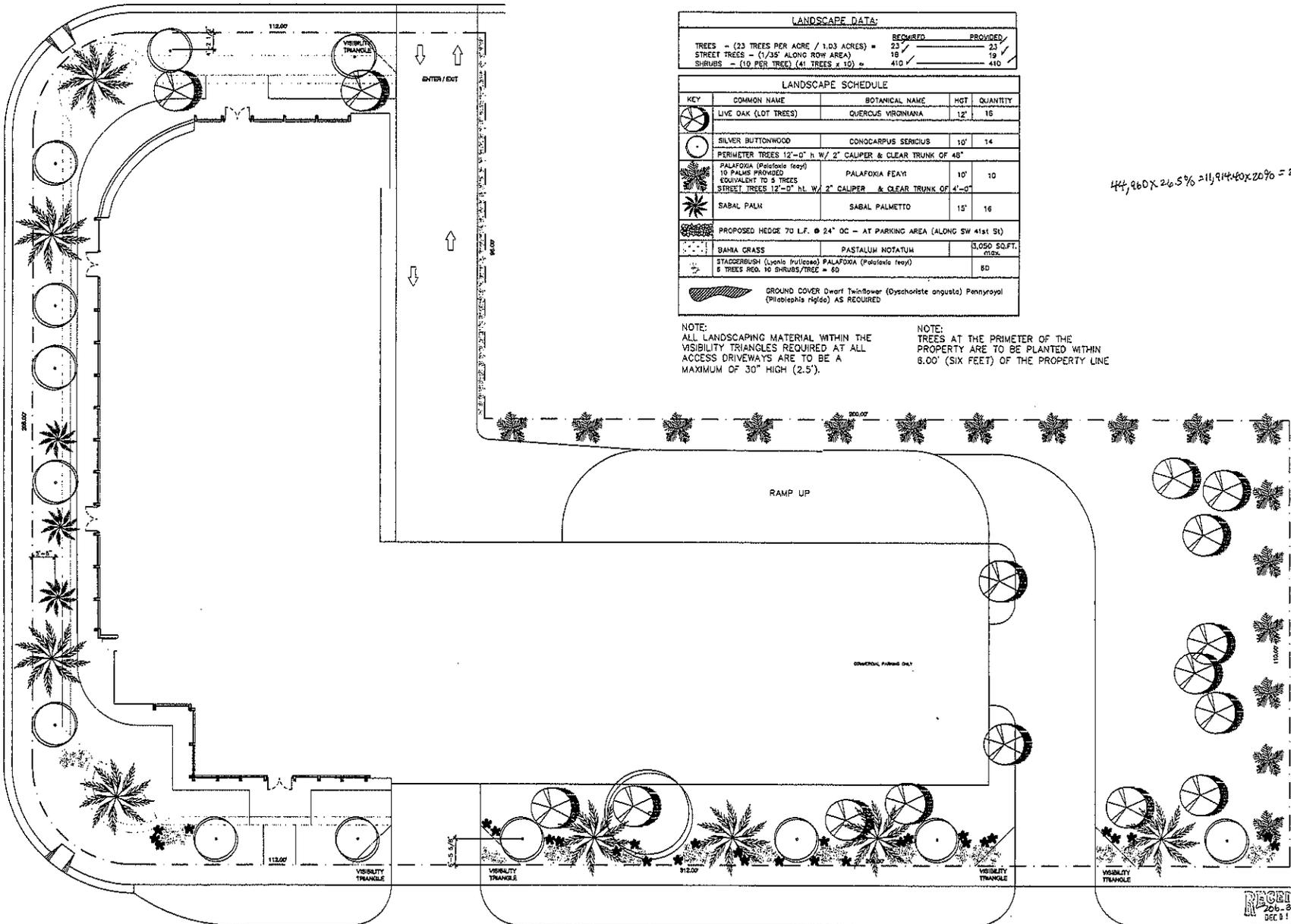
Sec 22-57
Schedule 1
81' high
47'
5' - 2' @ highest point of bldg

Sec 22-57
82' parking garage
40'
22' - 4.4' @ highest point of garage bldg



CL SW 40th STREET (BIRD ROAD)

CL SW 72nd AVENUE



LANDSCAPE DATA:			
	REQUIRED	PROVIDED	
TREES - (23 TREES PER ACRE / 1.03 ACRES) =	23	23	
STREET TREES - (1/35' ALONG ROW AREA)	18	19	
SHRUBS - (10 PER TREE) (41 TREES x 10) =	410	410	

LANDSCAPE SCHEDULE			
KEY	COMMON NAME	BOTANICAL NAME	QTY
(Symbol)	LIVE OAK (LOT TREES)	QUERCUS VIRGINIANA	12'
(Symbol)	SILVER BUTTWOOD	CONOCARPUS SERICUS	10'
(Symbol)	PERIMETER TREES 12'-0" H. W/ 2" CALIPER & CLEAR TRUNK OF 48"		14
(Symbol)	10 PALMS PROVIDED EQUIVALENT TO 5 TREES	PALAOXIA FEAYI	10'
(Symbol)	STREET TREES 12'-0" H. W/ 2" CALIPER & CLEAR TRUNK OF 4'-0"		10
(Symbol)	SABAL PALM	SABAL PALMETTO	15'
(Symbol)	PROPOSED HEDGE 70 L.F. @ 24" OC - AT PARKING AREA (ALONG SW 41st St)		
(Symbol)	BAMA GRASS	PASTALUM NOTATUM	0,050 SQ.FT. max.
(Symbol)	STAGGERBUSH (Lusha hillebrandii) PALAOXIA (Palaoxia feayi)		80
(Symbol)	GROUND COVER Dwarf Twinflower (Dyschoriste angusta) Pennyroyal (Plectocephala rigida) AS REQUIRED		

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

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

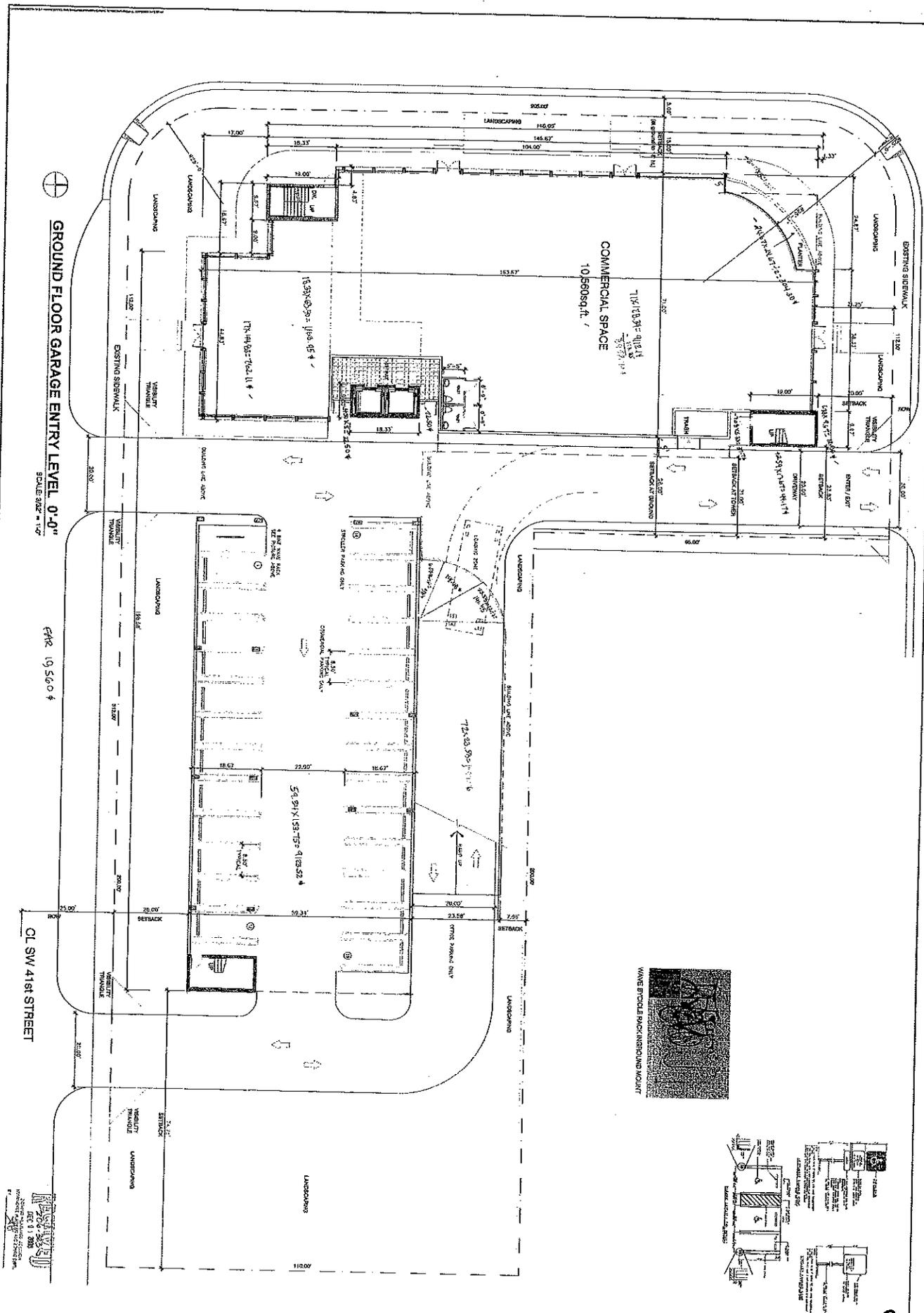
$44,960 \times 26.5\% = 11,914.40 \times 20\% = 2382.88$
max. sod

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

CL SW 41st STREET

RECEIVED
206-323
DEC 11 2009

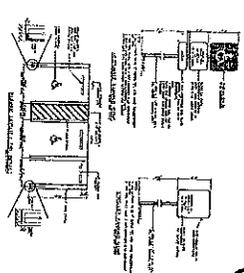
52



GROUND FLOOR GARAGE ENTRY LEVEL 0'-0"
SCALE 3/32" = 1'-0"

FAR 19,560 sq. ft.

CL SW 41st STREET



53

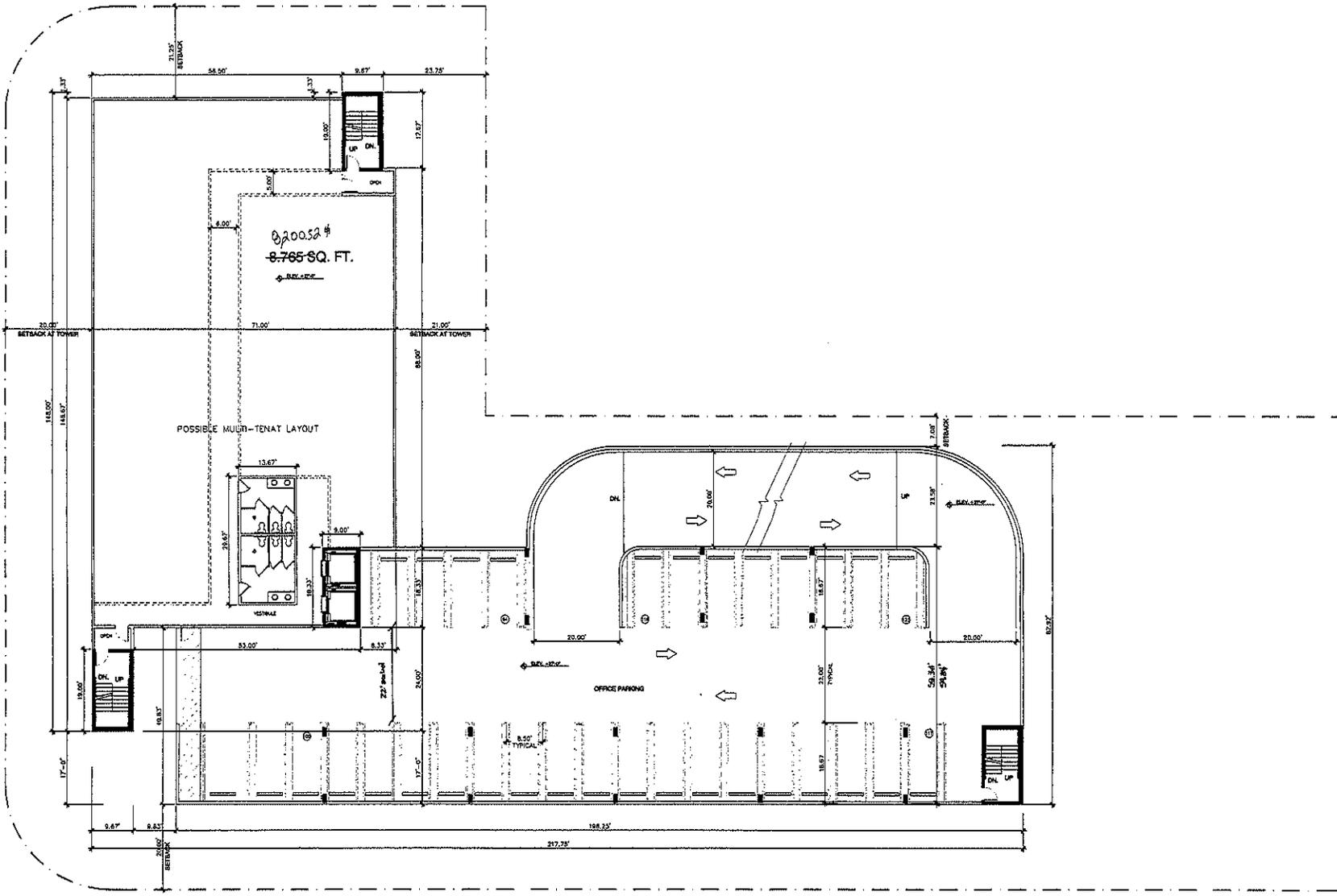
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DRAWN: [Signature]
CHECKED: [Signature]
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SITE PLAN STUDY FOR MARINE PROJECT AT:
B & F MARINE INC.
4001 SW 72nd AVENUE MIAMI, FLORIDA 33166

Tapia-Ruano Architect Inc.
1753 SW 22nd TERRACE Miami, FL 33140 (305) 856-9122

A-1

56



⊕ THIRD FLOOR PLAN 8,765 sq.ft. OFFICE SPACE 13,475 sq.ft. PARKING GARAGE + 27'-0"

SCALE: 3/32" = 1'-0"



Date: 11-24-06
Comm. No. 051007

PLAN
B

SITE PLAN STUDY FOR MARITIME PROJECT, INC.
B & F MARINE INC.
4001 BAY 72ND AVENUE
MIAMI, FLORIDA 33156

Tapia-Ruano Architect Inc.
1783 BAY 25TH TERRACE
MIAMI, FLORIDA 33133
3050 186-0118

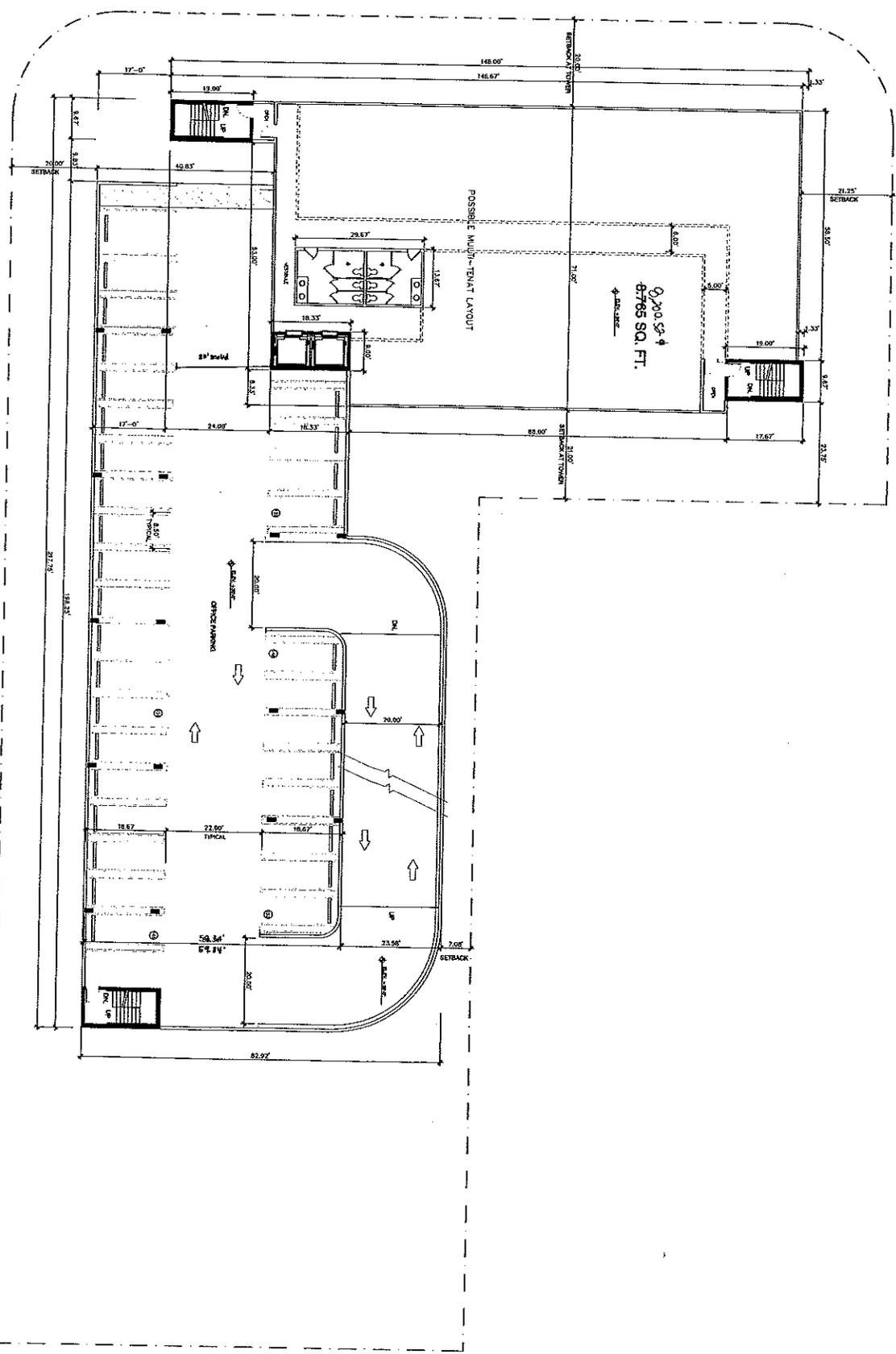
A-00000005

A-4



FOURTH FLOOR PLAN 8,765 sq.ft. OFFICE SPACE 13,475 sq.ft. PARKING GARAGE + 36'-0"

SCALE: 3/8" = 1'-0"



57

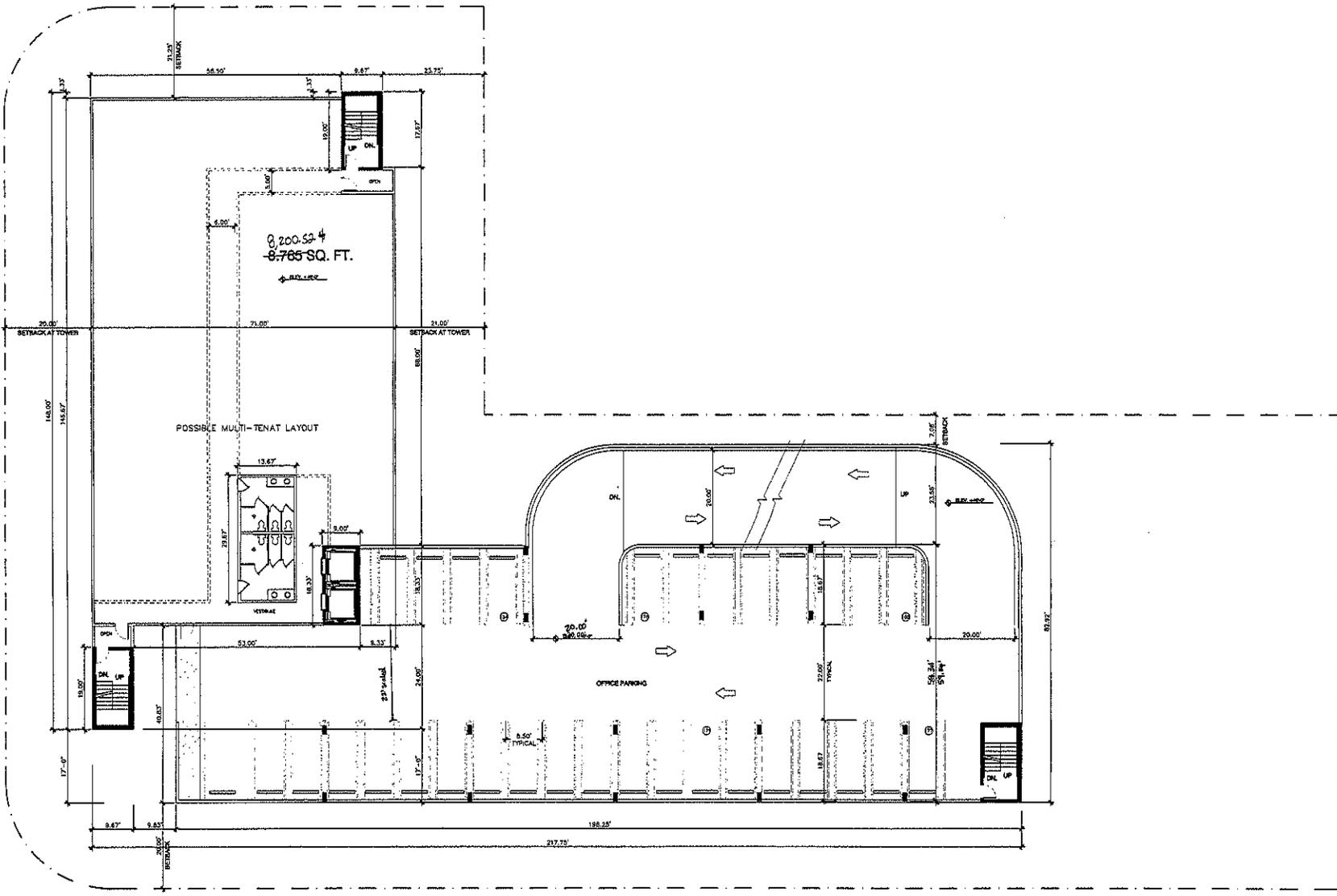
SITE PLAN STUDY FOR MULTITUSE PROJECT AT:
B & F MARINE INC.
 4001 SW 72ND AVENUE MIAMI, FLORIDA 33155

Tapia-Ruano Architect Inc.
 1780 SW 22ND TERRACE Miami, Florida, 33146 (305) 866-0128

DATE: 11/20/08
 DRAWING NO. 108
 SHEET NO. 108

PLAN
 4

A-5

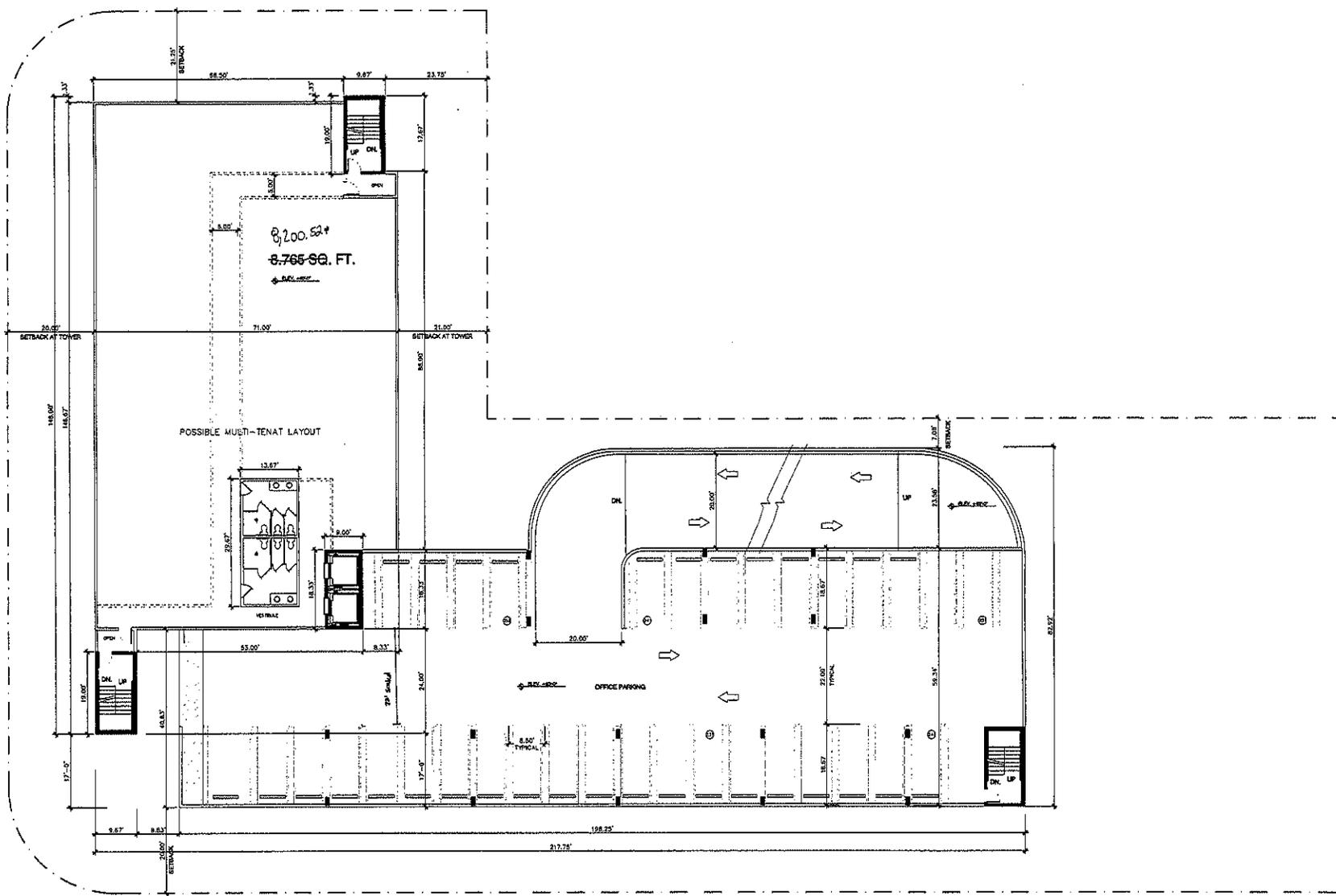


⊕ FIFTH FLOOR PLAN 8,765 sq.ft. OFFICE SPACE 13,475 sq.ft. PARKING GARAGE + 45'-0"

SCALE: 3/32" = 1'-0"

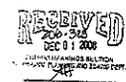
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2008-12-01
DEC 01 2008
CONSTRUCTION SERVICES
APPROVALS & ENGINEERING
1783 SW 20th Terrace
MIAMI, FL 33148
3053 986-0190

60



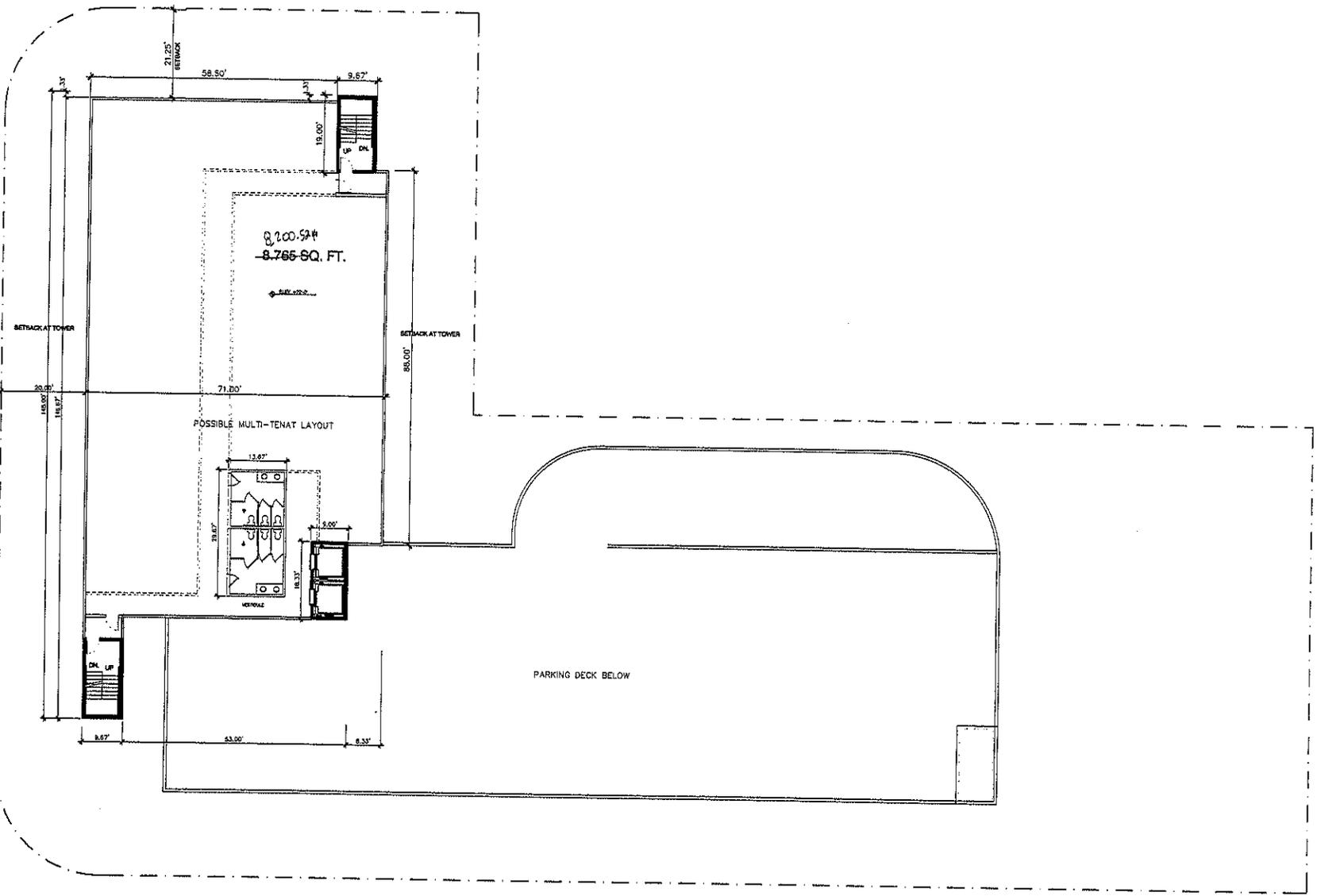
⊕ SEVENTH FLOOR PLAN 8,765 sq.ft. OFFICE SPACE 13,475 sq.ft. PARKING GARAGE +63'-0"

SCALE: 3/32" = 1'-0"



PLAN 'B'

61



EIGHTH FLOOR PLAN 8,765 sq.ft. OFFICE SPACE + 72'-0"
(TYPICAL OF SEVEN FLOORS) FAR SQUARE FEET 8,765 x 7 = 61,355 sq.ft.

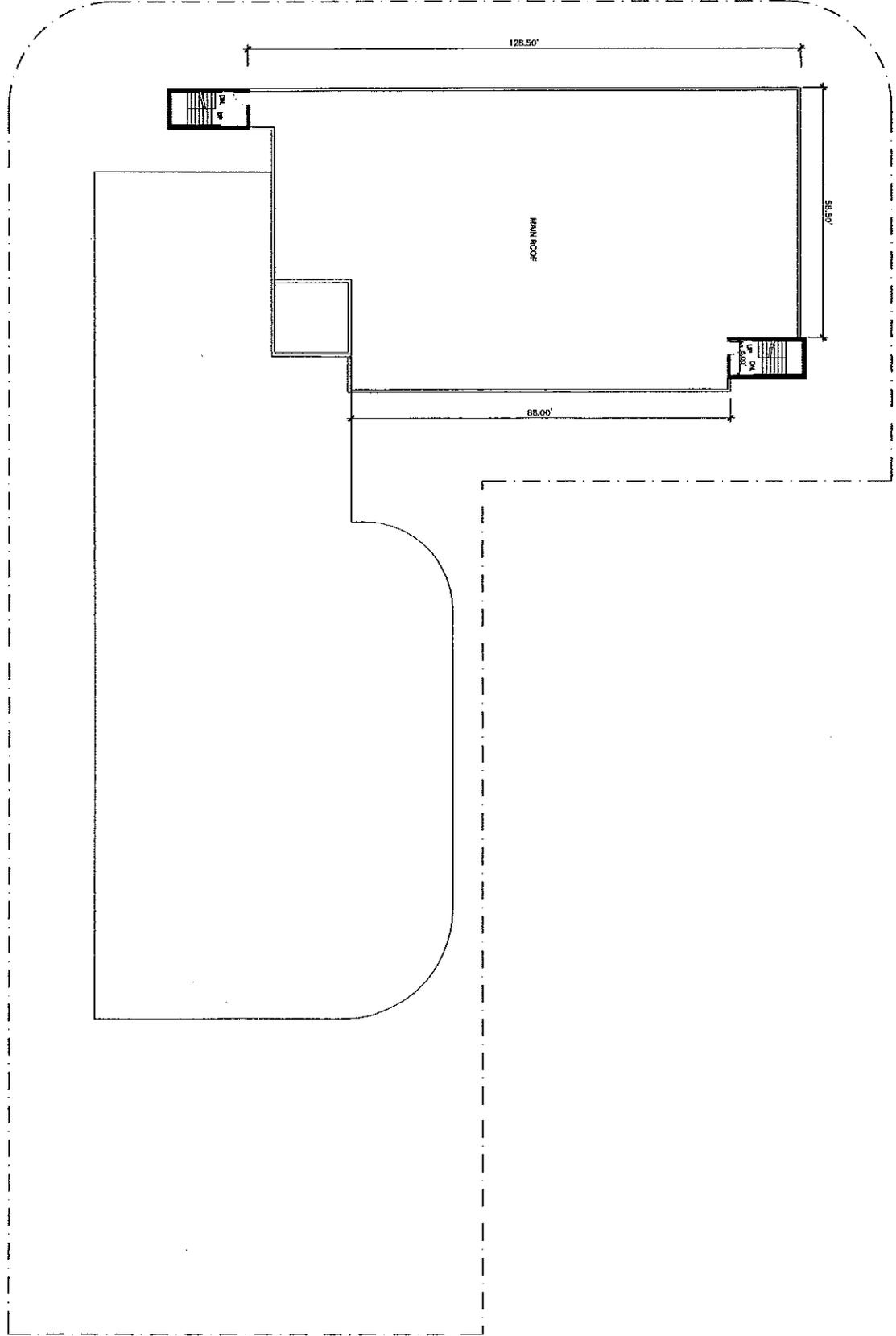
SCALE: 3/32" = 1'-0"

RECEIVED
DEC 2 2009
ENGINEERING SECTION
BY: [Signature]



ROOF PLAN 8,785 sq.ft. + 81'-0"

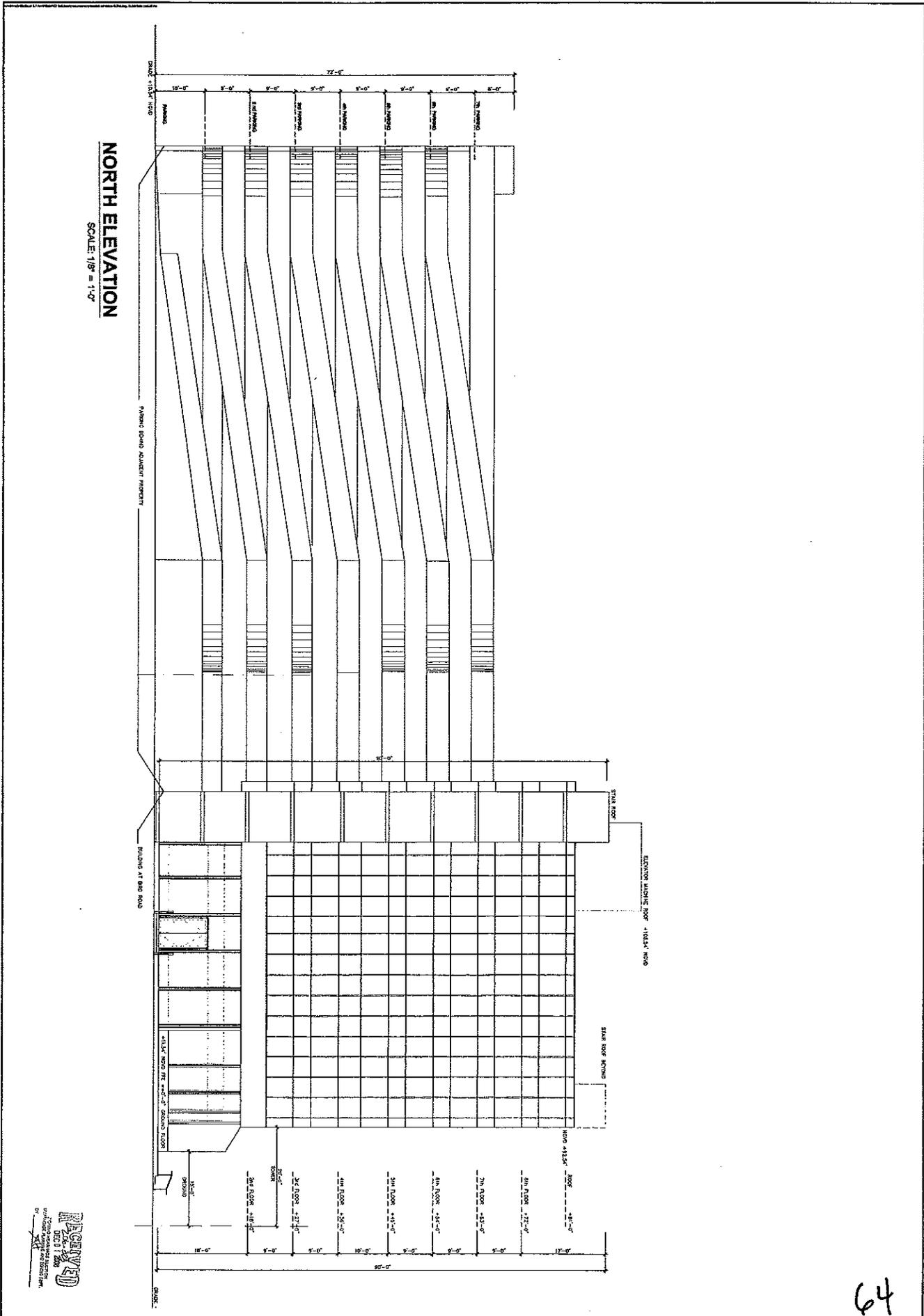
SCALE 3/8" = 1'-0"



RECEIVED
 05/17/18
 10:00 AM
 B & F MARINE INC.
 4001 SW 72nd AVENUE
 MIAMI, FLORIDA 33155

62

PLAN
B



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

RECEIVED
DEPT. OF TRANSPORTATION
DEC 11 2008
FLORIDA TURNPIKE AUTHORITY

A-12

Date: 11-14-08
Drawing No.: 08077
Sheet: 08077

PLAN
B

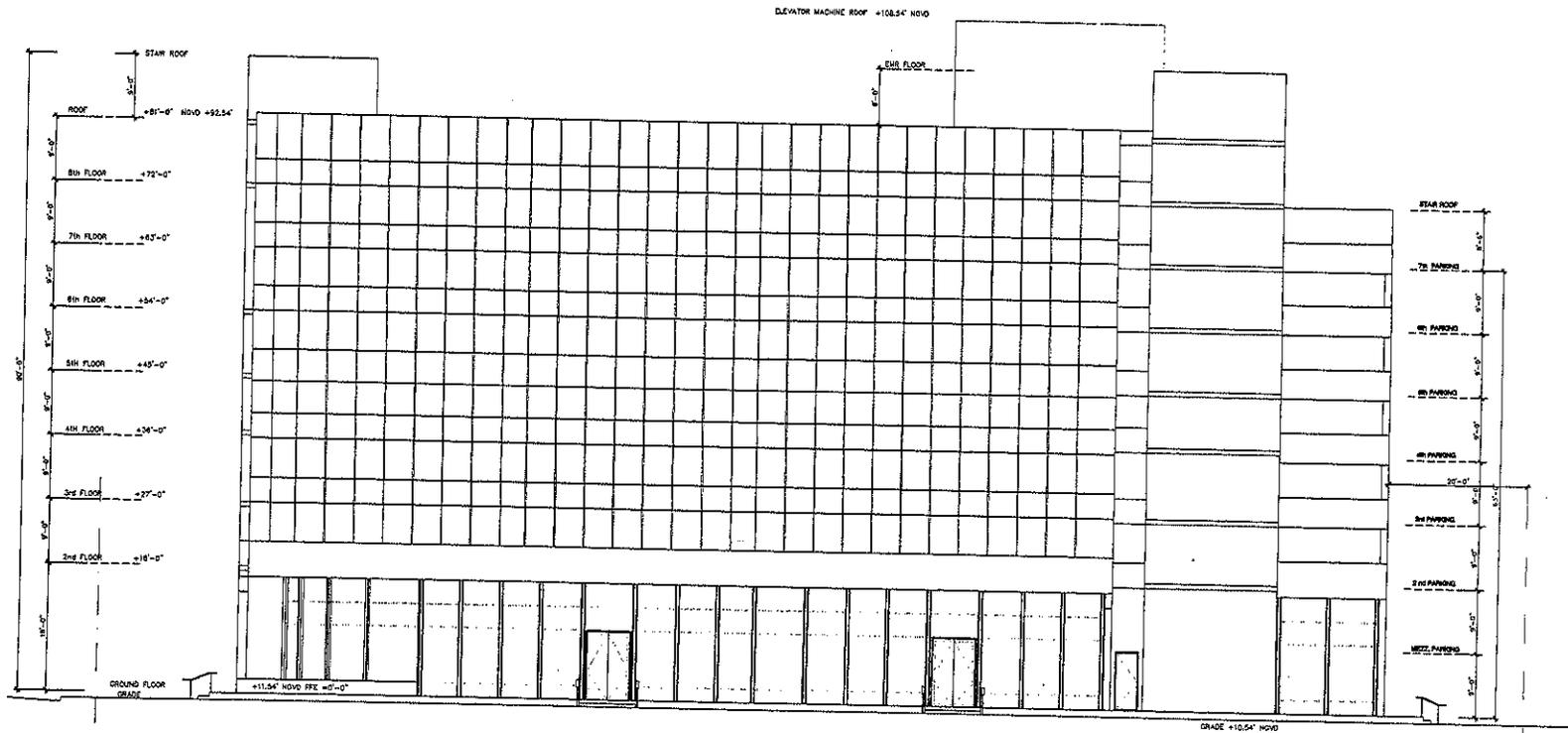
SITE PLAN STUDY FOR MULTISE PROJECT AT:
B & F MARINE INC.
4001 BW 72nd AVENUE
MIAMI, FLORIDA 33156

Tapia-Ruano Architect Inc.
1783 GW 52nd TERRACE
MIAMI, FLORIDA, 33142
(305) 668-0180

64

AA 000000

65

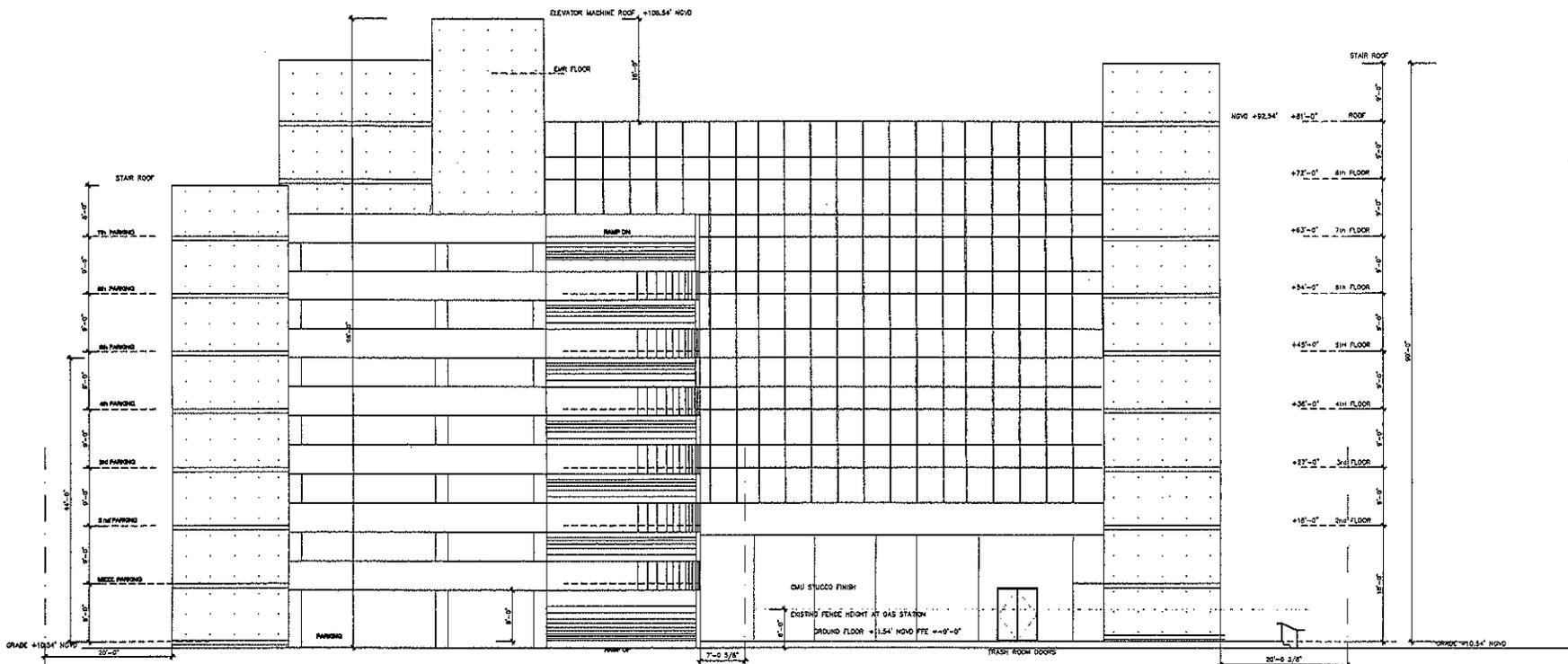


WEST ELEVATION
SCALE: 1/8" = 1'-0"

DATE: 11-24-08
CONTROL NO. 081007
BY: *[Signature]*

PLAN 'B'

RECEIVED
DEC 1 2008
COMMERCIAL DIVISION
PLANNING, REVENUE AND LEGAL DEPT.
BY: *[Signature]*



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

64

AA 000000

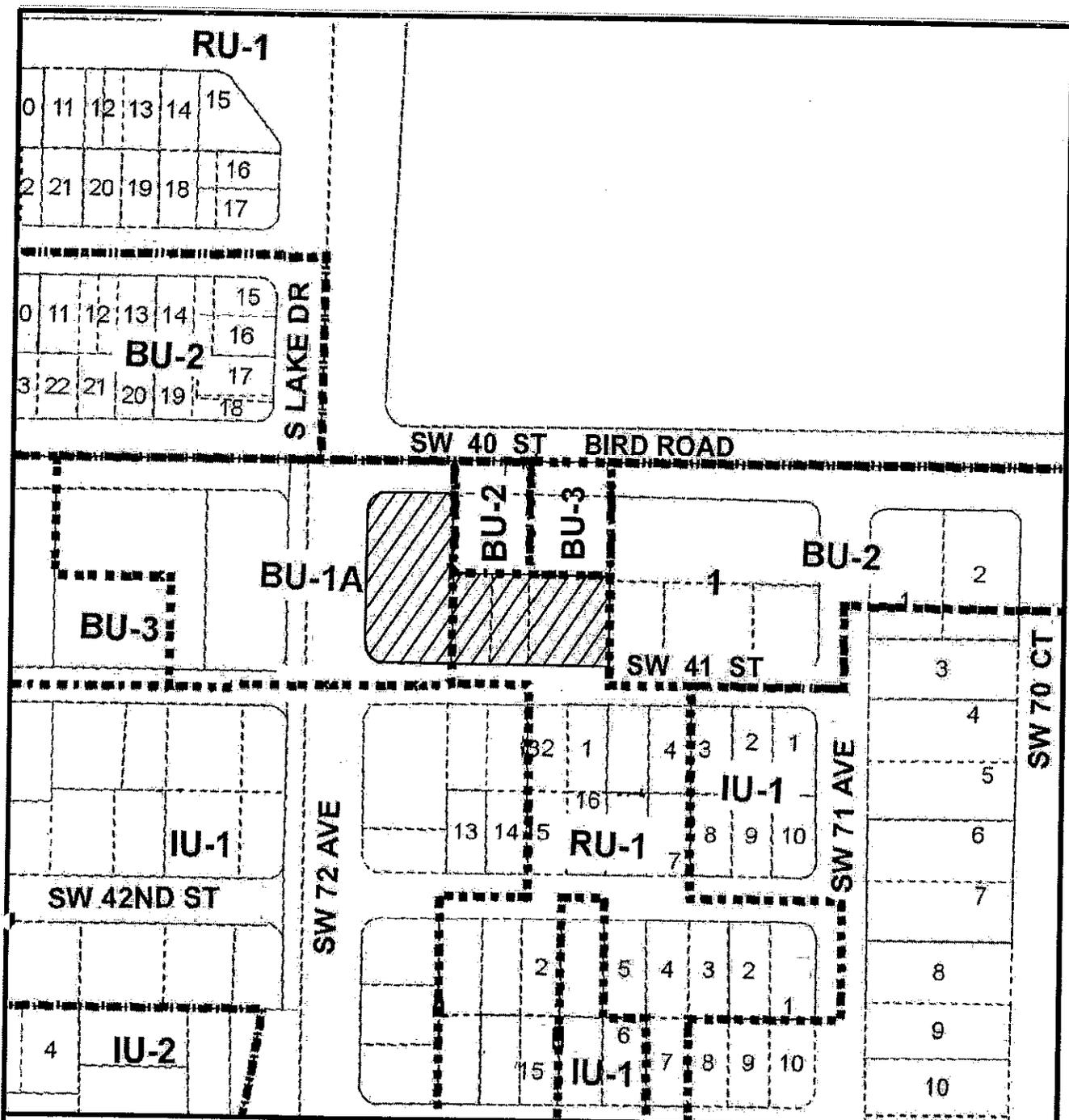
Tapia-Ruano Architect Inc.
173 SW 2nd Terrace
Miami, Florida, 33134
(305) 386-0186

616 SITE PLAN STUDY FOR MULTIFAMILY PROJECT AT:
B & F MARINE INC.
MIAMI, FLORIDA 33155
4081 SW 72nd AVENUE

PLAN
B

RECEIVED
2006-08-22
DEC 1 2006
CIVIL ENGINEERING SECTION
MAYOR'S OFFICE
BY: [Signature]

Date: 11-24-06
Comm. No. 001007



**MIAMI-DADE COUNTY
HEARING MAP**

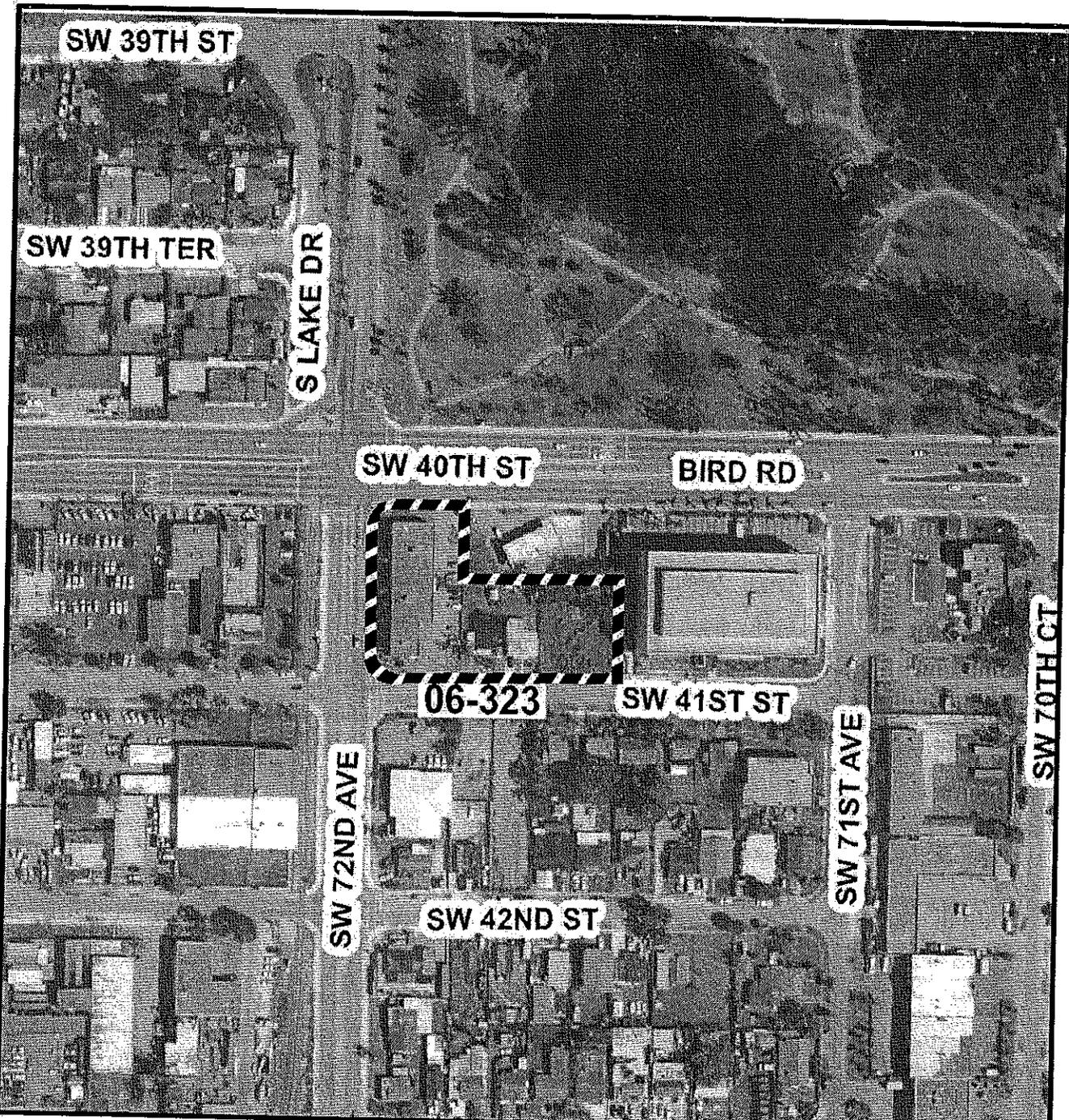
**PROCESS NUMBER
06-323**



 **SUBJECT PROPERTY**

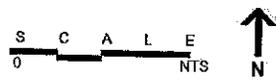
Section: 23 Township: 54 Range: 40
 Process Number: 06-323
 Applicant: B & F MARINE, INC.
 Zoning Board: C12
 District Number: 07
 Cadastral: ERIC
 Scale: NTS





MIAMI-DADE COUNTY
AERIAL

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



SUBJECT PROPERTY



BOARD OF COUNTY COMMISSIONERS

ADDENDUM

Please insert the attached document

To the ZONING KIT Package for January 28, 2010:

Item#1: - 06-323 B & F MARINE, INC.

➤ **Covenant**

Received by
Zoning Agenda Coordinator

JAN 26 2010

B + F MARINE, INC

ITEM # 06-323

This instrument was prepared by:

Name: Juan J. Mayol, Jr., Esq.
Address: Holland & Knight LLP
701 Brickell Avenue
Suite 3000
Miami, Florida 33131

(Space reserved for Clerk of Court)

DECLARATION OF RESTRICTIONS

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

WHEREAS, the Owner has filed an application with the Department of Planning and Zoning (the "Department") in Miami-Dade County, which application is currently pending under Public Hearing Application No. Z2006000323 (the "Application") which was originally seeking the approval of a district boundary change from BU-1A and RU-1 to BU-2 along with non-use variances of setbacks, lot coverage, floor area ratio, and wall requirements in order to allow the development of the subject property with a commercial building. However, these requests were denied without prejudice by Community Zoning Appeals Board 12 and the applicant has appealed the decision of the CZAB 12 to the Board of County Commissioners for the purpose of seeking a district boundary change from "BU-1A" and "RU-1" to "BU-1A."

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

1. **Site Plan.** Prior to the issuance of a building permit for the redevelopment, expansion or change of existing use of the existing commercial building located at 4001 SW 72 Avenue, existing single family residence located at 7185 SW 41 Street and single family residence located at 7161 SW 41 Street the Owner shall submit to the Department an application for an Administrative Site Plan Review (ASPR) in accordance with Section 33-251.5 of the Code of Miami-Dade County (the "Code") under a unified site plan and zoning legend, except that no ASPR shall be required prior to the issuance of a building permit(s) in connection with the repair or continued use of the aforementioned existing commercial building and two single-family residence structures on the Property as allowed under the Zoning Code for legally non-conforming structures. Any plans submitted with the ASPR application in accordance with Section 33-251.5 of the Code of Miami-Dade County for the redevelopment, expansion or change of use of the entire Property under a unified site plan and zoning legend shall include the following:

(a) That openings on the exterior facades of any parking garage, except openings designed to provide vehicular and pedestrian ingress and egress, be outfitted with an architectural mesh or grill screening material. Said screening material and design scheme shall be submitted to and meet the approval of the Director.

(b) That street trees along the rear (south) property line shall be 18-feet in height at the time of planting.

(c) That all outdoor lighting fixtures shall be located, oriented, adjusted and shielded such that the lighting is deflected, shaded and focused away from adjacent property in accordance with Section 33-4.1 of the Code.

2. **Prohibited and Restricted Uses**

Notwithstanding the approval of the Application, the following uses shall be prohibited on the Property:

(a) Liquor package stores, as would otherwise be permitted by Section 33-247(31) of the Code;

(b) Private Clubs, as would otherwise be permitted by Section 33-247(35) of the Code of Miami-Dade County (the "Code");

(c) Pubs and bars, as would otherwise be permitted by Section 33-247(37) of the Code.

In addition, no portion of the premises within the proposed building (regardless of the percentage of total floor area), even if screened to keep such area from the clear view of minors, may be used for the display, sale or rental of videotapes, printed matter, pictures, films, graphic or other materials, which activities require the exclusion of minors pursuant to Chapter 847, Florida Statutes.

3. **Miscellaneous.**

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

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

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

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

Should this Declaration be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive officer of the successor

agency to the Department, or in the absence of such director or executive officer, by her/his assistant in charge of the Department or such successor agency in her/his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

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

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

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

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

with the intent and spirit of this Declaration.

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

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

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

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

EXHIBIT "A"

LEGAL DESCRIPTIONS:

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

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

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

PARCEL 1

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

PARCEL 2

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

PARCEL 3

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



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

LEGAL DESCRIPTIONS:

o B&F MARINE - RETAIL STORE:
4001 SW 72ND AVE.

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

o PARCELS 1, 2 & 3:
7155, 7161 & 7185 SW 41ST STREET

PROPERTY ADDRESS:
7155, 7161 AND 7185 S.W. 41st. STREET, MIAMI, FLORIDA 33155

LEGAL DESCRIPTION:

PARCEL 1

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

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PARCEL 3

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Harrison, Karen (COC)

From: Dickens, Doris (COC)
Sent: Wednesday, January 27, 2010 2:53 PM
To: Harrison, Karen (COC)
Cc: Rappleye, Scott (COC)
Subject: FW: Absence-1/28/10 Zoning
Importance: High
Follow Up Flag: For Your Information
Flag Status: Flagged

MEMORANDUM

TO: The Honorable Dennis Moss and
Members Board of County Commissioners
FROM: Sen. Javier Souto
DATE: January 22, 2010
RE: Absence from Zoning and Special BCC Meetings – January 28, 2010

I am traveling with my family and won't be able to attend the Zoning meeting and the Special BCC meeting on January 28th.

I apologize for any inconvenience this may cause. Thank you.

Margarita (Maggie) Gonzalez
Executive Secretary
Commissioner Javier Souto
District 10
(305) 222-2116

www.javiersouto.com