

HEARING EXHIBITS
OCTOBER 2020 CYCLE APPLICATION NO. CDMP20200011
TO AMEND THE COMPREHENSIVE DEVELOPMENT MASTER PLAN
(Consisting of materials submitted for the Board of County Commissioners CDMP hearing of
April 21, 2021)

| ITEMS | PAGE NO. |
|---|---------------------|
| Letter dated March 11, 2021 requesting gross residential density determination of the application site, submitted by the applicant. | E-1 |
| Proffered Declaration of Restriction received on March 24, 2021 | E-31 |

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Holland & Knight

701 Brickell Avenue, Suite 3000 | Miami, FL 33131 | T 305.374.8500 | F 305.789.7799
Holland & Knight LLP | www.hklaw.com

March 11, 2021

VIA ELECTRONIC MAIL

Mr. Garrett Rowe
Planning Section Chief
Department of Regulatory and Economic Resources
111 NW First Street, 12th Floor
Miami, Florida 33128

Re: Common Wealth Trust Services NW 7th Street Land Trust LLC (the “Owner”) - Comprehensive Development Master Plan (“CDMP”) Gross Residential Density Determination (CDMP 2020-11)

Dear Garrett:

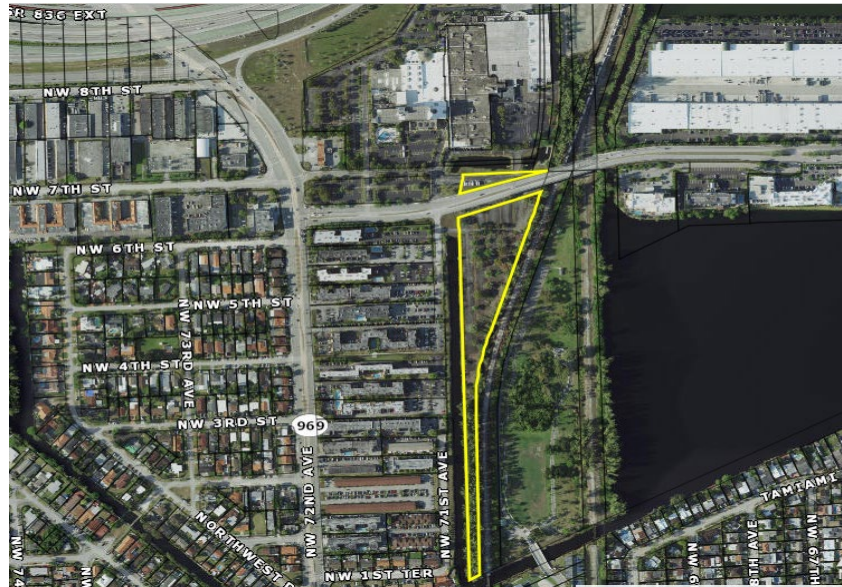
This memorandum is provided in follow up to our conversation concerning the gross acreage for property located at the northeast and southeast corner of the intersection of NW 7th Street and NW 71st Avenue and identified at Miami Dade County Property Appraiser Folio nos. 30-4002-000-0170(the “Property”) and as legally described in **Exhibit “A”**. We have analyzed the Land Use Element of the Adopted Components of the Comprehensive Development Master Plan (CDMP) of Miami-Dade County, staff’s interpretation concerning rights-of-way, and the historical zoning approvals impacting the Property. We conclude, based on our analysis, that the Property’s gross acreage is 7.61 acres, as shown in the survey provided by the Applicant. *See Exhibit B*. We provide our analysis below.

I. The Property and Intended Uses

The Property consists of two parcels located at the northeast and southeast corner of the intersection of NW 71st Avenue and NW 7th Street. Tract “A,” which is approximately 6.3 ± net acres of land, stretches between NW 7th Street and the Tamiami Canal and just east of NW 71st Avenue and the F.E.C. canal (the “Canal”) and west of the Seaboard Airline Railway right-of-way. Tract “B” of the Property is approximately 0.44 ± net acre parcel located on the north side of NW 7th Street. *See Exhibit B*. The Property previously served as a parking lot, but has been vacant and unused for over a decade.

The Property is the subject of a small-scale CDMP Amendment for the October 2020 Cycle pursuant to Application No. 2020-11, whereby the Owner is requesting a Land Use Plan Map

designation amendment from “Industrial and Office” to “Medium-High Density Residential (the “CDMP Amendment Request”).¹ An aerial image of the Property is provided below:



The Owner intends to develop the Property with much needed multifamily residential units within the Urban Infill Area in accordance with the Medium-High Density Residential category, which would allow for the development of up to 60 dwelling units an acre (the “Intended Use”). The Owner contemporaneously submitted a zoning application, which seeks approval for the development of 440 multifamily units on the Property. In order to reach the Intended Use of the Property, the Owner has based its unit count on the 7.6 acres depicted on the survey in **Exhibit B** to permit the number of units allowed within the Medium-High Density category. The calculation of the 7.6 gross acres on the Property is entirely consistent with the text of the Land Use Element of the CDMP, staff’s historical interpretation and the historical zoning for the Property.

II. CDMP Land Use Element

The CDMP Land Use Element sets forth the requirements for calculating Gross Residential Density. The gross residential density definition of the CDMP Land Use Element text sets forth the following:

“Among the land uses that may be included in the gross residential acreage when computing the number of dwelling units permitted per gross acre in a residential communities area are the following: housing; streets; public schools; local public parks; fire stations; police stations; private recreational open spaces that are protected by covenant; public or semipublic utility sites, easements or rights-of-way donated at the time of development approval; and nature preserves and water bodies created as open-space amenities during project development or credited for density purposes during previous development approval, or inland waters wholly owned by the applicant. The sites of these nonresidential uses may be

¹ The CDMP Amendment Request is filed under application number CDMP20200011.

included in the gross residential acreage only if they are under the same ownership or are multiple ownerships that are legally unified (legally unified development) as the site for which gross density is being determined. Among the uses not considered to be part of the "residential" area when computing the number of units permitted are industrial, commercial and office sites; communication facility sites; utility sites; easements and rights-of-way unless expressly permitted elsewhere in this section; expressways; non-local parks and nature preserves; universities, colleges and other institutional use; any land that has been credited for other development; previously dedicated road rights-of-way; and any already-developed parcels whether underdeveloped or not." (emphasis added).

The Land Use Element's use of the term "street" makes clear that streets, such as NW 7th Street, may be utilized in calculating gross residential density. And that is exactly what happened here when the surveyor calculated gross density for the Property. Specifically, as shown in **Exhibit C**, the surveyor included NW 7th street in its calculation of gross density as the entirety of the applicable portions of NW 7th Street in this area abuts both parcels of the Property. Accordingly, pursuant to the language of the CDMP, the Applicant is entitled to utilize NW 7th Street in its calculation of gross residential density.

III. County Staff's Interpretation Makes Clear that the Right of Way for NW 7th Street may be used in Calculating Gross Density

County staff, for nearly two decades, has taken the position that right of way *not previously used for residential density* may be used in the calculation of gross density. Specifically, in 2006, the Miami-Dade County Department of Planning and Zoning published a memorandum clarifying how gross residential density is calculated (the "Memorandum"). Staff noted that the 1988 CDMP text, which revised the CDMP's definition for Gross Residential Density, provided that landowners who dedicate the necessary road rights-of-way at the time of development approval may include that land area of dedicated road rights-of-way in the calculation of the density. Staff highlighted the issue that the new definition could be interpreted as meaning that if dedications were made *prior to the approval of a development, then dedicated rights-of-way are excluded from that calculation*. To prevent this erroneous perspective from taking hold, staff clarified that the purpose of the revision is to ensure that such rights-of-way are used *only once* in gross *density* calculations and noted that previously dedicated rights of way would be included in gross density where such rights of way had not been previously included in any residential density calculation. See **Exhibit D**.

Here, the applicable portions of NW 7th Street have *never* been previously used in the calculation for residential density on the Property. For example, there are two previous approvals impacting the Property. In October 1977, the property located south of NW 7th Street was rezoned from GU (Interim) district to IU-1 (Industrial-Light Manufacturing) by Resolution Z-214-77. See **Exhibit E**. A copy of the plan for the approval is attached at **Exhibit F**, which shows 50 feet of the Property being dedicated for NW 7th Street. We note that the two warehouse buildings were never built and that subsequently, the property south of NW 7th Street was approved for use as a non-commercial parking lot pursuant to Resolution No. 4-ZAB-17-81. See **Exhibit G**. Thus, although NW 7th Street was dedicated from the Property, the Owner has never utilized it for

purposes of any density. As a result, the use of NW 7th Street in calculating gross residential density for the property is entirely appropriate as it has never been previously used for that purpose.

IV. Conclusion

Based on the foregoing, we respectfully request from staff confirmation that the Property's gross acreage is 7.61 acres, which is consistent with the language of the County Land Use Element, Staff's consistent interpretation, the historical approvals impacting the Property and the survey submitted by the Applicant.

Should you have any questions regarding the foregoing or would like to discuss any of the issues raised, please do not hesitate to contact our me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'P. Gassant', with a stylized flourish extending from the end.

Pedro Gassant, Esq.

Cc: Alessandria San Roman, Esq.
Rosa Davis

Exhibit "A"
Property Legal Description

That portion of the NE 1/4 of Section 2, Township 54 South, Range 40 East, lying between the centerline of a 40 plus or minus foot canal (also known as F.E.C. Canal) and the West right-of-way line of the Seaboard Airline Railway and lying North of the Tamiami Canal less the North 50.00 feet of the part of the NW 1/4 of the NE 1/4 of Section 2, Township 54 South, Range 40 East, Miami-Dade County, Florida, lying Westerly of the Westerly right-of-way line of the Seaboard Airline Railway, and lying Easterly of the Centerline of a 42.5 foot canal (also known as the F.E.C. Canal).

LESS AND EXCEPT

The Westerly 20 feet of the following described property; that portion of the Northeast 1/4 of Section 2, Township 54 South, Range 40 East, lying between the centerline of a 40 plus or minus foot canal (also known as F.E.C. Canal) and the West right-of-way line of the Seaboard Coastline Railway and lying North of the North boundary of the Tamiami Canal, lying and being in Miami-Dade County, Florida.

Also less and except any portion of the above described property which lies within the following described property, as conveyed by Right-of-Way Deed recorded in Official Records Book 13494, Page 343, of the Public Records of Miami-Dade County, Florida:

A portion of the following described parcel of land:

The Northeast 1/4 of Section 2, Township 54 South, Range 40 East, Miami-Dade County, Florida, lying Westerly of the CSX Transportation, Inc., right-of-way (formerly known as the Seaboard System Railroad right of way), LESS the West 50.00 feet thereof;

Said portion of the above described parcel lies within a 100.00 foot wide strip of land lying 50.00 feet on each side of the following described centerline:

Commence at the Northwest corner of the NE 1/4 of Section 2, Township 54 South, Range 40 East, Miami-Dade County, Florida; thence run South 02 degrees 14 minutes 29 seconds East along the West line of the NE 1/4 of said Section 2 for a distance of 186.00 feet to the Point of Beginning of the herein described centerline; thence run North 87 degrees 57 minutes 08 seconds East, parallel with the North line of the NE 1/4 of said Section 2 for a distance of 468.20 feet to the point of curvature of a circular curve to the left; thence run Northeasterly along the arc of said circular curve to the left, having a radius of 1146.00 feet, through a central angle of 16 degrees 09 minutes 29 seconds, for an arc distance of 323.19 feet; thence run North 71 degrees 47 minutes 39 seconds East, tangent to the last described curve, for a distance of 612.73 feet to the point of curvature of a circular curve to the right and to the END of the herein described centerline; LESS that portion thereof lying East of a line 91 feet West of the centerline of a 40 foot canal, as said centerline of said 40 foot canal is shown on the plat of ALMEIDA TRACT REVISED, according to the Plat

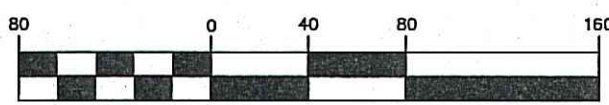
thereof recorded in Plat Book 103, Page 46, of the Public Records of Miami-Dade County, Florida, which canal lies West of the CSX Transportation, Inc. right-of-way (formerly known as the Seaboard System Railroad right-of-way) and lying West of a line 20 feet East of said centerline of said 40 foot canal.

**Exhibit “B”
Survey**

prepared by:
McLAUGHLIN ENGINEERING COMPANY (LB#285)
1700 N.W. 64th STREET, SUITE 400
FORT LAUDERDALE, FLORIDA, 33309
PHONE: (954) 763-7611 FAX: (954) 763-7615

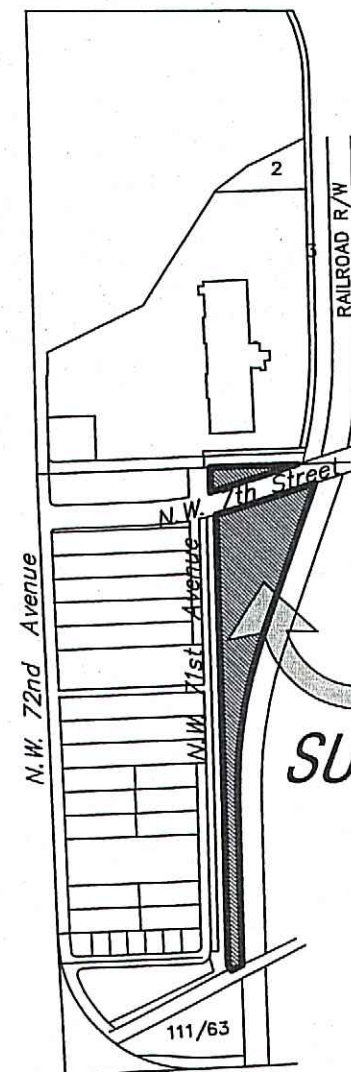


GRAPHIC SCALE



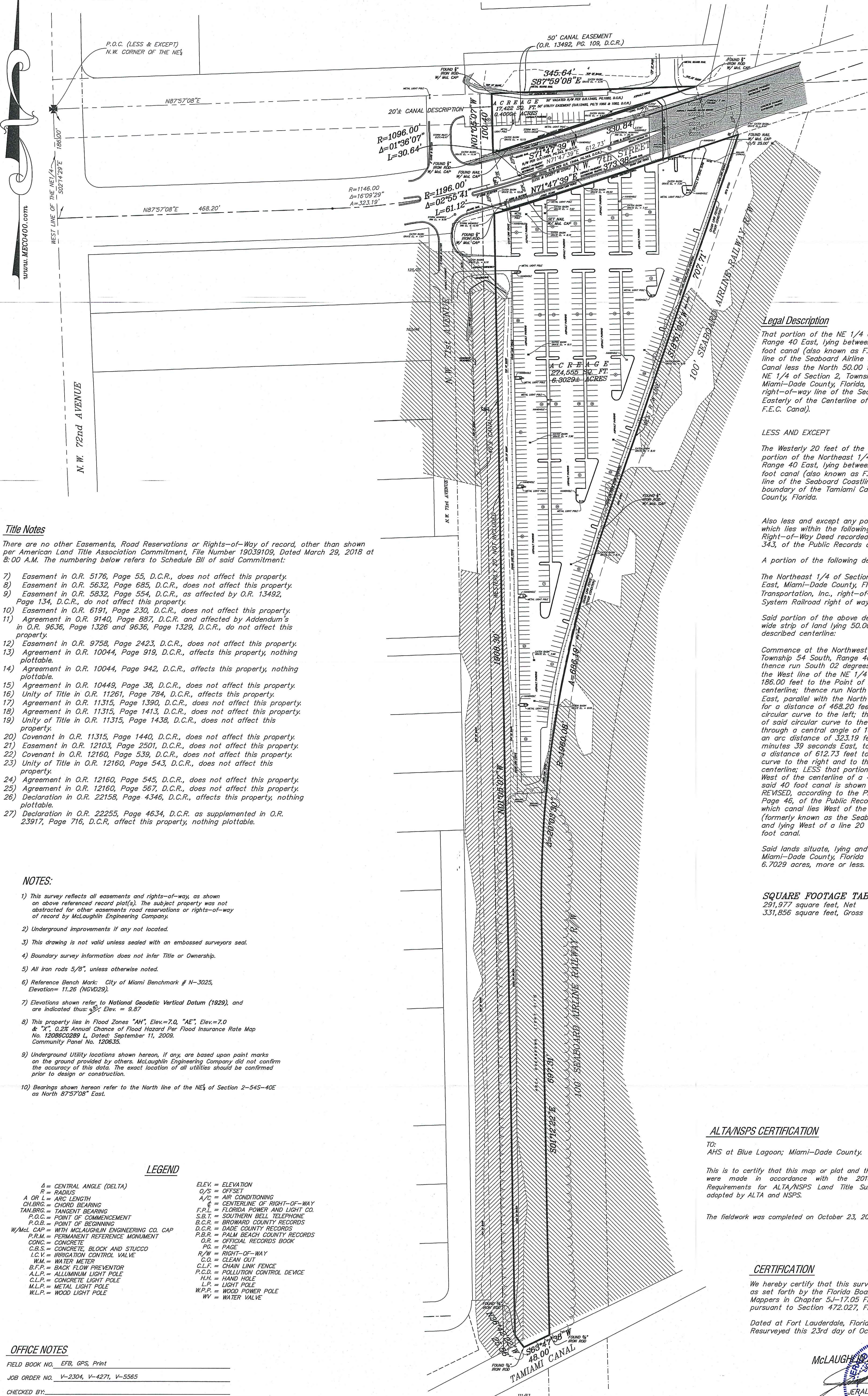
ALTA/NSPS LAND TITLE SURVEY

A PORTION OF NE 1/4 SECTION 2-54S-40E



Location Sketch
Not To Scale

THIS
SURVEY



Title Notes

There are no other Easements, Road Reservations or Rights-of-Way of record, other than shown per American Land Title Association Commitment, File Number 19039109, Dated March 29, 2018 at 8:00 A.M. The numbering below refers to Schedule BII of said Commitment:

- Easement in O.R. 5176, Page 55, D.C.R., does not affect this property.
- Easement in O.R. 5632, Page 685, D.C.R., does not affect this property.
- Easement in O.R. 5832, Page 554, D.C.R., as affected by O.R. 13492, Page 134, D.C.R., do not affect this property.
- Easement in O.R. 6191, Page 230, D.C.R., does not affect this property.
- Agreement in O.R. 9140, Page 887, D.C.R. and affected by Addendum's in O.R. 9636, Page 1326 and 9636, Page 1329, D.C.R., do not affect this property.
- Easement in O.R. 9758, Page 2423, D.C.R., does not affect this property.
- Agreement in O.R. 10044, Page 919, D.C.R., affects this property, nothing plottable.
- Agreement in O.R. 10044, Page 942, D.C.R., affects this property, nothing plottable.
- Agreement in O.R. 10449, Page 38, D.C.R., does not affect this property.
- Unity of Title in O.R. 11261, Page 784, D.C.R., affects this property.
- Agreement in O.R. 11315, Page 1390, D.C.R., does not affect this property.
- Agreement in O.R. 11315, Page 1413, D.C.R., does not affect this property.
- Unity of Title in O.R. 11315, Page 1436, D.C.R., does not affect this property.
- Covenant in O.R. 11315, Page 1440, D.C.R., does not affect this property.
- Easement in O.R. 12103, Page 2501, D.C.R., does not affect this property.
- Covenant in O.R. 12160, Page 539, D.C.R., does not affect this property.
- Unity of Title in O.R. 12160, Page 543, D.C.R., does not affect this property.
- Agreement in O.R. 12160, Page 545, D.C.R., does not affect this property.
- Agreement in O.R. 12160, Page 567, D.C.R., does not affect this property.
- Declaration in O.R. 22158, Page 4346, D.C.R., affects this property, nothing plottable.
- Declaration in O.R. 22255, Page 4634, D.C.R. as supplemented in O.R. 23917, Page 716, D.C.R. affect this property, nothing plottable.

NOTES:

- This survey reflects all easements and rights-of-way, as shown on above referenced record plat(s). The subject property was not abstracted for other easements road reservations or rights-of-way of record by McLaughlin Engineering Company.
- Underground improvements if any not located.
- This drawing is not valid unless sealed with an embossed surveyors seal.
- Boundary survey information does not infer Title or Ownership.
- All iron rods 5/8", unless otherwise noted.
- Reference Bench Mark: City of Miami Benchmark # N-3025, Elevation= 11.26 (NGVD29).
- Elevations shown refer to National Geodetic Vertical Datum (1929), and are indicated thus: $\text{Elev.} = 9.87$
- This property lies in Flood Zones "AH", Elev.=7.0, "AE", Elev.=7.0 & "X", 0.2% Annual Chance of Flood Hazard Per Flood Insurance Rate Map No. 12086C0289 L, Dated: September 11, 2009, Community Panel No. 120635.
- Underground Utility locations shown hereon, if any, are based upon paint marks on the ground provided by others. McLaughlin Engineering Company did not confirm the accuracy of this data. The exact location of all utilities should be confirmed prior to design or construction.
- Bearings shown hereon refer to the North line of the NE 1/4 of Section 2-54S-40E as North 87°57'08" East.

LEGEND

A = CENTRAL ANGLE (DELTA)
R = RADIUS
A OR L = ARC LENGTH
CH.BRG. = CHORD BEARING
TAN.BRG. = TANGENT BEARING
P.O.C. = POINT OF COMMENCEMENT
P.O.B. = POINT OF BEGINNING
W/MCL CAP = WITH McLAUGHLIN ENGINEERING CO. CAP
P.R.M. = PERMANENT REFERENCE MONUMENT
CONC. = CONCRETE
C.B.S. = CONCRETE BLOCK AND STUCCO
I.C.V. = IRRIGATION CONTROL VALVE
W.M. = WATER METER
B.F.P. = BACK FLOW PREVENTOR
A.L.P. = ALUMINUM LIGHT POLE
C.L.P. = CONCRETE LIGHT POLE
M.L.P. = METAL LIGHT POLE
W.L.P. = WOOD LIGHT POLE

ELEV. = ELEVATION
O/S = OFFSET
A/C = AIR CONDITIONING
C. = CENTERLINE OF RIGHT-OF-WAY
F.P.L. = FLORIDA POWER AND LIGHT CO.
S.B.T. = SOUTHERN BELL TELEPHONE
B.C.R. = BROWARD COUNTY RECORDS
D.C.R. = DADE COUNTY RECORDS
P.B.R. = PALM BEACH COUNTY RECORDS
O.R. = OFFICIAL RECORDS BOOK
PG. = PAGE
R/W = RIGHT-OF-WAY
C.O. = CLEAN OUT
C.L.F. = CHAIN LINK FENCE
P.C.D. = POLLUTION CONTROL DEVICE
H.H. = HAND HOLE
L.P. = LIGHT POLE
W.P.P. = WOOD POWER POLE
WV = WATER VALVE

OFFICE NOTES

FIELD BOOK NO. EFB, GPS, Print

JOB ORDER NO. V-2304, V-4271, V-5565

CHECKED BY: _____

DRAWN BY: RDR, RT

Legal Description

That portion of the NE 1/4 of Section 2, Township 54 South, Range 40 East, lying between the centerline of a 40 plus or minus foot canal (also known as F.E.C. Canal) and the West right-of-way line of the Seaboard Airline Railway and lying North of the Tamiami Canal less the North 50.00 feet of the part of the NW 1/4 of the NE 1/4 of Section 2, Township 54 South, Range 40 East, Miami-Dade County, Florida, lying Westerly of the Westerly right-of-way line of the Seaboard Airline Railway, and lying Easterly of the Centerline of a 42.5 foot canal (also known as the F.E.C. Canal).

LESS AND EXCEPT

The Westerly 20 feet of the following described property, that portion of the Northeast 1/4 of Section 2, Township 54 South, Range 40 East, lying between the centerline of a 40 plus or minus foot canal (also known as F.E.C. Canal) and the West right-of-way line of the Seaboard Airline Railway and lying North of the North boundary of the Tamiami Canal, lying and being in Miami-Dade County, Florida.

Also less and except any portion of the above described property which lies within the following described property, as conveyed by Right-of-Way Deed recorded in Official Records Book 13494, Page 343, of the Public Records of Miami-Dade County, Florida:

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The Northeast 1/4 of Section 2, Township 54 South, Range 40 East, Miami-Dade County, Florida, lying Westerly of the CSX Transportation, Inc., right-of-way (formerly known as the Seaboard System Railroad right of way), LESS the West 50.00 feet thereof;

Said portion of the above described parcel lies within a 100.00 foot wide strip of land lying 50.00 feet on each side of the following described centerline:

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Said lands situate, lying and being in the City of Miami, Miami-Dade County, Florida and containing 291,977 square feet or 6.7029 acres, more or less.

SQUARE FOOTAGE TABLE:

291,977 square feet, Net
331,856 square feet, Gross

ALTA/NSPS CERTIFICATION

TO:
AHS at Blue Lagoon; Miami-Dade County.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS.

The fieldwork was completed on October 23, 2020.

CERTIFICATION

We hereby certify that this survey meets the "Standards of Practice" as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17.05 Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Dated at Fort Lauderdale, Florida, this 24th day of April, 2019.
Resurveyed this 23rd day of October, 2020.

McLAUGHLIN ENGINEERING COMPANY
5269
Gerald A. McLaughlin
Registered Professional Surveyor and Mapper
No. 5269

FILE NO.:

17 - 3 - 027(20)

17 - 3 - 027(20)
FILE NO.:

Exhibit “C”
Gross Density Calculation

50' CANAL EASEMENT
R. 13492, PG. 109, D.C.R.)

A C R E A G E

19,481 SQ. FT.

0.4472± ACRES

S89°51'45"E
345.64'

50' UTILITY EASEMENT
(O.R.13485, PG.'S 1066
& 1082, D.C.R.)

100.40'
N01°04'00"E

D=1°36'08"
R=1096.00
A=30.65'

330.84'
39,879 SQ. FT.
N.W. 7th STREET

373.38'
N73°56'46"E

R=1196.00',
L=61.12",
=2°55'41"


A C R E A G E
274,555 SQ. FT.
6.3029± ACRES



Exhibit “D”
CDMP Interpretation Letter

Date: July 20, 2006

To: File

From: 
Diane O'Quinn Williams, Director
Department of Planning & Zoning

Subject: Computing Residential Density Interpretation

The purpose of this memorandum is to clarify what may be perceived as an inconsistency in the interpretation of the text of the CDMP relative to the definition of Gross Residential Density, and the manner in which the number of dwelling units permitted per gross acre in residential communities are computed.

Prior to a 1988 revision of the CDMP's definition for Gross Residential Density, a list of land uses such as housing, streets, public schools, fire stations, police stations, local public parks and any lakes or golf courses that would be included in major developments was included. Also listed were a number of land uses that were not to be considered when computing the number of dwelling units per gross acre. The 1988 revised and adopted definition added, among other uses, "previously dedicated road rights of way" to the list of uses to be excluded from consideration in calculating gross acreage. The potential inconsistency created by this addition has to do with computing the residential density vis-à-vis the time of dedication of the rights-of-way. It provides that landowners who dedicate the necessary road rights-of-way at the time of development approval may include that land area of dedicated road rights-of-way in the calculation of the density of the number of units permitted. However, the exclusion provision could be interpreted to mean that if the dedications were made prior to the approval of the development plans, dedicated rights-of-way are excluded from that calculation.

Based on research of the Summary of Public Comments published during the 1988 CDMP update and prior to adoption of this change and on the questions of what should count and what shouldn't relative to gross residential density, the proposed plan text attempted to exclude from the gross acreage the land that has already received benefits at the time the dedication was made or the facility was constructed. The proposed plan language attempted to avoid a property being given multiple credits for publicly dedicated areas and is not intended to penalize landowners who would dedicate additional areas in the future. A property owner is only able to include such area of the rights-of-way in the gross density calculation once. In order to further clarify the intent of the CDMP text, the Department finds that if the property owner was required by the County to dedicate land for road right of way prior to the owner of the property receiving any density credit for such rights-of-way, then the property owner should be given credit for the previously dedicated rights-of-way and the area is allowed to be included in the gross density calculation at the time of development. The property owner who has previously dedicated rights-of-way prior to development approval needs to establish to the satisfaction of the Director of Planning and Zoning that the dedication was not already included in any residential density calculation including density averaging.

Cc:
Al Torres, Assistant Director
Subrata Basu, Assistant Director

Exhibit “E”
Resolution Z-214-77

2-54-40/77-117

RESOLUTION NO. Z-214-77

The following resolution was offered by Commissioner William G. Oliver, seconded by Commissioner Barry D. Schreiber, and upon poll of members present, the vote was as follows:

| | | | |
|-----------------------|-----|--------------------|-----|
| Neal Adams | aye | Harvey Ruvin | aye |
| Clara Oesterle | aye | Barry D. Schreiber | aye |
| William G. Oliver | aye | Ruth Shack | aye |
| Beverly B. Phillips | aye | Stephen P. Clark | aye |
| James F. Redford, Jr. | aye | | |

WHEREAS, Hyman and Ida Kirsner has applied for the following:

A district boundary change from GU (Interim) to IU-1 (Industrial-Light Manufacturing)

SUBJECT PROPERTY: That portion of the NE $\frac{1}{4}$ of Section 2, Township 54 S., Rge. 40 East, lying between the center line of a 40+ foot canal (A/K/A F.E.C. Canal) and the West R/W line of the Seaboard Airline Railway and lying North of the Tamiami Canal containing a gross area of 8.078 acres \pm .

LOCATION: The southeast corner of theoretical NW 7 Street, east of Canal at the NW 70 Avenue to Seaboard Airline Railway right-of-way.

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida was advertised and held, as required by law, and all interested parties concerned in the matter were heard, at which time the applicant's attorney proffered a recordable restriction to the effect that development and exterior treatment of the property would be substantially in accordance with a plan submitted to this Board and restricting the type of uses that would be placed on the property, 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 would be compatible with the neighborhood and area concerned and would not be in conflict with the principles and intent of the plan for the development of Dade County, Florida;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the requested district boundary change to IU-1 be and the same is hereby approved subject to the following conditions:

1. That a plot use plan be submitted to and meet with the approval of the Zoning Director; said plan to include among other things, but not be limited thereto, location of building or buildings, type and location of signs, light standards, parking areas, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That the use be established and maintained in accordance with the approved plan.

BE IT FURTHER RESOLVED by the Board of County Commissioners, Dade County, Florida, that pursuant to Section 33-6 of the Code of Metropolitan Dade County, Florida, the County does exercise its option to enforce the proffered

Hyman and Ida Kirsner
Z-214-77

2.

1 2-54-40

restrictions, wherein the same are more restrictive than applicable zoning regulations.

The Zoning Director is hereby directed to make the necessary changes and notations upon the maps and records of the Dade County Building and Zoning Department.

PASSED AND ADOPTED this 6th day of October, 1977.

Heard 10-6-77
No. 77-6-CC-3
10-20-77
as

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

Richard P. Brinker, Clerk

EDWARD D. PHELAN

By

Deputy Clerk

This resolution transmitted to the
Clerk of the Board of County Commissioners
on the 25 day of Oct., 1977.

STATE OF FLORIDA)
) SS:
 COUNTY OF DADE)

I, RICHARD P. BRINKER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. 2-214-77, adopted by the said Board of County Commissioners at its meeting held on October 6, 19 77.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 26th day of October, A. D. 19 77.

RICHARD P. BRINKER, Ex-Officio Clerk
 Board of County Commissioners
 Dade County, Florida

By Elizabeth D. Elbin
 Deputy Clerk



SEAL

Board of County Commissioners
 Dade County, Florida

October 21, 1977

Hyman and Ida Kirsner
34 Star Island
Miami Beach, Fla. 33139

RE:77-6-CC-3

LOCATION: The southeast corner of the NW 7 Street, east of
Canal at the NW 70 Avenue to Seaboard Airline Railway
right-of-way.

Dear Mr. & Mrs. Kirsner:

Enclosed herewith is a copy of Resolution Z-214-77 adopted by the Board of County Commissioners on the 6th day of October, 1977 which approved, subject to conditions, your requested district boundary change to IU-1; and accepted your proffered restrictions on the above described property.

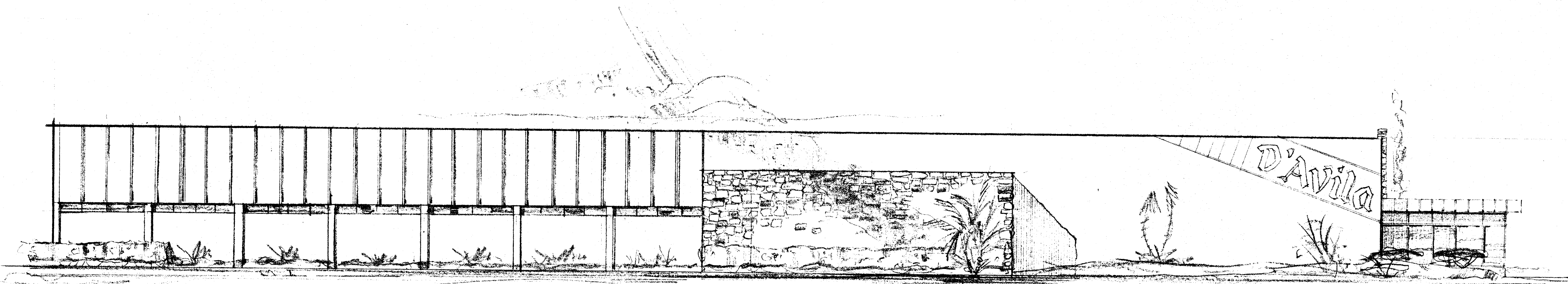
You are hereby advised that the decision of the Dade County Commission may be appealed by an aggrieved party within 30 days from the date that the resolution is transmitted to the Clerk's office. You are further advised that in the event that a petition for writ of certiorari is timely filed in the Circuit Court any building permit sought or obtained shall be solely at the risk of the party obtaining said permit.

Very truly yours,

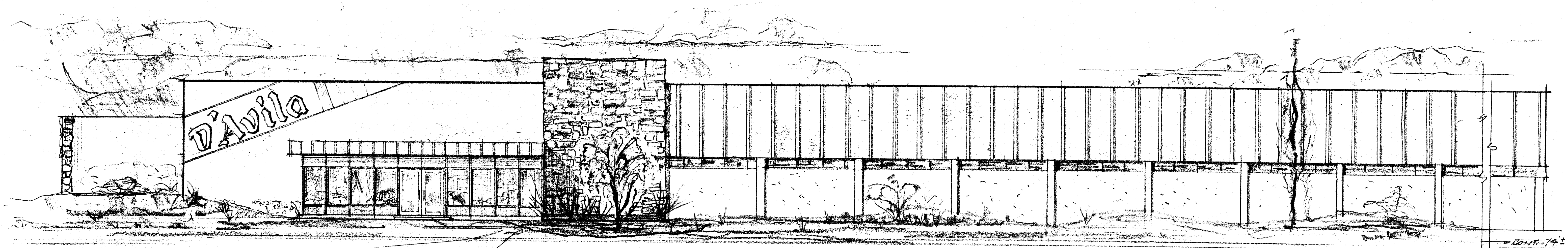
Chester C. Czebrinski
Assistant Director

CCC:as
Enc.

Exhibit “F”
Resolution Z-214-77 Plans



NORTH ELEVATION.
1/8" = 1'-0"



FRONT WEST ELEVATION.
1/8" = 1'-0"

(7747)

| | | | |
|-----------------------------------|--------------|---------------------------------|-----------|
| INDUSTRIAL BUILDING, D'AVILA INC. | | DADE COUNTY, FLA. | |
| SCALE: 1/8" = 1'-0" | DATE: 9-6-77 | DRAWN BY: | REVIEWED: |
| ROBERT R. MURPHY, ARCHITECT | | J. L. BROWNE, DESIGN CONSULTANT | |
| 3129 N. FLASLER ST. | | 561-0760 & 643-4239 | |
| DRAWING NUMBER | | DRAWING NUMBER | |

Exhibit “G”
Resolution No. 4-ZAB-17-81

2-54-40
Item No. 80-609

4
RESOLUTION NO. 4-ZAB-17-81

The following resolution was offered by Ms. Betty Page seconded by Mr.

Jose A. Losa and upon poll of members present, the vote was as follows:

| | | | |
|---------------------|-----|--------------------|-----|
| Thelma Damewood | aye | Jose A. Losa | aye |
| Lillian Dickmon | aye | R. Jolivet Frazier | aye |
| Peter Goldring | aye | Margaret C. Nelson | aye |
| Betty S. Page | aye | Murray Sisselman | aye |
| Edward G. Coll, Jr. | aye | | |

WHEREAS, METROPOLITAN LIFE INSURANCE CO. has applied for the following:

- (1) UNUSUAL USE to permit non-commercial parking on contiguous property under the same ownership in a district more restrictive than the use it serves is located.
- (2) TO RELEASE a Declaration of Restrictive Covenants recorded in the records of Dade County on November 7, 1977.

Plans are on file and may be examined in the Zoning Department entitled "Sketch Indicating Setbacks - Metropolitan Life Insurance Co. - Application No. 80-609," drawn by CSA and dated 12/80.

SUBJECT PROPERTY: South 100' of the north 150' less the west 50' of the NE 1/4 of 2-54-40, lying west of a drainage canal; also less the east 40' for a future road to be dedicated also that portion of the NE 1/4 of Section 2, Township 54 South, Range 40 East; lying between the center line of a 40'± canal (also known as F.E.C. Canal) and the west right-of-way line of the Seaboard Airline Railway and lying north of Tamiami Canal.

LOCATION: The south side of N.W. 7 Street at N.W. 72 Avenue, Dade County, Florida

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested unusual use and the release of Declaration of Restrictive Covenants would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance.

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board, that the requested unusual use and the release of Declaration of Restrictive Covenants be and the same are hereby approved subject to the following conditions:

1. That a Unity of Title Agreement suitable for recording be submitted to and meet with the approval of the Director to the effect that the subject property will be developed and incorporated and maintained with the primary merchandise marked property.

4-3ab-17-81

2-54-40

Item No. 80-609

Page two

2. That a plot use plan be submitted to and meet with the approval of the Zoning Director; said plan to include among other things, but not be limited thereto, location of building or buildings, type and location of signs, light standards, parking areas, exits and entrances, drainage, walls, fences, landscaping, etc.
3. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Sketch Indicating Setbacks - Metropolitan Life Insurance Co. - Application No. 80-609," drawn by CSA and dated 12/80.
4. That the applicant submit to the Planning Department for its review and approval a landscaping plan which indicates the type of plant material and size prior to the issuance of a building permit and to be installed prior to the issuance of a certificate of use and occupancy.
5. That a site plan be reviewed and approved by the Building and Zoning and the Planning Departments which shall assess the plan's concept and its elements for logic, imagination, variety, compatibility, and compliance with applicable regulations.
6. That special attention be given in regards to the landscaping along the applicant's east property line.
7. That the light standards plan be submitted to and be approved by the Planning Department prior to installation of the lights.
8. That the use be established and maintained in accordance with the approved plan.

The Zoning Director is hereby directed to make the necessary notations upon the records of the Dade County Building and Zoning Department.

PASSED AND ADOPTED this 14th day of January, 1981.

Heard 1/14/81
Hearing No. 81-1-26
1/21/81
mo

STATE OF FLORIDA)
 : SS
 COUNTY OF DADE)

I, J. ED BELL, Acting Director of the Metropolitan Dade County Building and Zoning Department, and Ex-Officio Secretary of the Metropolitan Dade County Zoning Appeals Board, DO HEREBY CERTIFY that the above and foregoing is true and correct copy of Resolution No. 4-ZAB-17-81, adopted by said Zoning Appeals Board at its meeting held on January 14, 19 81.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this

21st day of January, A.D. 19 81.

J. ED BELL, Ex-Officio Secretary
 Metropolitan Dade County
 Zoning Appeals Board

By: JEB

SEAL

January 21, 1981

Metropolitan Life Insurance Company
c/o Robert H. Traurig, Esq.
1401 Brickell Avenue, PH-1
Miami, Florida 33131

Re: Hearing No. 81-1-26; Section 2-54-40
Requested Unusual Use and Release of Declaration
of Restrictive Covenants of 11/7/77

Gentlemen:

Enclosed herewith is a copy of Resolution No. 4-ZAB-17-81 adopted by the Metropolitan Dade County Zoning Appeals Board, approving your application concerning the above subject matter.

Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. The required plot use plan should be submitted to this office in triplicate before any detailed plans are prepared, inasmuch as building permits will not be issued prior to the approval of said plan.

We are also enclosing an instruction sheet, three copies of a proposed agreement form, Opinion of Title and Joinder by Mortgagee forms to be executed. Opinion of Title and recording fee, together with necessary data as provided in the instruction sheet, should be submitted to this office as soon as possible to the attention of Mrs. Maria Ortega. The instrument must contain thereon the name and address of the person preparing same, as required under Florida Statutes, Chapter 67-53.

-2-

You are hereby advised that the decision of the Zoning Appeals Board may be appealed by an aggrieved party (within 14 days) or by the Directors of the Dade County Building and Zoning Department and Planning Department (within 18 days), as is provided in Chapter 33-313 of the Code of Metropolitan Dade County, Florida; and that no permits or Certificate of Use and Occupancy can be issued until the appeal periods have expired, and only if no appeal has been filed. Application for necessary permits and/or Certificate of Use and Occupancy should be made with this Department. The deadline for an appeal by the applicant and/or an aggrieved party is January 30, 1981.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC:mo

Enclosures

RESOLUTION NO. 4-ZAB-381-83

The following resolution was offered by Mr. Jose A. Losa seconded by Mrs.

Mary Jean Risi and upon poll of members present, the vote was as follows:

| | | | |
|------------------|--------|-----------------------|--------|
| Thomas A. Conger | aye | Margaret Nelson | aye |
| Peter Goldring | aye | Mary Jean Risi | aye |
| Levi A. Johnson | aye | Murray Sisselman | absent |
| Jose A. Losa | aye | R. Jollivette Frazier | aye |
| Joyce Masso | absent | | |

WHEREAS, M. M. H. VENTURE, A FLORIDA PARTNERSHIP has applied for the following:

- (1) SPECIAL EXCEPTION to permit night illumination for two (2) tennis courts.
- (2) UNUSUAL USE to permit a proposed outdoor patio bar.
- (3) NON-USE VARIANCE OF ZONING REGULATIONS as applied to signs to permit eleven (11) proposed detached signs and two (2) proposed wall signs in addition to two (2) existing wall signs for a total of fifteen (15) signs (4 permitted).
- (4) NON-USE VARIANCE OF ZONING REGULATIONS as it applies to signs to permit two (2) proposed wall signs of 528.75 square feet each (118.4 square feet permitted).
- (5) NON-USE VARIANCE OF ZONING REGULATIONS as applied to signs to permit ten (10) proposed detached signs, each proposed sign with an area of 40 square feet (24 square feet permitted) and to permit an additional 200 square foot detached sign (24 square feet permitted)
- (6) NON-USE VARIANCE OF SETBACK REQUIREMENTS as applied to signs to permit four (4) proposed detached signs to setback 7' (15' required) from official right-of-way line (N.W. 7th Street) and to permit four (4) proposed detached signs to setback 7' (15' required) from an official right-of-way line (State Road 836 Expressway).

Plans are on file and may be examined in the Zoning Department entitled "Radisson Airport Hotel Merchandise Mart Complex", as prepared by Carr Smith & Associates and Charles Giller Associates Architects, Inc., dated 11-11-82 and consisting of six pages, and plans entitled "Radisson Mart Plaza Hotel", as prepared by Melweb Signs, Inc., dated 7-7-83, and consisting of two (2) pages. A sketch of the survey as prepared by Jack Mueller & Associates, Inc., dated 10-29-81, and consisting of one page is also on file.

SUBJECT PROPERTY: A tract lying in the East 1/2 of Excess Government Lot 2, lying between Section 2, Township 54 South, Range 40 East, and Section 35, Township 53 South, Range 40 East, being particularly described as follows:

Commencing at the Southwest corner of the East 1/2 of Excess Government Lot 2, lying between Section 2, Township 54 South, Range 40 East, and Section 35, Township 53 South, Range 40 East; thence run N87°56'41"E along the South line of said Excess Government Lot 2 for a distance of 50.01' to a point on the East right-of-way line of N.W. 72nd Avenue (Milam Dairy Road); thence run N1°2'19"W along the said East Right-of-Way line of N.W. 72nd Avenue (Milam Dairy Road), said Right-of-Way line lying 50' East of and parallel to the West line of the East 1/2 of said Excess Government Lot 2, for a distance of 240' to the Point of beginning of the tract of land herein described; thence from the above established Point of beginning; continue N1°2'19"W along the said East Right-of-Way line of N.W. 72nd Avenue (Milam Dairy Road) for a distance of 175.35' to a point, said point being the beginning of the proposed SE/ly limited access Right-of-Way line of State Road #836 (Sec. 87200-2503) as said line is shown on State Road Dept. Right-of-Way Map, Sheet 4 of 9, revised January 3, 1966; thence run along the said proposed SE/ly limited access Right-of-Way line of State Road #836 for the following courses and distances: N88°57'41"E for a distance of 5' to a point; thence run N1°2'19"W for a distance of 100' to a point; thence run N63°59'6"E for a distance of 452.18' to a point; thence run N32°17"E for a distance of 564.86'; thence departing from the aforesaid SE/ly limited access Right-of-Way line of State Road #836 run N87°56'41"E for a distance of 380.59' to a point lying 95' West of; as measured at right angles, the W/ly line of the Seaboard Airline Railroad

Easement described in Deed Book 4374, at Page 434; thence run S1°8'16"E along a line that is 95' West of, as measured at right angles, and parallel to the said W/ly line of the Seaboard Airline Railroad Easement for a distance of 670.33' to a Point of curvature of a circular curve to the right; thence to the right along said curve, having for its elements a radius of 1,790.08' and a central angle of 13°48'50" for an arc distance of 431.58' to a point lying 70' north of, as measured at right angles, the aforesaid South line of Excess Government Lot 2, said curve being concentric to and 95' W/ly of the said W/ly line of the Seaboard Airline Railroad Easement; thence run S87°56'41"W for a distance of 404'; thence run S2°3'19"E for a distance of 20'; thence run S87°56'41"W for a distance of 450.1'; thence run N1°2'19"W for a distance of 190'; thence run S87°56'41"W for a distance of 200' to the Point of beginning.

That portion of the North 150' of the NW 1/4 of the NE 1/4 of Section 2, Township 54 South, Range 40 East, lying West of the existing canal, less and except the West 50' thereof;

LESS AND EXCEPT:

The North 50' of that part of the NW 1/4 of the NE 1/4 of Section 2, Township 54 South, Range 40 East, lying West of a 40' drainage canal (also known as the F.E.C. Canal), subject to the West 50' thereof previously dedicated to the public;

ALSO, LESS AND EXCEPT:

The external area formed by a 25' radius arc concave to the Southeast, tangent to a line that is 50' East of and parallel to the West line of the NE 1/4 of said Section 2, and tangent to a line that is 50' South of and parallel to the North line of the NE 1/4 of said Section 2;

ALSO, LESS AND EXCEPT:

The North 50' of that part of the NW 1/4 of the NE 1/4 of Section 2, Township 54 South, Range 40 East, lying W/ly of the W/ly Right-of-Way line of the Seaboard Airline Railway, and lying E/ly of the centerline of a 42.5' canal (also known as the F.E.C. Canal).

LOCATION: The Southeast corner of State Road 836 Expressway and N.W. 72 Avenue (Milam Dairy Road), Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested special exception, unusual use and non-use variances would be in harmony with the general purpose and intent of the regulations, would be compatible with the area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board, that the requested Special Exception to permit night illumination for two tennis courts, Unusual Use to permit a proposed outdoor patio bar, Non-Use Variances of Zoning Regulations as applied to signs to permit eleven proposed detached signs and two proposed wall signs in addition to two existing wall signs for a total of fifteen signs (4 permitted), to permit two proposed wall signs of 528.75 square feet each (118.4 square feet permitted), to permit ten proposed detached signs, each proposed sign with an area of 40 square feet (24 square feet permitted) and to permit an additional

4-ZAB-381-83

Page Three

Gov't Lot 2-53/54-40

200 square foot detached sign (24 square feet permitted), and Non-Use Variance of Setback Requirements as applied to signs to permit four proposed detached signs to setback 7' (15' required) from official right-of-way line (N.W. 7th Street) and to permit four proposed detached signs to setback 7' (15' required) from an official right-of-way line (State Road 836 Expressway) be and the same are hereby approved subject to the following conditions:

1. That a plot use plan be submitted to and meet with the approval of the Zoning Director; said plan to include among other things, but not be limited thereto, location of building or buildings, type and location of signs, light standards, 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 those submitted for the hearing entitled "Radisson Airport Hotel Merchandise Mart Complex", as prepared by Carr Smith & Associates and Charles Giller Associates Architects, Inc., dated 11-11-82 and consisting of six pages, and plans entitled "Radisson Mart Plaza Hotel", as prepared by Melweb Signs, Inc., dated 7-7-83, and consisting of two (2) pages.
3. That the applicant submit to the Planning Department for its review and approval a landscaping plan which indicates the type of plant material and size prior to the issuance of a building permit and to be installed prior to the issuance of a certificate of use and occupancy.
4. That the use be established and maintained in accordance with the approved plan.
5. That the existing detached sign near the N.W. 72 Avenue frontage be removed within 30 days of final inspection of the proposed main entrance sign.

Request number one (special exception to permit night illumination for two tennis courts) should be subject to the following additional conditions:

6. That the tennis court chain link fencing will be surfaced with a permanent green or brown vinyl type coating, or will be erected with a permanent, full-covering earthen hue or green tennis court screen netting.
7. That the lights be so shielded and directed that they do not become objectional to the adjacent area and so as not to become a traffic hazard to the adjacent roads.

The Zoning Director is hereby directed to make the necessary notations upon the maps and records of the Dade County Building and Zoning Department and to issue all permits in accordance with the terms and conditions of this resolution.

PASSED AND ADOPTED this 26th day of October, 1983

Heard: 10/26/83
Hearing No. 83-10-39
11/1/83 aa

November 1, 1983

M.M.H. Venture, a Florida Partnership
c/o Gary M. Held, Esq.
Greenberg, Traurig, et al
1401 Brickell Avenue
Miami, Florida

Re: Hearing No. 83-10-39; Govt. Lot 2-53/54-40
Requested: Special Exception, Unusual Use & Non-Use Variances
Location: SE corner of St. Rd. 836 Expressway & NW 72 Ave.

Gentlemen:

Enclosed herewith is a copy of Resolution No. 4-ZAB-381-83, adopted by the Metropolitan Dade County Zoning Appeals Board, approving your application concerning the above subject matter.

Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. If there are any anticipated changes from the plan submitted for the hearing a plot use plan should be submitted to this office in triplicate before any detailed plans are prepared, inasmuch as building permits will not be issued prior to the approval of said plan.

You are hereby advised that the decision of the Zoning Appeals Board may be appealed by an aggrieved party (within 14 days) or by the Directors of the Dade County Building and Zoning Department and Planning Department (within 18 days), as is provided in Chapter 33-313 of the Code of Metropolitan Dade County, Florida; and that no permits can be issued until the appeal periods have expired, and only if no appeal has been filed. Application for necessary permits should be made with this Department. The deadline for an appeal by the applicant and/or an aggrieved party is Monday, November 14, 1983.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC:aa

Enclosure

bcc: Joan Turman

This instrument was prepared by:

Name: **Pedro Gassant, Esq.**
Address: **Holland & Knight LLP**
701 Brickell Avenue, Suite 3300
Miami, Florida 33131

(Space Reserved for Clerk of the Court)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned **Common Wealth Trust Services, LLC as Trustee of the NW 7th Street Land Trust dated June 21, 2019** (hereinafter referred to as the “Owner”) holds the fee simple title to land in Miami-Dade County, Florida, described in Exhibit "A", attached hereto, and hereinafter called the "Property", which is supported by the Opinion of Title; and

WHEREAS, the Owner has applied for an amendment to the Miami-Dade County Comprehensive Development Master Plan (the “CDMP”) in the October 2020 Cycle and said amendment is identified as Application No. CDMP20200011 (the “Application”); and

WHEREAS, the Application seeks to re-designate the Property from “Industrial and Office” to “Medium-High Density Residential” on the Miami-Dade County Comprehensive Development Master Plan adopted Land Use Plan (“LUP”) map;

WHEREAS, the Applicant understands the importance of providing market rate apartments for older individuals and couples who are considering downsizing and is willing to provide a restriction on the Property to address this issue.

NOW, THEREFORE, in order to assure the Miami-Dade County that the representations made by the owner during consideration of the Application will be abided by, the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property:

1. **Senior Housing**. The Property will have fifty (50) residential dwelling units that will be restricted to individuals fifty-five (55) years and older.

MISCELLANEOUS

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

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

Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the Property, or any portion thereof, by a written instrument executed by the then owner(s) of the property, including joinders of all mortgagees, provided that the same is also approved by the Board of County Commissioners of Miami-Dade County, Florida. Any such modification, amendment or release shall be subject to the provisions governing amendments to Comprehensive Plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation that may, from time to time, govern amendments to Comprehensive Plans (hereinafter "Chapter 163"). Such modification, amendment or release shall also be subject to the provisions governing amendments to the CDMP as set forth in Section 2-116.1 of the Code of Miami-Dade County, or successor regulations governing modifications to the CDMP. In the event that the property is incorporated within a new municipality or annexed into an existing municipality, and the successor municipality amends, modifies, or declines to adopt the provisions of Section 2-116.1 of the Miami-Dade County Code, then modifications, amendments or releases of this

Declaration shall be subject to Chapter 163 and the provisions of such ordinances as may be adopted by such successor municipality for the adoption of amendments to its comprehensive plan; or, in the event that the successor municipality does not adopt such ordinances, subject to Chapter 163 and by the provisions for the adoption of zoning district boundary changes. It is provided, however, that in the event that the successor municipality approves a modification or deletion of this Declaration of Restrictions, such modification or deletion shall not be effective until approved by the Board of County Commissioners, in accordance with applicable procedures. Should this Declaration be so modified, amended, or released, the Director of the Department of Regulatory and Economic Resources or the executive officer of a successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her absence, shall 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. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

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

Authorization for Miami-Dade County (or successor municipality) 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 (or successor municipality) is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

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

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County (or successor municipality), and inspections made and approval of occupancy given by the County (or successor municipality), 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

Recordation and Effective Date. 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 by the Board of County Commissioners. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the Application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Department of Regulatory and Economic Resources or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

Acceptance of Declaration. The Owner acknowledges that 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 retains its full power and authority to deny each such application in whole or in part and decline to accept any conveyance.

Owner. The term Owner shall include all heirs, assigns, and successors in interest.

[Execution Page to Follow]

IN WITNESS WHEREOF, we have executed this Declaration of Restrictions as of this _____ day of _____, 2021.

WITNESSES:

**Common Wealth Trust Services, LLC as
Trustee of the NW 7th Street Land Trust dated
June 21, 2019**

Signature

By: _____

Printed Name

Name: _____

Title: _____

Signature

Printed Name

STATE OF FLORIDA)
) ss:
MIAMI-DADE COUNTY)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, _____, by _____ as _____ of Common Wealth Trust Services, LLC as Trustee of the NW 7th Street Land Trust dated June 21, 2019, and for the purposes stated herein on behalf of the entity. He/she is personally known to me or who has produced _____ as identification.

Witness my signature and official seal this _____ day of _____, 2021, in the County and State aforesaid.

[NOTARIAL SEAL]

Print Name: _____
 Notary Public, State of Florida
 Commission #: _____
 My Commission Expires: _____

EXHIBIT "A"**LEGAL DESCRIPTION**

That portion of the NE 1/4 of Section 2, Township 54 South, Range 40 East, lying between the centerline of a 40 +/- foot canal (also known as F.E.C. Canal) and the West right-of-way line of the Seaboard Airline Railway and lying North of the Tamiami Canal less the North 50.00 feet of the part of the NW 1/4 of the NE 1/4 of Section 2, Township 54 South, Range 40 East, Miami-Dade County, Florida, lying Westerly of the Westerly right-of-way line of the Seaboard Airline Railway, and lying Easterly of the centerline of a 42.5 foot canal (also known as the F.E.C. Canal).

LESS AND EXCEPT

The Westerly 20 feet of the following described property; that portion of the Northeast 1/4 of Section 2, Township 54 South, Range 40 East, lying between the centerline of a 40 plus or minus foot canal (also known as F.E.C. Canal) and the West right-of-way line of the Seaboard Coastline Railway and lying North of the North boundary of the Tamiami Canal, lying and being in the Miami-Dade County, Florida.

ALSO less and except any portion of the above described property which lies within the following described property as conveyed by Right of Way Deed recorded in Official Records Book 13494, Page 343 of the Public Records of Miami-Dade County, Florida:

a portion of the following described parcel of land:

The Northeast 1/4 of Section 2, Township 54 South, Range 40 East, Miami-Dade County, Florida, lying Westerly of the CSX Transportation, Inc., right-of-way (formerly known as the Seaboard System Railroad right of way), LESS the West 50.00 feet thereof;

Said portion of the above described parcel lies within a 100.00 foot wide strip of land lying 50.00 feet on each side of the following described centerline:

Commence at the Northwest corner of the NE 1/4 of Section 2, Township 54 South, Range 40 East, Miami-Dade County, Florida; thence run South 02 degrees 14 minutes 29 seconds East along the West line of the NE 1/4 of said Section 2 for a distance of 186.00 feet to the Point of Beginning of the herein described centerline; thence run North 87 degrees 57 minutes 08 seconds East, parallel with the North line of the NE 1/4 of said Section 2 for a distance of 468.20 feet to the point of curvature of a circular curve to the left; thence run Northeasterly along the arc of said circular curve to the left, having a radius of 1146.00 feet, through a central angle of 16 degrees 09 minutes 29 seconds, for an arc distance of 323.19 feet; thence run North 71 degrees 47 minutes 39 seconds East, tangent to the last described curve, for a distance of 612.73 feet to the point of curvature of a circular curve to the right and to the END of the herein described centerline; LESS that portion thereof lying East of a line 91 feet West of the centerline of a 40 foot canal, as said centerline of said 40 foot canal is shown on the plat of ALMEIDA TRACT REVISED, according to the Plat thereof recorded in Plat Book 103, Page 46, of the Public Records of Miami-Dade County, Florida, which canal lies West of the CSX Transportation, Inc. right-of-way (formerly known as the Seaboard System Railroad right-of-way) and lying West of a line 20 feet East of said centerline of said 40 foot canal.

AND less and except

A portion of the NE 1/4 of Section 2, Township 54 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows: Commence at the Northwest corner of the NE 1/4 of said Section 2; thence run North 87 degrees 57 minutes 08 seconds East along the North line of the NE 1/4 of said Section 2 for a distance of 50.00 feet; thence run South 02 degrees 14 minutes 29 seconds East along the East line of the West 50.00 feet of the NE 1/4 of said Section 2 for a distance of 236.00 feet to a point on the South line of the above described 100.00 foot wide strip of land and the Point of Beginning of the herein described parcel; thence run North 87 degrees 57 minutes 08 seconds East along the South line of the above described 100.00 foot wide strip of land for a distance of 10.12 feet to a point of intersection with the arc of a circular curve concave to the Southeast, the center of which bears South 31 degrees 58 minutes 27 seconds East from said point of intersection; thence run Southwesterly along the arc of said circular curve concave to the Southeast, having a radius of 30.00 feet, through a central angle of 21 degrees 44 minutes 12 seconds, for an arc distance of 11.38 feet to a point of intersection with the arc of a non-tangent circular curve concave to the Southeast, the center of which bears South 66 degrees 07 minutes 23 seconds East from said point of intersection; thence run Southwesterly along the arc of said circular curve concave to the Southeast, having a radius of 15.00 feet, through a central angle of 26 degrees 07 minutes 05 seconds, for an arc distance of 6.84 feet to a point of tangency with the East line of the West 50.00 feet of the NE 1/4 of said Section 2; thence run North 02 degrees 14 minutes 29 seconds West along the East line of the West 50.00 feet of the NE 1/4 of said Section 2 for a distance of 14.00 feet to the Point of Beginning;

AND less and except

The area bounded by the East line of the West 50.00 feet of the NE 1/4 of Section 2, Township 54 South, Range 40 East, Miami-Dade County, Florida and bounded by the North line of the above described 100.00 foot wide strip of land and bounded by a 25.00 foot radius arc concave to the Northeast, said arc being tangent to both of the last described lines.

AND less and except

That portion of that certain 70 foot wide canal right-of-way conveyed to Dade County by that certain Canal Right of Way Deed dated July 20, 1966 and recorded August 17, 1966, in Official Records Book 5176, Page 35, of the Public Records of Miami-Dade County, Florida. AND that portion of that certain 50 foot wide tract of land conveyed to Dade County by Special Warranty Deed dated July 20, 1966 and recorded August 17, 1966, in Official Records Book 5176, Page 50, of the Public Records of Miami-Dade County, Florida, AND that certain 51 foot wide canal right-of-way dedicated to Dade County by that certain plat of ALMEIDA TRACT REVISED, according to the Plat thereof recorded in Plat Book 103, Page 46, of the Public Records of Miami-Dade County, Florida, AND that portion of that certain 40 foot wide road right-of-way for N.W. 70th Avenue dedicated by said plat of ALMEIDA TRACT REVISED, AND that portion of that certain 51 foot wide and 20 foot canal right-of-way conveyed to Dade County by that certain Canal Right of Way Deed dated November 5, 1981 and recorded in Official Records Book 11262, Page 203 and re-recorded in Official Records Book 11590, Page 321, of the Public Records of Miami-Dade County, Florida, AND that portion of that certain 40 foot wide road right-of-way conveyed to Dade County by that certain Right of Way Deed dated November 5, 1981 and recorded in Official Records Book 11262, Page 201 and re-recorded in Official Records Book 11590, Page 318, of the

Public Records of Miami-Dade County, Florida, lying within a 100.00 foot wide strip of land lying 50.00 feet on each side of the following described centerline:

Commence at the Northwest corner of the NE 1/4 of Section 2, Township 54 South, Range 40 East, Miami-Dade County, Florida; thence run South 02 degrees 14 minutes 29 seconds East along the West line of the NE 1/4 of said Section 2 for a distance of 186.00 feet to the Point of Beginning of the herein described centerline; thence run North 87 degrees 57 minutes 08 seconds East, parallel with the North line of the NE 1/4 of said Section 2 for a distance of 468.20 feet to the point of curvature of a circular curve to the left; thence run Northeasterly along the arc of said circular curve to the left, having a radius of 1146.00 feet, through a central angle of 16 degrees 09 minutes 29 seconds, for an arc distance of 323.19 feet; thence run North 71 degrees 47 minutes 39 seconds East, tangent to the last described curve, for a distance of 612.73 feet to the point of curvature of a circular curve to the right and to the END of the herein described centerline.

AND LESS AND EXCEPT FROM THE ABOVE DESCRIBED LANDS:

ALL of the Miami-International Merchandise Mart Condominium according to the Declaration of Condominium thereof, recorded in Official Records Book 22255, Page 4500, as affected by Amendment to and Subordination of Declaration Miami-International Merchandise Mart Condominium recorded in Official Records Book 22278, Page 1777 and Second Amendment to Declaration of Miami-International Merchandise Mart Condominium recorded in Official Records Book 24888, Page 4209, all of the Public Records of Miami-Dade County, Florida

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