# REVISED RECOMMENDATIONS

# OCTOBER 2009 APPLICATIONS TO AMEND THE COMPREHENSIVE DEVELOPMENT MASTER PLAN

FOR MIAMI-DADE COUNTY, FLORIDA



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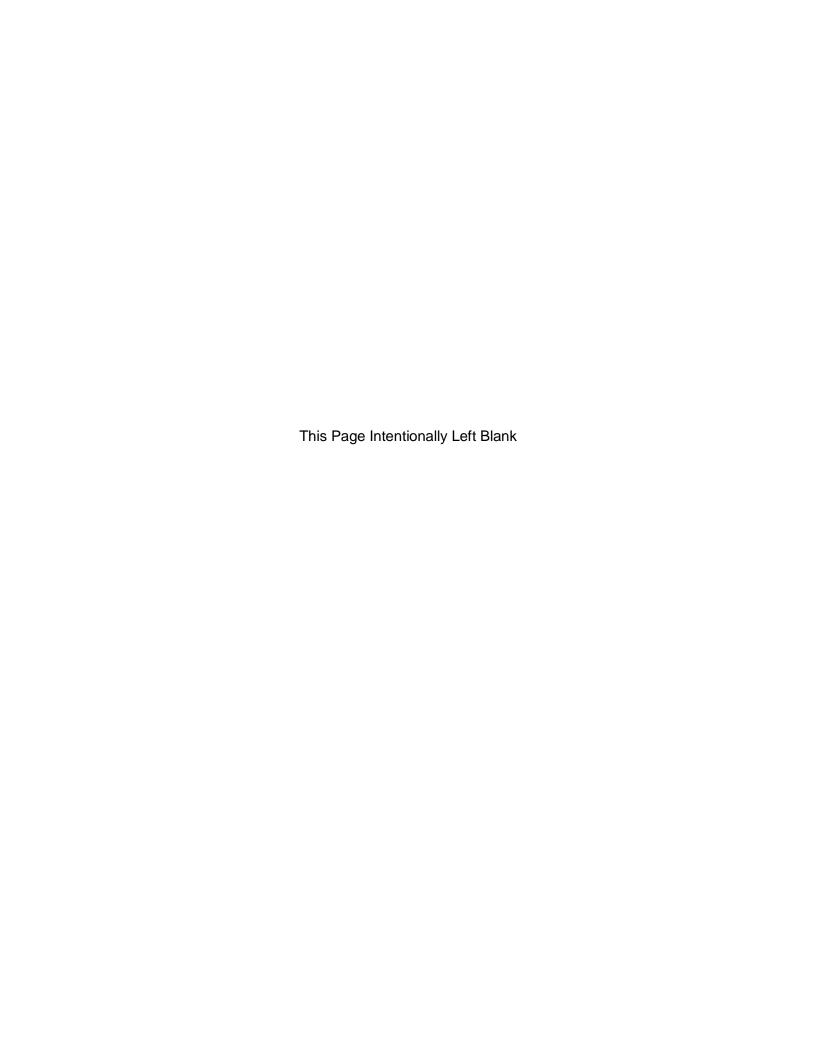
Miami-Dade County provides equal access and equal opportunity in employment and services and does not discriminate on the basis of disability. "It is the policy of Miami-Dade County to comply with all of the requirements of the Americans with Disabilities Act."

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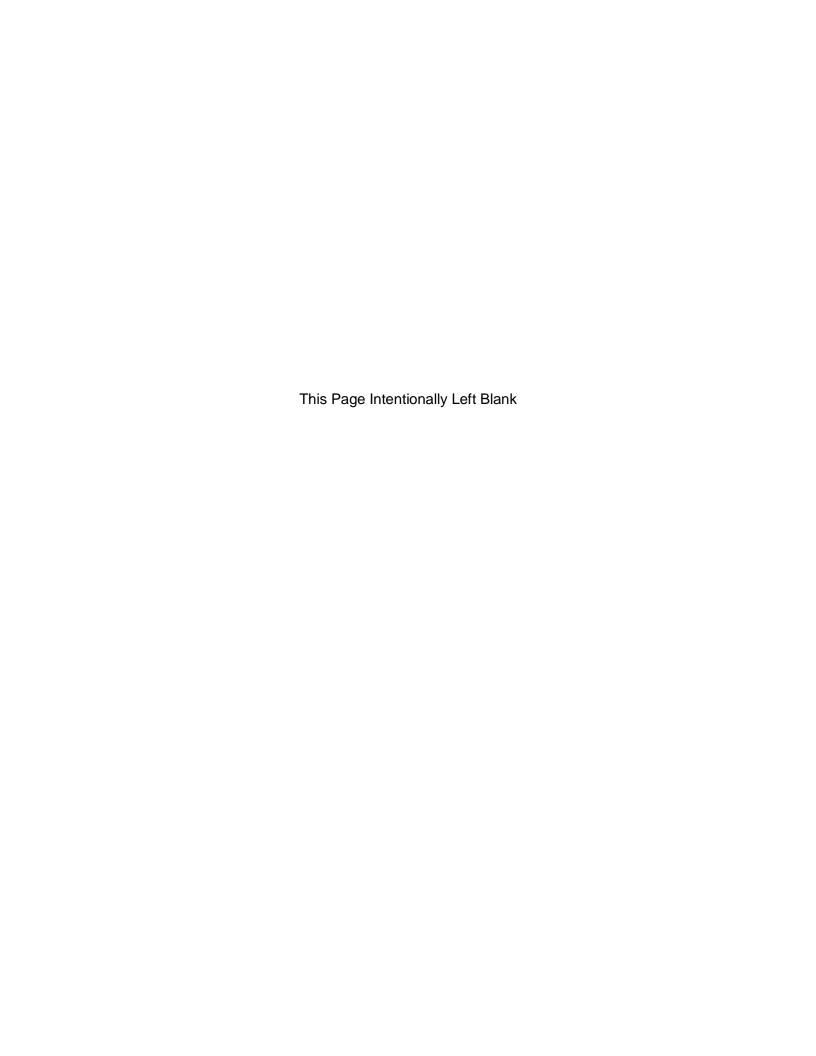
September 13, 2010

Miami-Dade County Department of Planning and Zoning 1110 Stephen P. Clark Center 111 NW 1 Street Miami, Florida 33128-1972 (305) 375-2835



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### INTRODUCTION

This report contains the revised recommendations of the Miami-Dade County Department of Planning and Zoning (DP&Z) on the pending October 2009 Cycle Applications (Application Nos. 3, 4, 5, 6, 7, 9, 11 and 12) requesting amendments to the Miami-Dade County Comprehensive Development Master Plan (CDMP). The Applicants withdrew Application Nos. 10 (letter dated March 5, 2010) and 8 (letter dated March 30, 2010).

### **Previous Actions**

The table entitled "Summary of Recommendations" presented on the following pages summarizes the recommendations of the DP&Z, affected Community Councils and the Planning Advisory Board (PAB) as well as the previous actions taken by the Board of County Commissioners on the pending October 2009 Cycle Applications. Following this summary table are the revised recommendations by the DP&Z that provide additional relevant information (if any) on each pending application.

# SCHEDULE OF ACTIVITIES OCTOBER 2009-2010 CDMP AMENDMENT CYCLE

Pre-application Conference for the Private Sector	September 1- September 30, 2009
Application Filing Period	October 1- October 31, 2009
Deadline to withdraw Application and obtain Return of Full Fee. Notify applicant of deficiencies.	November 7, 2009
Deadline for resubmittal of unclear or incomplete Applications	Seventh business day after notice of deficiency (November 16, 2009)
Applications Report published by DP&Z	December 5, 2009
Deadline for submitting Technical Reports	December 29, 2009
Deadline for submitting Declarations of Restrictions to be considered in the Initial Recommendations Report	January 27, 2010
Initial Recommendations Report released by DP&Z	February 25, 2010
Community Council(s) Public Hearing(s)	March 2010
Planning Advisory Board (PAB), acting as Local Planning Agency (LPA), Public Hearing to formulate Recommendations regarding Transmittal of Standard Amendment requests to DCA	April 5, 2010 County Commission Chamber 111 NW 1st Street Miami, Florida 33128
Board of County Commissioners (BCC) Hearing and Action on Transmittal of Standard Amendment requests to DCA	May 5, 2010 County Commission Chamber 111 NW 1 Street Miami, Florida 33128
Transmittal to DCA for State review	May 24, 2010
Deadline for Filing Supplementary Reports by the Public	Forty-five (45) days after Commission transmittal hearing
Receipt of DCA Objections, Recommendations and Comments (ORC) report	August 9, 2010
Public Hearing and Final Recommendations: Planning Advisory Board (Local Planning Agency)	September 20, 2010* (Within 30 days after receipt of DCA ORC report)
Public Hearing and Final Action on Applications: Board of County Commissioners (BCC)	October 6, 2010* (No later than 60 days after receipt of DCA ORC report)

Note: \*Date is subject to change. All hearings will be noticed by newspaper advertisement.

# Summary of Recommendations October 2009 Applications to Amend the Comprehensive Development Master Plan for Miami-Dade County, Florida Updated September 13, 2010

Application Number/ Type	Location/Acreage/ Requested Amendment	BCC District/ Commissioner	February 25, 2010	Community Council* Recommendation, Resolution # and Date  Map Amendment	Local Planning Agency Recommendation April 5, 2010	BCC Recommendation/ Final Action May 5, 2010	DP&Z Revised Recommendation September 13, 2010
3/ Standard	Southwest corner of SW 127 Avenue and SW 200 Street (2.3 gross/1.78 net acres)  From: "Low Density Residential (2.5 to 6 DUs/ ac.)" To: "Business and Office"	8/ Sorenson	Adopt as a Small- Scale Amendment	No Quorum**/ March 25, 2010	Adopt as a Small-Scale Amendment	Adopted As Small- Scale Amendment with Acceptance of Declaration of Restrictions	Adopt with Acceptance of Declaration of Restrictions*

<sup>\*</sup> The Department of Community Affairs (DCA) returned to Miami-Dade County the adopted small-scale amendment (Application No. 3) because it failed to qualify as a small-scale amendment pursuant to Section 163.3187(1)(c), Florida Statutes (F.S.). Per DCA's recommendation, Application No. 3 is being resubmitted for consideration as a standard amendment.

Application Number/ Type	Location/Acreage/ Requested Amendment	BCC District/ Commissioner	DP&Z Initial Recommendation February 25, 2010	Community Council* Recommendation, Resolution # and Date	Local Planning Agency Recommendation April 5, 2010	BCC Recommendation/ Final Action May 5, 2010	DP&Z Revised Recommendation September 13, 2010
		Star	ndard Land Use an	d Text Amendment	ts		
4/ Standard	Southwest corner of SW 152 Street and SW 117 Avenue to the northeast of the existing Miami Metrozoo (286 gross/279.38 net acres) From: "Institutions Utilities and Communications" and "Low-Medium Density Residential"  1. Modify the "Miami Metrozoo Entertainment Area" land use category text in the Land Use Element to establish Areas I and II.  2. Add "Miami Metrozoo Entertainment Area I" to site currently designated on the Adopted 2015 and 2025 Land Use Plan (LUP) map as "Miami Metrozoo Entertainment Area".  3. Change the land use designation on the subject property (Areas A, B, C & D) as follows: Area A: ±19.97 Gross Acres From: Low Medium Density Residential To: Miami Metrozoo Entertainment Area II Area B: ±134.75 Gross Acres From: Institutions, Utilities and	Star		2 0		Adopt with Change and Transmit	Adopt As Transmitted With Additional Change. Staff's recommended change is to modify the application to replace the name of Miami Metrozoo with Zoo Miami; add language addressing the redelineation of Natural Forest Communities (NFC) within the northern portion (Area B) of the application site; and to clarify that the floor area ratio restrictions in the
	Communications To: Miami Metrozoo Entertainment Area II Area C: ±70.9 Gross Acres From: Institutions, Utilities and Communications To: Environmentally Protected Parks Area D: ±60.6 Gross Acres From: Institutions, Utilities and Communications To: Miami Metrozoo Entertainment Area II						land use category text apply only to Area I

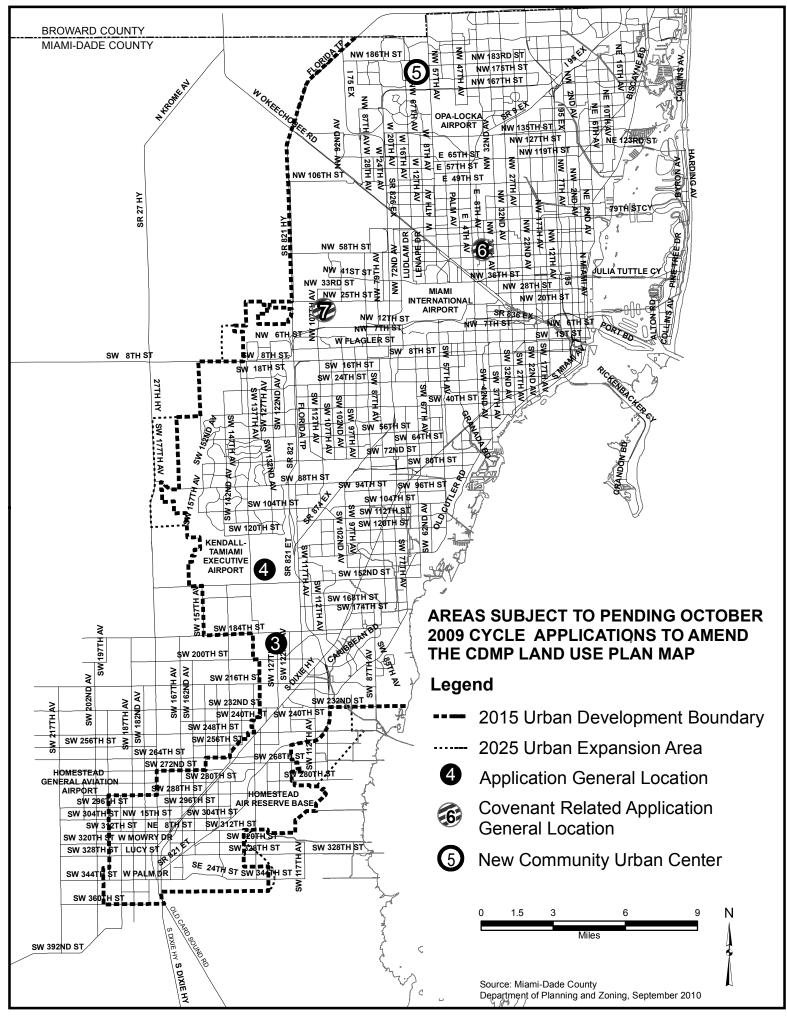
Application Number/ Type	Location/Acreage/ Requested Amendment	BCC District/ Commissioner	DP&Z Initial Recommendation February 25, 2010	Community Council* Recommendation, Resolution # and Date	Local Planning Agency Recommendation April 5, 2010	BCC Recommendation/ Final Action May 5, 2010	DP&Z Revised Recommendation September 13, 2010
5/ Standard	Generally in the unincorporated Country Club of Miami/Palm Springs North Area of the County. Specifically bounded by NW 57 Avenue (Red Road) on the east, the Moors residential development along NW 67 Avenue (Ludlum Road) on the west, NW 167 Street (Palmetto Expressway) on the south and NW 183 Street (Miami Gardens Drive) on the north.  Designate a Community Urban Center (CUC) for the Country Club of Miami/Palm Springs North unincorporated area of the County on the Adopted 2015 and 2025 Land Use Plan map	13/ Seijas	Adopt and Transmit	NA	Adopt and Transmit	Adopt and Transmit	Adopt As Transmitted
	Amendments Addressing Pre	viously Accepte	d Declarations of	Restrictions Assoc	iated With Adopted LUP	Map Amendments	
6/ Standard	Southwest corner of NW 32 Avenue and NW 79 Street (37.0 acres)  Release/delete previously proffered and accepted Declaration of Restrictions for Application No. 7 of the October 2005 Cycle CDMP Amendments as indicated on Page I-74.2 of the CDMP; and proffer a new Declaration of Restrictions for consideration by the Board of County Commissioners	2/ Rolle	Adopt and Transmit With Acceptance of Proffered Covenant	Adopt and Transmit With Acceptance of Proffered Covenant CC8-03-10 March 23, 2010	Adopt and Transmit With Acceptance of Proffered Covenant	Adopt with Change requiring applicant to work with DP&Z staff to include connectivity with mass transit and Transmit with Acceptance of Proffered Declaration of Restrictions	ADOPT as Transmitted with Acceptance of Proffered Declaration of Restrictions

Application Number/ Type	Location/Acreage/ Requested Amendment	BCC District/ Commissioner	DP&Z Initial Recommendation February 25, 2010	Community Council* Recommendation, Resolution # and Date	Local Planning Agency Recommendation April 5, 2010	BCC Recommendation/ Final Action May 5, 2010	DP&Z Revised Recommendation September 13, 2010
7/ Standard	Northwest corner of NW 107 Avenue and NW 12 Street (63.95 gross/54.24 net acres)  Delete and replace previously proffered and accepted Declaration of Restrictions for Application No. 3 of the April 2007 CDMP Amendment Cycle as indicated in the Restrictions Table on Page I- 74.5 of the CDMP	12/ Diaz	Deny and Do Not Transmit	Covenant, with the caveat that the Applicant will continue to work	Adopt and Transmit With Acceptance of Proffered Covenant, with the caveat that the Applicant will continue to work with County staff to create an acceptable covenant	Declaration of Restrictions dated May 4, 2010 and Further Change to	Adopt with Change as Transmitted to the Florida Department of Community Affairs the proposed standard amendment to delete in its entirety the previously proffered and accepted Declaration of Restrictions for Application No. 3 of the April 2007 CDMP Amendment Cycle from the Restrictions Table on Page I-74.5 of the Land Use Element and to replace it with a new proffered Declaration of Restrictions.
	Standard Text Amendments						
Standard	Land Use Element-Open Land Text Modify the text of Open Land Subarea 1 (Snake-Biscayne Canal Basin) in the Land Use Element of the Comprehensive Development Master Plan (CDMP), to allow nurseries and tree farms.	Countywide	Adopt with Change and Transmit	NA	Adopt with Change and Transmit	Adopt with Change Per Staff Recommendation dated April 26, 2010 and Transmit	Adopt As Transmitted

Application Number/ Type	Location/Acreage/ Requested Amendment	BCC District/ Commissioner	DP&Z Initial Recommendation February 25, 2010	Community Council* Recommendation, Resolution # and Date	Local Planning Agency Recommendation April 5, 2010	BCC Recommendation/ Final Action May 5, 2010	DP&Z Revised Recommendation September 13, 2010
11/ Standard	Land Use and Capital Improvements Elements A. Revise Land Use Element Policy LU-2A to refer to provisions in the "Concurrency Management Program" in the Capital Improvements Element (CIE).  B. Revise the text in Concurrency Management Program of the Capital Improvements Element on page IX-15 to reflect the level of public school facilities concurrency review for zoning actions consistent with the Interlocal Agreement for Public School Facility Planning between Miami-Dade County and Miami-Dade County Public Schools.	Countywide	Adopt and Transmit	NA	Adopt and Transmit	Adopt and Transmit	Adopt As Transmitted With Additional Change
12/ Standard	Land Use Element Revise Policies LU-3-G, and LU-3H in the Land Use Element to indicate that the super majority vote applies to text changes in the CDMP as well as land use map amendments.	Countywide	Adopt and Transmit	NA	Adopt and Transmit	Adopt and Transmit	Adopt As Transmitted

Source: Miami-Dade County Department of Planning and Zoning

Notes:
NA: Not Applicable; DUs/ac: Dwelling units per gross acre
DP&Z: Department of Planning and Zoning
BCC: Board of County Commissioners



# **Application No. 3**

### **Commission District 8** Community Council 14

### APPLICATION SUMMARY

Applicant/Representative: Apostolic Alliance Church of the Lord Jesus

Christ, Inc/Felix Lasarte, Esq The Lasarte Law Firm, LLP

Location: Southwest corner of SW 127 Avenue and SW

200 Street (Quail Roost Drive)

Total Acreage: <u>+</u>2.3 Gross Acres (<u>+</u>1.78 Net Acres)

Current Land Use Plan Map Designation: Low Density Residential (2.5 to 6 dwelling units

per gross acre)

Requested Land Use Plan Map Business and Office

Designation:

Amendment Type: Small-Scale (Reinstated As Standard)

Existing Zoning, Use and Site Condition: EU-1 (Single-family one-acre Estate District);

Vacant and part of an Apostolic church property

### **RECOMMENDATIONS**

Staff: ADOPT AS SMALL SCALE AMENDMENT

(February 25, 2010)

Redland Community Council (14): **NO QUORUM** (March 25, 2010)

Planning Advisory Board (PAB) acting as

Local Planning Agency:

ADOPT AS SMALL SCALE AMENDMENT

(April 5, 2010)

Board of County Commissioners: ADOPTED AS SMALL SCALE AMENDMENT

With Acceptance of Proffered Covenant

(May 5, 2010)

Revised Staff Recommendation ADOPTED AS STANDARD AMENDMENT

With Acceptance of Proffered Covenant

(September 13, 2010)

Final Recommendation of PAB acting as

Local Planning Agency:

TO BE DETERMINED (September 20, 2010)

Final Action of Board of County

Commissioners:

TO BE DETERMINED (October 6, 2010)

### **Revised Staff Recommendation** (September 13, 2010)

Based on the reasons in the Initial Recommendation, staff recommends **ADOPTION** with **Acceptance of Proffered Declaration of Restrictions** (covenant) to redesignate the application site from "Low Density Residential" to "Business and Office" on the Adopted 2015-2025 Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) for the following reasons.

- 1. The reasons stated in the initial recommendations for the adoption of the application are still valid for the application as a standard amendment. The amendment as adopted, would conform with and promote the implementation of Guideline No. 4 of the CDMP regarding location of non-residential component of the neighborhood in activity nodes; the proposed development on the subject site would have ability to satisfy a deficiency in the LUP map to accommodate projected population or economic growth in the County, impacts to County services, compatibility with abutting and nearby land uses, impacts to environmental and historical resources, and the extent to which the proposed CDMP land use would promote transit ridership and pedestrianism; and the new "Business and Office" designation is compatible with the existing commercial development on the other three corners of the intersection including the Walgreens pharmacy on the northwest corner, the Autozone store on the northeast corner and the Bank of America and the Shoppes at Quail Roost Shopping Center with a Publix supermarket as an anchor on the southeast corner. In addition, the application site does not impact any known archaeological or historical resources and has minimal impact on environmental resources.
- 2. The application was initially adopted as a small-scale amendment by the Board of County Commissioners on May 5, 2010. On July 27, 2010 the Department of Community Affairs (DCA) returned it for not meeting the requirements for a small-scale amendment. As a result, the application is reinstated and included among the pending standard amendments of the October 2009 amendment cycle awaiting final action by the Board.

### **New Information:**

Since the BCC transmittal public hearing on May 5, 2010, and the return of the application by the DCA by letter dated July 27, 2010, the Department of Planning and Zoning has received additional information regarding Application No. 3. A new Declaration of Restrictions has been proffered by the applicant on September 3, 2010, which prohibits residential development on the subject 2.3-acre property, limits development to commercial and retail uses and requires the owner to design the "Site Plan and/or Architectural Code" under Energy and Environmental Design in order to obtain certification under U.S. Green Building Council's LEED-NC Green Building Rating System. (See Appendix F)

### **Initial Recommendation** (February 25, 2010)

Staff recommends "ADOPT" the proposed small-scale amendment to redesignate the application site from "Low Density Residential" to "Business and Office" on the Adopted 2015-2025 Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP) based on the staff analysis as summarized in the Principal Reasons for Recommendations below:

### **Principal Reasons for Recommendations:**

1. Approval of the requested "Business and Office" designation of this site would conform with and promote implementation of Guideline No. 4 of the CDMP "Guidelines for Urban Form", which provides that intersection of section-line roadways should be planned to serve as activity nodes for the surrounding residential communities. Activity nodes shall be occupied by any nonresidential components of the neighborhood including public and semi-public uses. When commercial uses are warranted, they should be located within these activity nodes.

An activity node has been developing at the intersection of two section-line roadways, SW 127 Avenue and SW 200 Street (Quail Roost Drive). Redesignating the application site, which is located on the southwest corner of this intersection, from "Low Density Residential" to "Business and Office" on the Adopted 2015-2025 Land Use Plan (LUP) map would be consistent with the land use designations on the other three corners of the intersection. The property to the east of the site was approved as Application No. 9 of the October 2001 CDMP amendment cycle, while the northeast corner was approved as Application No. 12 in the April 2004 CDMP amendment cycle. Both sites were redesignated from "Low Density Residential' to "Business and Office." The parcel located on the northwest corner was approved for redesignation from "Estate Density' to "Business and Office" as Application No. 12 in the April 2006-07 CDMP amendment cycle.

- 2. Policy LU-8E of the Land Use Element of the CDMP requires applications requesting amendments to the LUP map to be evaluated according to factors such as, the proposed development's ability to satisfy a deficiency in the LUP map to accommodate projected population or economic growth in the County, impacts to County services, compatibility with abutting and nearby land uses, impacts to environmental and historical resources, and the extent to which the proposed CDMP land use would promote transit ridership and pedestrianism. No deficiency in the supply of vacant commercial land exists in either the Analysis Area (Minor Statistical Area 7.2) or the Trade Area (the area within the 1.5 mile radius of the application site). However, the requested CDMP Land Use Plan map amendment has a negligible impact on the supply of either residential or commercial land in the analysis area. The proposed development, if approved, would be consistent with adopted Level of Service (LOS) standards for such County services as parks, roadways, mass transit, solid waste, potable water supply, sanitary sewer, drainage and public schools.
- 3. The proposed redesignation from "Low Density Residential" to "Business and Office" on the application site is compatible with existing commercial development on the other three corners of the intersection including the Walgreens pharmacy on the northwest corner, the AutoZone store on the northeast corner and the Bank of America and the Shoppes at Quail Roost Shopping Center with a Publix supermarket as an anchor on the southeast corner. At the time of rezoning, measures can be taken to buffer any adverse effects of commercial development on the site from the four-acre Charles Burr Park to the south and Apostolic Alliance Church of the Lord Jesus Christ, Inc. to the west.
- 4. The application site does not impact any known archaeological or historical resources and has minimal impact on environmental resources. The application site is located within the South Miami Heights Wellfield Complex Protection Area and as such, the property is subject to stringent wellfield protection measures that restrict development

and regulates land uses within the wellfield protection area as specified in Section 24-43 (4), (4)(c), and (5) of the Miami-Dade County Code. Land uses, including certain business uses, that do not comply with the aforementioned Code Sections would require variances from the Miami-Dade County Environmental Quality Control Board (EQCB).

### STAFF ANALYSIS

### **Application Site**

The application site is a 2.3-gross-acre vacant property located at the southwest corner of SW 127 Avenue and SW 200 Street (Quail Roost Drive) that may be used for occasional outdoor church activities by the owner, Apostolic Alliance Church of the Lord Jesus Christ, Inc. The subject property is designated "Low Density Residential Communities" (2.5 to 6 dwelling units per gross acre) on the Adopted 2015-2025 Land Use Plan (LUP) map. The site is currently zoned EU-1 (Single-family one-acre Estate District), which permits one single family home per one gross acre. Under this current zoning, the maximum potential residential development on this property would be two units only. However, under the current land use designation of "Low Density Residential", the entire site (2.3 gross acres or 1.78 net acres) could be developed with a maximum of 13 single-family detached dwelling units (du) if it was appropriately zoned.

The applicant is requesting a redesignation of a 2.3-gross-acre property located at the southwest corner of SW 127 Avenue and SW 200 Street (Quail Roost Drive) from the "Low Density Residential Communities" (2.5 to 6 dwelling units per gross acre) to "Business and Office" land use category on the LUP map. The requested Business and Office category generally allows a full range of sales and service activities and also allows residential uses and/or mixing of residential with non-residential (commercial, office and hotel) land uses. Assuming a Floor Area Ratio (FAR) of 0.4, the entire site could be developed as commercial with a maximum of 31,015 square feet of floor area. The FAR is a measure of non-residential development intensity that is calculated by dividing the building square footage (not counting parking structures) by the net lot area of the parcel. Alternatively, the entire site could potentially be developed as residential with a maximum of 29 dwellings. A one category density increase higher than adjacent residentially designated is permitted on property designated as "Business and Office" if the properties are on the same side of a major roadway.

### Land Use and Zoning History

The Board of County Commissioners (BCC) adopted Resolution No. 730 on December 19, 1957 to rezone the subject property from AU (Agricultural District) to its current zoning of EU-1 (Single family one acre Estate District). The property was redesignated from "Agriculture" to "Low Density Residential" on the Adopted 1990 and 2005 Land Use Plan map as part of Staff Application No. 17 of the April 1982-83 CDMP amendments cycle, which was adopted by the BCC on July 8, 1983 by Ordinance No. 83-58.

### Adjacent Land Use and Zoning

The application site is located on the southwest corner of the SW 127 Avenue and SW 200 Street. The other three corners of the intersection are designated as "Business and Office" on the adopted LUP map. The property to the east of the site was approved as Application No. 9 of the October 2001 CDMP amendment cycle, while the northeast corner was approved as Application No. 12 in the April 2004 CDMP amendment cycle. Both sites were redesignated from "Low Density Residential" to "Business and Office." The parcel located on the northwest corner was approved for redesignation from "Estate Density' to "Business and Office" as Application No. 12 in the April 2006-07 CDMP amendment cycle. These three corners are currently zoned BU-1A (Limited Business District). Existing commercial uses on these three corners include the Walgreens pharmacy on the northwest corner, the AutoZone store on the

northeast corner and the Bank of America and the Shoppes at Quail Roost Shopping Center with a Publix supermarket as an anchor on the southeast corner. Other establishments in this shopping center include Payless Shoes, Metro PCS, Rico restaurant, Dollar store and an insurance office.

The remainder of the area around the intersection of the SW 127 Avenue and SW 200 Street can be characterized as a residential area with institutional uses such as churches. Single-family residential subdivisions near the intersection include Countryside to the southwest, Oak Park Estates and Burr Road Estates to the east and southeast, Magny and South Miami Lakes to the northeast and Renaissance Ranches and Tropic Estates to the northwest. Nearby institutional uses include Apostolic Alliance Church of the Lord Jesus Christ and Perrine Church of Christ to the west and Peace United Methodist Hispanic Church to the northwest. The adjacent land to the south is an undeveloped four-acre County park (Charles Burr Park).

The land use designations on the adopted LUP map and the zoning districts reflect this development pattern for the area around the intersection (See Appendix A: Map Series]. The areas to the northeast, southeast and southwest are designated "Low Density Residential Communities" on the LUP map. The area to the northwest is designated "Estate Density Residential Communities. The adjacent areas on the west and south are zoned EU-1. The other zoning districts in the surrounding residential area include EU-M (Estate Modified- One Family on a 15,000 sq. ft. net lot), RU-1 (Single Family Residential on a 7,500 sq. ft. lot) and RU-1Z (Single Family Zero Lot Line on a 4,500 sq. ft. lot).

### **Supply and Demand**

### Commercial Land Analysis

The Analysis Area for Application 3 (MSA 7.2) contained 228.5 acres of in-use commercial uses in 2010 and an additional 86.4 acres of vacant land zoned or designated for business uses. The annual average absorption rate for the 2008-2025 - period is 5.33 acres per year. At the projected rate of absorption, reflecting the past rate of commercial uses, the study area will deplete its supply of commercially zoned or designated land beyond the year 2025 (See Table below).

### Projected Absorption of Land for Commercial Uses Indicated Year of Depletion and Related Data Application 3 Analysis Area

Analysis	Vacant		Annual Absorption			
Area	Commercial	Commercial	Rate	Projected	Total Comm	ercial Acres
	Land 2010	Acres in	2008-2025	Year of	per Thousa	nd Persons
	(Acres)	Use 2010	(Acres)	Depletion	2015	2025
MSA 7.2	86.4	228.5	5.33	2025+	5.4	4.3

Source: Miami-Dade County Department of Planning & Zoning, Planning Research Section, February 2010.

### **Analysis of the Trade Area**

Analysis of the Trade Area, 1.5 miles around the proposed project, for Application #3 shows that there are 113.4 acres in existing commercial uses and 28.3 acres of vacant commercially zoned or designated land. (See Table below). Most of the vacant parcels are located in the immediate

area surrounding the proposed site, on Quail Roost Drive, and along US 1. However, the proposed development of the site as commercial would be appropriate at the application site.

Trade Area Analysis

		,	
Application	Trade Area Radius	Vacant Commercial Land (Acres)	Commercial Acres in Use 2010
3	1.5	28.3	113.4

Source: Miami-Dade Department of Planning & Zoning, Planning Research Section, February 2010.

### **Environmental Conditions**

The following information pertains to the environmental conditions of the application site. All YES entries are further described below. Additional information on all other environmental condition can be obtained through Department of Environmental Resources Management (DERM).

### **Flood Protection**

Federal Flood Zone	X – Base elevation undetermined but greater than 7 feet
Stormwater Management Permit	Surface Water Management Permit
Drainage Basin	C-1 Canal (Black Creek Canal)
County Flood Criteria, National	+9.0 feet
Geodetic Vertical Datum (NGVD)	
Hurricane Evacuation Zone	NO
Biological Conditions	
Wetlands Permits Required	NO
Native Wetland Communities	NO
Specimen Trees	NO
Natural Forest Communities	NO
Endangered Species Habitat	NO
Other Considerations	
Within Wellfield Protection Area	YES
Archaeological/Historical Resources	NO
Hazardous Waste	NO

### Drainage and Flood Protection:

The application site lies within Flood Zone X, where the base elevation is undetermined as per the Federal Flood Insurance Rate Maps (FIRM) for Miami-Dade County. The nearest Flood Zone is AH, where the base flood elevation of 9.0 feet. According to the County's flood criteria, the site shall be filled to a minimum elevation of 6.30 feet and requires an additional 8 inches for residential and 4 inches for commercial structures. However, if the County flood elevation is less than the base flood elevation established by the FIRM maps, the higher elevation will be used. Flood protection for the application site is available through C-1 Canal (Black Creek Canal).

According to the DERM, a retention/detention system adequately designed to contain the run-off generated by a 5-year storm event onsite, is required for the proposed development. In addition, the site shall be graded in a manner to prevent the flooding of adjacent properties during construction and thereafter. Interceptor swales shall be constructed on-site with no encroachment over adjacent properties. Also, due to the site's location in the South Miami

Heights Wellfield Complex protection area, drainage restrictions would be applied in accordance with the County Code.

### Wellfield Protection Area

The subject property is located within the South Miami Heights Wellfield Complex Protection Area, therefore, the application site is subject to stringent wellfield protection measures that restrict development and regulates land uses within the wellfield protection area. Section 24-43 (5) of Miami-Dade County Code prohibits the approval of any building permits, certificates of use and occupancy, municipal occupational licenses, platting actions or zoning actions for any nonresidential land uses which generates, uses, handles, disposes of, discharges or stores hazardous wastes on property located within wellfield protection areas. Section 24-43 (4) regulates the disposal of waste water and storm water on properties located within this wellfield protection area. Furthermore, Table C-1, in Section 24-43 (4)(c),provides for storm water restrictions.

### **Water and Sewer**

### Water Supply

The Biscayne Aquifer is the primary water supply source for the millions of people living in South Florida. However, overuse of this aquifer has resulted in lowered water levels in the Everglades, and is inconsistent with the goals of the Comprehensive Everglades Restoration Plan (CERP), which is designed to restore and preserve the water resources of the South Florida ecosystem, including the Everglades. In 2005, the South Florida Water Management District (SFWMD) promulgated new rules that prohibited withdrawals from the Biscayne Aquifer to accommodate future development. The SFWMD requires that all future development be linked to new water supply sources, either through alternative water supply or reuse projects.

On November 15, 2007, the South Florida Water Management District Governing Board approved the Miami-Dade Water Supply Water Use Permit (WUP). The WUP details how the County will provide adequate water supply for its anticipated growth over a 20-year period. This permit is to be reviewed and updated every 5 years or sooner if needed. The projects that are planned to implement the 20-year WUP are contained in Table 1 of Objective WS-7 of the Water, Sewer and Solid Waste Element of the Comprehensive Development Master Plan (Water Supply Facilities Work Plan) and funded through the County's Capital Improvements schedules.

In August 2009, a permit compliance report prepared for WASD indicated that several projects originally contemplated in the WUP are no longer necessary to provide adequate water supply for the County's growth. This is in large due to the implementation of the County's adopted permanent landscape irrigation restrictions, which limits landscape watering to twice per week, and the requirement of more efficient water use measures. As a result, water use demand in the County is approximately 35 mgd below the permitted Biscayne Aquifer pumpage level of 347 mgd. This decrease in water consumption has caused WASD to re-evaluate the need and/or timing of several alternative water supply projects in its WUP. The new schedule and requested permit modifications are currently being reviewed by the SFWMD.

The assessment of available water supply, as it relates to comprehensive plan amendments, is difficult given that there is no specific timing of the development. Therefore, to determine if adequate water supply will be available for the proposed amendment, an assumption of three

years for project completion from final comprehensive plan amendment approval is made, for this project the year 2013 will be used. This timeframe allows for rezoning of the property, platting of property, permitting and construction. Additionally, this is the timeframe for which concurrency is applied.

As noted in the table below, should the subject site be developed with 29 units of single-family detached homes [maximum development allowed under the requested "Business and Office" CDMP land use category, which would generate the greatest demand for water and sewer service], the maximum water demand is estimated at 10,150 gallons per day (gpd). Under commercial development, the maximum water demand under the requested proposed "Business and Office" land use category is estimated at 3,101.5 gpd. This water supply demand can be accommodated by the water permitted in the WUP. Additional water supply will be generated from those projects listed in the CDMP (Table 1 of Objective WS-7), which will be completed by 2012. In addition, the County has developed a water allocation system which will track all development projects receiving water from the Miami-Dade Water and Sewer Utility. The allocation system will allow the County to track new or changed uses against the supply allocated in the SFWMD permit.

	Estimated Water Demand by Land Use Scenario					
	Use	Quantity	Water Demand Multiplier	Projected Water		
Scenario	(Maximum	(Units or Square	(Section 24-43.1 Miami-	Demand		
	Allowed)	Feet)	Dade Code)	(gpd)		
		Current/Allo	owable Use			
1	SF Residential	13 units	350 gal/unit	4,550		
	Proposed Use					
1	Commercial	31,015 sf	10 gal/100 sf	3,101.5		
2	SF Residential	29 units	350 gal/unit	10,150		

Source: Miami-Dade Department of Environmental Resource management, 2010

Notes: GPD means Gallons Per Day

Based on the Estimated Water Demand table above, a residential scenario would require 10,150 gpd of water. Since the current land use could result in 4,550 gpd of water, approval of this application could result in an increased water demand of 5,600 gpd. The increase would not result in the regional water treatment system exceeding the LOS standard.

### Potable Water

The County's adopted level of service (LOS) standard for water treatment is based on a regional treatment system. This system is comprised of the Hialeah-Preston and Alexander Orr Water Treatment Plants. The LOS requires that the regional treatment system operate with a rated maximum daily capacity of no less than 2 percent above the maximum daily flow for the preceding year, and an average daily capacity 2 percent above the average daily system demand for the preceding 5 years. Based on the 12-month average (period ending 12-31-09) data provided by DERM, the regional treatment system has a DERM rated treatment capacity of 439.7 million gallons per day (mgd) and a maximum plant production of 345.8 mgd. As a result, the regional system has approximately 94 mgd or 21.4% of treatment plant capacity remaining. Additionally, the system has a 12-month average demand (for period ending 05-31-09) of 305.6 mgd, which is well within 2 percent of the system's 402.3 mgd permitted annual average withdrawal, and therefore meets the LOS standard for water treatment facilities.

Potable water service would be provided by MDWASD through existing 16-inch mains on SW 200 Street and SW 127 Avenue extending west along SW 200 Street and connecting to a new 16-inch main to the northwest corner of the application site. Any public water main extension within the property shall require a 12-inch minimum diameter main. If two or more fire hydrants are to be connected to a public water main extension within the property, the water system shall be looped with two points of connection.

### Wastewater Facilities

The County's adopted LOS standard for wastewater treatment and disposal requires that the regional wastewater treatment and disposal system, consisting of North, Central, and South Districts Wastewater Treatment Plants, operate with a capacity that is two percent above the average daily per capita flow for the preceding five years and a physical capacity of no less than the annual average daily sewer flow. The wastewater effluent must also meet all applicable federal, state, and county standards and all treatment plants must maintain the capacity to treat peak flows without overflow. The regional wastewater treatment system has a design capacity of 368 million gallons per day (mgd) and a 12-month average (period ending 12-31-09) of 301.49 mgd. This represents approximately 82% of the regional system's design capacity.

Based upon the residential development scenario (discussed under the Water Supply section above), it is estimated that this site will generate sewage flows of 10,150 gpd. These estimated flows will not cause the adopted LOS standard for the regional system to be exceeded.

The closest available public sanitary sewer line to the application site is an existing 8-inch gravity main abutting the east side of the property running along north-south axis of NW 127 Avenue. According to DERM, sewage flows from this site would then be directed in succession to Pump Station (PS) 30-0695 and 30-0522 and then to the South District Wastewater Treatment Facility. These pump stations have sufficient capacities to handle sewage flows that would be generated from the potential development on the application site. The treatment plant and pump stations are currently working within the mandated criteria set forth in the First and Second Partial Consent Decree. At this time, the South District Wastewater Treatment Plant has sufficient capacity to treat current discharge.

### **Solid Waste**

The application site is located inside the Department of Solid Waste Management (DSWM) waste service area for garbage and trash collections. The adopted LOS standard for the County Solid Waste Management System is to maintain sufficient waste disposal capacity to accommodate waste flows committed to the System through long-term contracts or interlocal agreements with municipalities and private waste haulers, and anticipated uncommitted waste flows, for a period of five years. As of FY 2009 -10, the DSWM is in compliance with the level of service. The DSWM does not actively compete for commercial collection at this time and the requested amendment will have no impact or any associated costs to the DSWM. Therefore, the DSWM has no objection to the proposed amendment.

### **Parks**

The LOS standard for the provision of recreation open space for 2.75 acres of local recreation open space per 1,000 permanent residents in unincorporated areas; and adds that the county

must provide open space of five acres or larger within three miles from a residential area. This application is in Park Benefit District 3 (PBD3), which has a surplus capacity of 251.95 acres when measured by the County concurrency level-of-services standard for the unincorporated area of 2.75 acres of local recreation open space for 1,000 persons in unincorporated municipal service area. The nearest local park to the application site is the Charles Burr Park which is a 4-acre property that is yet to be improved. The local parks within a 2-mile radius of the application site are listed below.

County Local Parks
Within a 2 Mile Radius of Application Area

Name	Park Classification	Acreage
Bailes Road Park	NEIGHBORHOOD PARK	10.00
Carribean Park	NEIGHBORHOOD PARK	5.23
Charles Burr Park	NEIGHBORHOOD PARK	4.00
Eureka Park	COMMUNITY PARK	5.13
Goulds Park	COMMUNITY PARK	30.00
Goulds Wayside Park	NEIGHBORHOOD PARK	2.90
Losner Park	MINI-PARK	0.57
MedSouth Park	NEIGHBORHOOD PARK	4.49
Quail Roost Park	NEIGHBORHOOD PARK	3.13
Roberta Hunter Park	NEIGHBORHOOD PARK	15.00
Serena Lakes Park	NEIGHBORHOOD PARK	5.00
Sharman Park	NEIGHBORHOOD PARK	2.06
South Miami Heights Parks	NEIGHBORHOOD PARK	5.67
Southridge Park	DISTRICT PARK	20.20
Course Mierri Dada Darks and Dage	etion Department January 2010	

Source: Miami Dade Parks and Recreation Department, January 2010

This application has the potential to increase population on site by 50 persons more than what the site could generate under its current designation, resulting in a need for an additional 0.138 acres, if approved. The cumulative impact of all applications located in PBD-3 will increase the population by 50 and decrease the available reserve capacity for parks by 0.138 acres.

It is recommended that any development proposed for this site, the goals and principles of the County's 2008 Open Space System Master Plan are taken into account and that future site planning at this location incorporate measures to reduce impacts to the County's park system.

### Fire and Rescue Service

The subject property is currently served by Miami-Dade Fire-Rescue Station No. 52 (South Miami Heights), which is located at 12105 Quail Roost Drive. The station is equipped with an Advanced Life Support (ALS) Engine, a Rescue unit and a Battalion Chief, with a total of eight (8) firefighters/paramedics, operating 24 hours daily. According to the Fire-Rescue Department, there was no alarm in the vicinity of the property in 2008. However, the proposed "Business and Office" on the subject site will potentially generate 9 annual alarms (4 alarms under Residential development scenario), which will have a minimal impact to the existing fire rescue services.

There are no planned stations in the vicinity of the subject property. The required "fire flow" for the proposed CDMP designation is 3,000 gallons per minute (gpm) at 20-PSI residual on the system. Each fire hydrant requires a minimum of 1,000 gpm. No fire flow deficiencies exist in the vicinity of the application area.

### **Public Schools**

On July 17, 2009, the County's Educational Plan Amendment and Interlocal Agreement adopting a level of service (LOS) standard for public school facilities (school concurrency) was found in compliance by the State of Florida Department of Community Affairs. The proposed LOS standard for public school facilities is 100% utilization of Florida Inventory of School Houses (FISH) with relocatable classrooms. The County's land use applications have been reviewed based on this LOS standard and based on projected planned facilities in the Miami-Dade County Facilities Five-Year Work Plan. This review is an initial cursory review and no concurrency reservation is required at this stage, this review was conducted by Miami-Dade County Department of Planning and Zoning.

Students generated by this application will attend those schools identified in the "Concurrency Service Area Schools (CSA)" table below. If this application site were developed for residential use, the potential student population of the schools serving the application would be increased by an additional 19 students. Nine (9) students will attend Caribbean Elementary, which has two hundred and thirty-one (231) seats available; four (4) students will attend Mays Middle, which has five hundred and nineteen (519) seats available; and six (6) students will attend Miami Southridge Senior High, which has three hundred and seventy (370) seats available.

Concurrency Service Area Schools

CSA	Facility Name	Available	Seats	LOS	Source Type
id		Capacity	Required	Met	
0661	Caribbean Elementary	231	9	Yes	Current CSA
6431	Mays Middle	519	4	Yes	Current CSA
7731	Miami Southridge Senior	370	6	Yes	Current CSA

Source: Miami-Dade County Department of Planning and Zoning, 2010 Miami-Dade County Public Schools, 2009

### Roadways

The Application site is a 2.3 gross-acre (1.78 net-acres) parcel located at the southwest corner of the intersection of SW 127 Avenue and SW 200 Street/Quail Roost Drive (SR-994), inside the Urban Development Boundary (UDB) service area of the County. The subject site is currently designated "Low Density Residential (2.5 to 6 dwelling units per gross acre) on the Adopted CDMP 2015 – 2025 Land Use Plan map. The requested CDMP land use designation is "Business and Office". Under the requested land use designation, the application site could be developed with residential use with a maximum of 29 single-family attached dwelling units (townhouses), or with commercial use with a maximum of 31,015 square feet of retail space.

Primary access to the application site is from SW 127 Avenue, a two-lane county roadway, and/or SW 200 Street, a two-lane State roadway. The east-west SW 200 Street provides connections to other major north-south corridors such as SW 177 Avenue/Krome Avenue (SR-997), SW 137 Avenue, SW 127 Avenue, SW 117 Avenue and US-1/South Dixie Highway (SR-5).

### **Existing Conditions**

Current traffic conditions on the roadways adjacent to and in the vicinity of the application site are acceptable, with all the roadways operating at levels of service (LOS) D, C or better above their adopted LOS standards. With the traffic impact from the proposed amendment, either as residential or commercial development, the traffic operating conditions on all roadways analyzed would remain the same, except the segment of SW 200 Street between SW 137 and SW 127 Avenues which will deteriorate from LOS D to LOS E, the adopted LOS standard. See the Traffic Impact Analysis Table below.

The LOS is represented by one of the letters "A" through "F", with "A" generally representing the most favorable driving conditions and "F" representing the least favorable driving conditions.

### Trip Generation

As indicated above, two developments scenarios were analyzed for traffic impact under the requested land use designation. Scenario 1 assumes the application site developed with 31,015 square feet (sq. ft.) of retail commercial, the maximum potential development under the requested "Business and Office" land use designation. This development scenario is estimated to generate approximately 217 PM peak hour external trips. Scenario 2 assumes the application site developed with 29 townhouses, the maximum potential development under the requested designation. Residential development may be authorized in the "Business and Office" land use category at a density up to one density higher than the LUP-designated density of the adjacent or adjoining residentially designated area on the same side of the abutting principal roadway, or up to the density of any such existing residential development or zoning if the adjacent or adjoining land is undeveloped, whichever is higher. This scenario is estimated to generate approximately 22 PM peak hour trips.

The Estimated Peak Hour Trip Generation Table, below, shows the estimated PM peak hour trips expected to be generated by each development scenario under the requested CDMP land use designation. Scenario 1 would generate 200 more PM peak hour trips than the potential development scenario under the current land use designation, while Scenario 2 would generate only 5 PM more peak hour trip than the potential development under the current land use designation. See the Estimated Peak Hour Trip Generation Table below.

# Estimated PM Peak Hour Trip Generation By Current and Requested CDMP Land Use Designations

Current Land Use Designation Assumed Use For Current CDMP Designation/ Estimated No. Of Trips	Proposed Land Use Designation Assumed Use For Requested CDMP Designation/ Estimated No. Of Trips	Estimated Trip Difference Between Current and Requested CDMP Land Use Designation
Low-Density Residential	Business & Office:	
(2 to 6 DUs/ gross acre):	(31,015 Sq. Ft. of Retail) <sup>2</sup>	
13 Single-Family Units <sup>1</sup> /		
17	217	+200
Low Density Residential	Business & Office	
(2 to 6 DUs/ gross acre):	(With Residential Use at 13	
13 Single-Family units <sup>1</sup> /	DUs/gross acre):	
	(29 Townhouses) <sup>2</sup> /	
17	22	+5
	Assumed Use For Current CDMP Designation/ Estimated No. Of Trips  Low-Density Residential (2 to 6 DUs/ gross acre): 13 Single-Family Units 1/ 17 Low Density Residential (2 to 6 DUs/ gross acre): 13 Single-Family units 1/	Assumed Use For Current CDMP Designation/ Estimated No. Of Trips  Low-Density Residential (2 to 6 DUs/ gross acre): 13 Single-Family Units 1/ 17  Low Density Residential (2 to 6 DUs/ gross acre): 13 Single-Family units 1/ 217  Business & Office: (31,015 Sq. Ft. of Retail) 2  217  Business & Office (With Residential Use at 13 DUs/gross acre): (29 Townhouses) 2/

Source: Institute of Transportation Engineers, Trip Generation, 7th Edition, 2003; Miami-Dade County Public Works Department, February 2010.

Notes: <sup>1</sup> Under the current CDMP designation (Low Density Residential), one potential development scenario was analyzed. This application site is currently vacant and used as a parking facility for the adjacent church. However, the subject application site could be developed at the maximum allowable density of 6 dwelling units per gross acre for a total of 13 single-family units. This development scenario is estimated to generate approximately 17 PM peak hour trips.

<sup>2</sup> Under the requested Business and Office land use designation, two potential development scenarios were analyzed. Scenario 1 assumes the application site developed with 31,015 sq. ft. of retail space. This development scenario is estimated to generate approximately 289 PM peak hour trips. However, the trip generation was adjusted (reduced) by 25 percent due to pass-by trips. Therefore, the total PM peak hour traffic volume to be added to the adjacent roadways is estimated at 217 vehicle trips. Scenario 2 assumes the application site developed with residential use only (29 townhouses). Residential development may be authorized in the Business and Office land use category at a density up to one density higher than the LUP-designated density of the adjacent or adjoining residentially designated area on the same side of the abutting principal roadway, or up to the density of any such existing residential development, or zoning if the adjacent or adjoining land is undeveloped, whichever is higher. This development scenario is estimated to generate approximately 22 PM peak hour vehicle trips.

### Traffic Concurrency Evaluation

An evaluation of peak-period traffic concurrency conditions, as of January 2010, of SW 127 Avenue, SW 137 Avenue and SW 200 Street, which considers reserved trips from approved developments not yet constructed and any programmed roadway capacity improvements listed in 2010 TIP, predicts a slight change in the LOS of the segment of SW 200 Street between SW 137 Avenue and SW 127 Avenue, from LOS D to LOS E. However, the concurrency analysis indicates that the roadways analyzed meet concurrency. See the Traffic Impact Analysis Table below.

### **Future Conditions**

The 2010 Transportation Improvement Program (TIP) lists the widening from two to four lanes of SW 184 Street between SW 147 Avenue and SW 137 Avenue and the construction of the two-lane segment of SW 137 Avenue from SW 216 Street to US 1 in the vicinity of the application site. Both roadway improvements will be built in FYs 2010 and 2011.

# Traffic Impact Analysis on Roadways Serving the Amendment Site Roadway Lanes, Existing and Concurrency Peak Period Operating Level of Service (LOS)

Sta.			Num.	Adopted	Peak	Peak	Existing	Approved	Conc.	Amendment	Total Trips	Concurrency
Num.	Roadway	Location/Link	Lanes	LOS Std.*	Hour	Hour	LOS	D.O's	LOS w/o	Peak Hour	With	LOS with
	-				Cap.	Vol.		Trips	Amend.	Trips	Amend.	Amend.
Scenario	o 1: Business and Office	ce use (31,015 sq. ft. Retail)										
9820	SW 137 Avenue	SW 184 St. to SW 200 Street	2 UD	D	1,460	748	С	93	С	15	856	C (08)
9788	SW 127 Avenue	SW 184 St. to SW 200 Street	2 UD	D	990	501	В	167	В	54	722	B (08)
9756	SW 117 Avenue	SW 184 St. to SW 200 Street	2 UD	D	1,320	1,042	D	46	D	54	1,142	D (08)
9790	SW 127 Avenue	SW 200 St. to SW 232 Street	2 UD	D	790	169	С	29	С	23	221	C (08)
F-54	SW 186 St./SR 994	SW 127 Ave. to the HEFT	4 DV	E	3,270	2,750	D	179	D	31	2,960	D(08)
F-1116	SW 200 St. /SR 994	SW 137 Ave. to SW 127 Ave.	2 UD	E	2,690	1,338	D	173	E	22	1,533	E (08)
9892	SW200 St./SR 994	SW 157 Ave. to SW 137 Ave.	2 UD	С	1,690	689	В	36	В	7	732	B (08)
9898	SW 216 Street	SW 127 Ave. to US 1	2 UD	D	1,730	617	В	172	В	33	822	B (08)
Scenario	n 2: Business and Offic	ce with Residential Development (29	attached	single-family	v dwelling	units)						
9820	SW 137 Avenue	SW 184 St. to SW 200 Street	2 UD	D	1,460	748	С	93	С	2	843	C (08)
9788	SW 127 Avenue	SW 184 St. to SW 200 Street	2 UD	D	990	501	В	167	В	5	673	B (08)
9756	SW 117 Avenue	SW 184 St. to SW 200 Street	2 UD	D	1,320	1,042	D	46	Ď	5	1,093	D(08)
9790	SW 127 Avenue	SW 200 St. to SW 232 Street	2 UD	Ď	790	169	Č	29	Č	3	201	C (08)
F-54	SW 186 St./SR 994	SW 127 Ave. to the HEFT	4 DV	Ē	3,270	2.750	Ď	179	Ď	3	2,932	D (08)
F-1116	SW 200 St. /SR 994	SW 137 Ave. to SW 127 Ave.	2 UD	Ē	2,690	1,338	D	173	Ē	3	1,514	E (08)
9892	SW200 St./SR 994	SW 157 Ave. to SW 137 Ave.	2 UD	Ċ	1,690	689	В	36	В	1	726	
9898	SW 216 Street	SW 127 Ave. to US 1	2 UD	Ď	1,730	617	В	172	В	3	792	B (08)
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Source: Compiled by Miami-Dade County Department of Planning and Zoning; Miami-Dade Public Works Department and Florida Department of Transportation, January 2010.

October 2009 Cycle 3-15 Application No. 3

Notes: DV= Divided Roadway, UD= Undivided Roadway, LA=Limited Access, OW=One way

<sup>\*</sup>County adopted roadway level of service standard applicable to the roadway segment: E +20% (120% capacity) for roadways serviced with transit service having 20 minutes headways inside the Urban Infill Area (UIA); E+50% (150% capacity) for roadway serviced with extraordinary transit such as 95 Express Bus.

<sup>()</sup> Indicates the year traffic count was taken and/or Level of Service updated

Scenario 1 assumes commercial development (31,015 sq. ft. of retail space) on the application site under the requested "Business and Office" land use designation.

Scenario 2 assumes residential development (29 Townhouses) on the application site under the requested "Business and Office" land use designation.

### **Transit**

### **Existing Service**

Metrobus Routes 52 and 137/West Dade Connection serve the application site and its vicinity. The Table below shows the existing service frequency in summary form.

Metro Route Service Summary

mone recent out of the contract of the contrac								
Service Headways (in minutes)								
Peak	Off-Peak	Evenings				Bus Route	of	
(AM/PM)	(middays)	(after 8 PM)	Overnight	Saturday	Sunday	(miles)	service	
30	45	60	N/A	45	60	0.3	F	
30	45	60	N/A	40	40	05	L	
	(AM/PM) 30	Peak (AM/PM) Off-Peak (middays)  30 45	Peak Off-Peak Evenings (AM/PM) (middays) (after 8 PM)  30 45 60	Peak Off-Peak Evenings (AM/PM) (middays) (after 8 PM) Overnight  30 45 60 N/A	Peak Off-Peak Evenings (AM/PM) (middays) (after 8 PM) Overnight Saturday  30 45 60 N/A 45	Peak (AM/PM)Off-Peak (middays)Evenings (after 8 PM)OvernightSaturdaySunday304560N/A4560	Peak (AM/PM)Off-Peak (middays)Evenings (after 8 PM)OvernightSaturdaySundayBus Route (miles)304560N/A45600.3	

Source: 2009 Transit Plan, Miami-Dade Transit, December 2009

Notes: L means Metro bus local route service

F means Metro bus feeder service to Metrorail E Means Express or Limited-Stop Metrobus service

### **Future Conditions**

No improvements to the existing Metrobus service in the immediate area of the application site are being planned for the next ten years, as noted in the 2019 Recommended Service Plan of the 2009 Transit Development Plan (TDP).

### Major Transit projects

No major transit improvements in the vicinity of the application area are planned for the next ten years as noted in the 2009 TDP or the 2035 Long Range Transportation Plan.

### **Application Impacts**

A preliminary analysis was performed in Traffic Analysis Zone (TAZ) 1316, where the proposed application is located. If the requested application is approved, the future transit impact to be generated by this application is minimal and can be absorbed by the existing transit service in the area.

### **Aviation**

The Miami-Dade Aviation Department reviewed the CDMP Amendment Application and has determined that the requested Land Use Plan amendment is compatible with airport operations.

### **Other Planning Considerations**

No covenant was submitted with this application as of January 29, 2010.

Appropriate Guidelines of Urban Form should be considered for this site. Below are the applicable guidelines as listed in the CDMP.

Guideline 1- The section line roads should form the physical boundaries of neighborhoods.

- Guideline 2- The section line, half section line, and quarter-section line road system should form a continuous network, interrupted only when it would destroy the integrity of a neighborhood or development, or when there is a significant physical impediment. Pedestrian and vehicular traffic networks should serve as physical links between neighborhoods, with multiple [points of access between neighborhoods.
- Guideline 4- Intersections of section line roads shall serve as focal points of activity, hereafter referred to as activity nodes. Activity nodes shall be occupied by any non-residential components of the neighborhood including public and semi-public uses. When commercial uses are warranted, they should be located within these activity nodes. In addition, of the various residential densities, which may be approved in a section through density averaging or on an individual site basis, the higher density residential uses should be located at or near the activity nodes.
- Guideline 8- Pedestrian circulation shall be provided between activity nodes, all public places and all subdivisions through connectivity of sections, half-section and local roadways constructed with sidewalks and supplemented by pedestrian paths.

### **Consistency with CDMP Goals, Objectives, Policies and Concepts**

All CDMP amendment applications are evaluated for consistency with pertinent CDMP Objectives, Policies, Land Use Plan Concepts and other Plan provisions. The specific objectives, policies and Land Use Plan Concepts that materially apply to the requested amendment are indicated below in summary following the specific item. For the specific language see the Adopted Components Comprehensive Development Master Plan, October 2006 Edition, as amended through May, 2009.

The proposed application will further the following goals, objectives, policies and concepts of the CDMP:

- Objective LU-1. The location and configuration of Miami-Dade County's urban growth through the year 2025 shall emphasize concentration and intensification of development around centers of activity, development of well designed communities containing a variety of uses, housing types and public services, renewal and rehabilitation of blighted areas, and contiguous urban expansion when warranted, rather than sprawl.
- Policy LU-1E. In planning and designing all new residential development and redevelopment in the county, Miami-Dade County shall vigorously promote implementation of the "Guidelines for Urban Form" contained in the "Interpretation of The Land Use Plan Map" text adopted as an extension of these policies.
- Policy LU-1G. Business developments shall preferably be placed in clusters or nodes in the vicinity of major roadway intersections, and not in continuous strips or as isolated spots, with the exception of small neighborhood nodes. Business developments shall be designed to relate to adjacent development, and large uses should be planned and designed to serve as an anchor for adjoining smaller businesses or the adjacent business district. Granting of commercial or other non-residential zoning by the County is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways.

- 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.
- Policy LU-4D. Uses which are supportive but potentially incompatible shall be permitted
  on sites within functional neighborhoods, communities or districts only where proper
  design solutions can and will be used to integrate the compatible and complementary
  elements and buffer any potentially incompatible elements.
- Policy LU-8B. Distribution of neighborhood or community-serving retail sales uses and personal and professional offices throughout the urban area shall reflect the spatial distribution of the residential population, among other salient social, economic and physical considerations.

The proposed application will impede the following goals, objectives policies and concepts of the CDMP.

Policy LU-4C. Residential neighborhoods shall be protected from intrusion by uses that
would disrupt or degrade the health, safety, tranquility, character, and overall welfare of
the neighborhood by creating such impacts as excessive density, noise, light, glare,
odor, vibration, dust or traffic.

# **APPENDICES**

Append	lix A	Map	Series

Appendix B Amendment Application

Appendix C Miami-Dade County Public Schools Analysis

Appendix D Applicant's Traffic Study

Appendix E Fiscal Impact Analysis

Appendix F Proposed Declaration of Restrictions

Appendix G Photos of Site and Surroundings (from site visit)

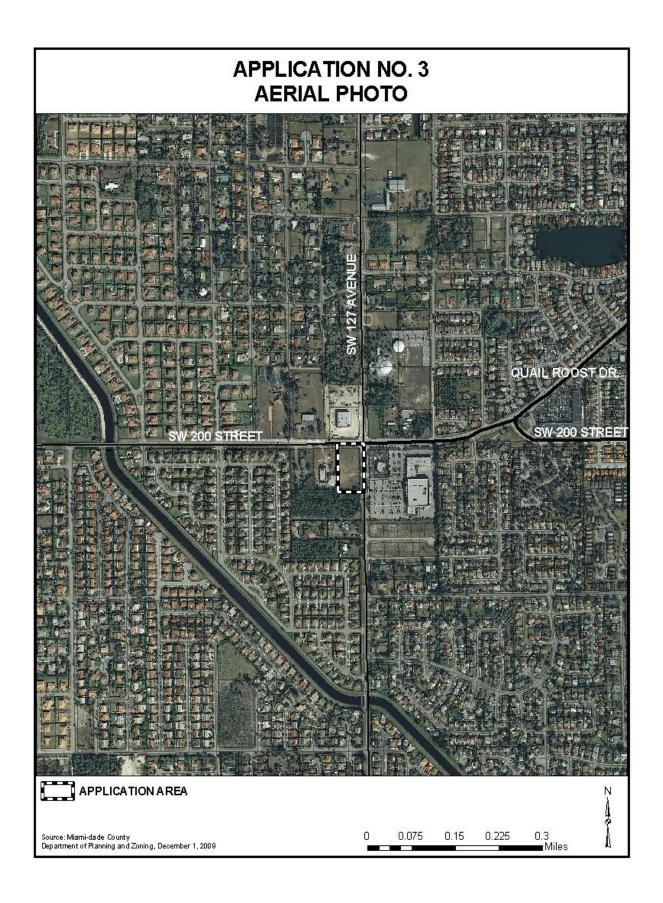
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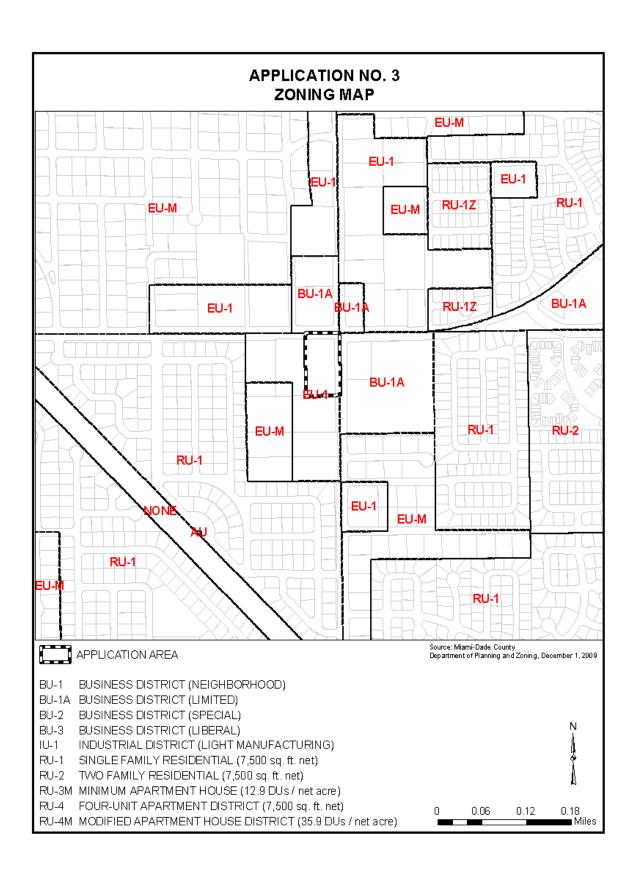
# **APPENDIX A**

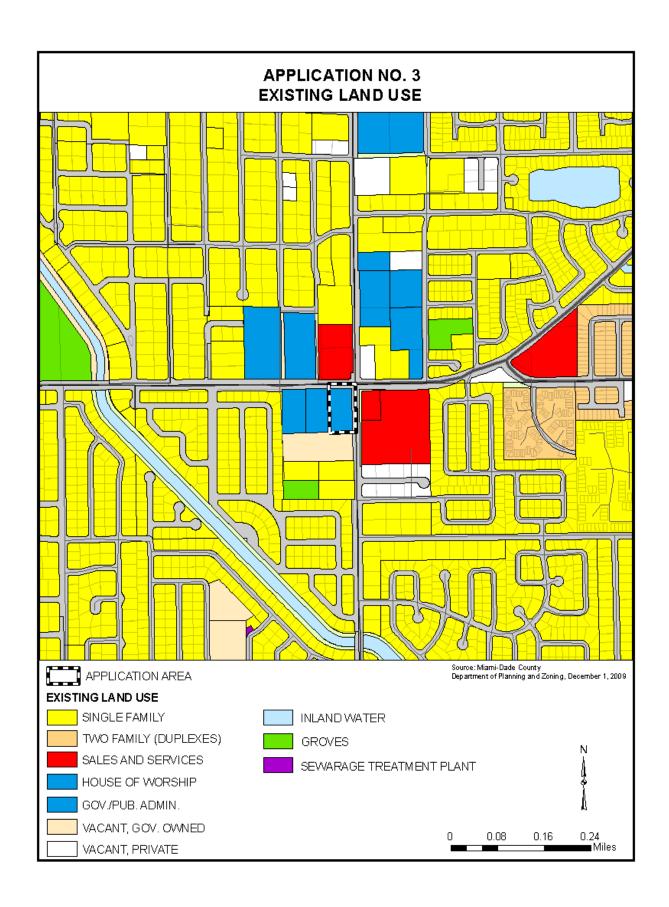
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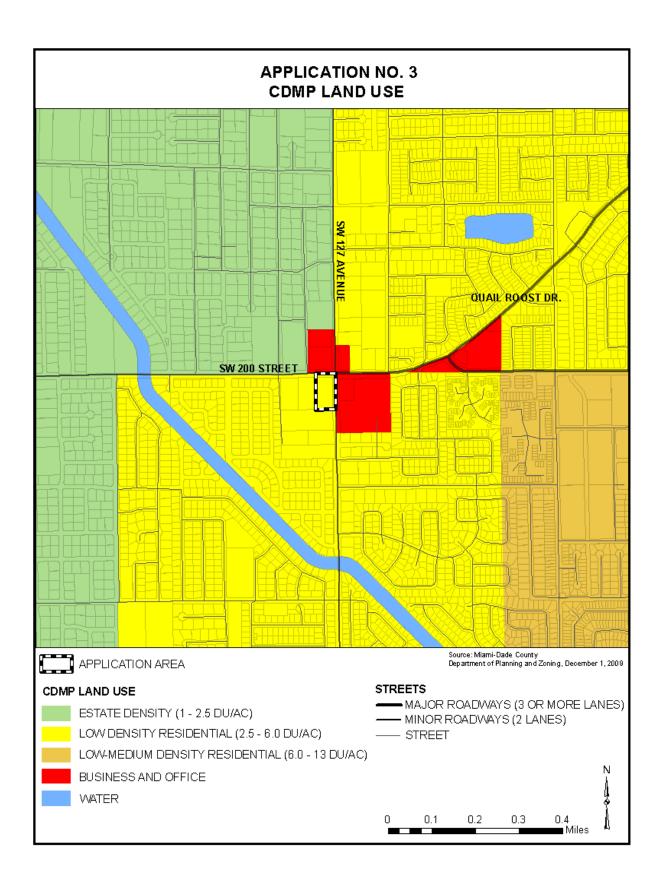
- Aerial Photo
- Current Zoning Map
- Existing Land Use Map
- CDMP Land Use Map
- Proposed CDMP Land Use Map

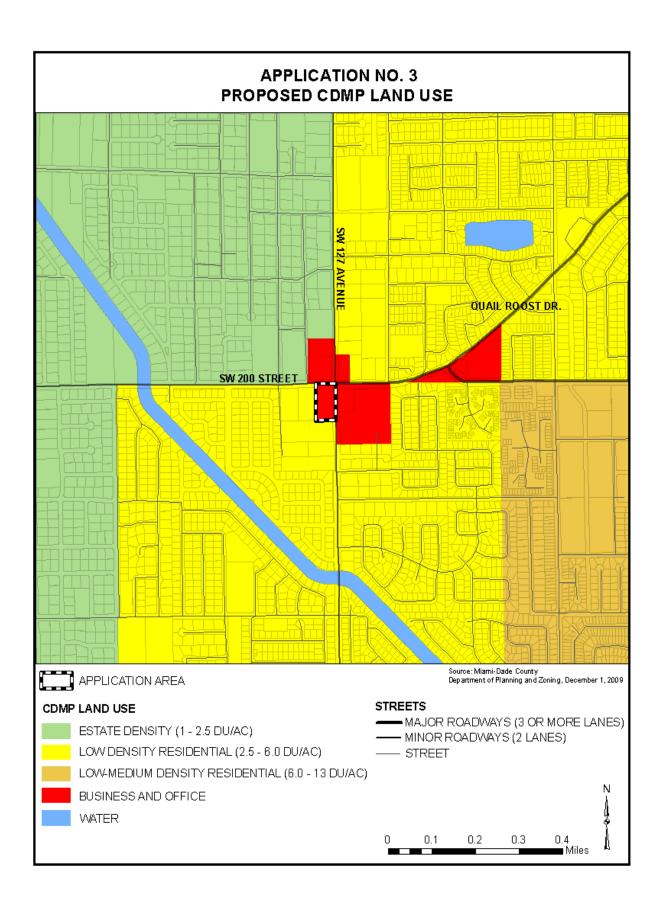
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# **APPENDIX B**

**Amendment Application** 

# APPLICATION FOR AN AMENDMENT TO THE LAND USE PLAN MAP OF THE MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN

# 1. APPLICANTS

Apostolic Alliance Church of the Lord Jesus Christ, Inc.

# 2. APPLICANT'S REPRESENTATIVE

Felix M. Lasarte, Esq. The Lasarte Law Firm, LLP 5835 Blue Lagoon Drive Suite 1000 Miami, FL 33126 (305) 269-7153 (305) 269 7156 (fax)

11

Felix M. Lasarte, Esq.

11/2/

Date

# 3. DESCRIPTION OF REQUESTED CHANGE

# Change the Land Use Plan Map.

A change to the Land Use Element, Future Land Use Plan map is requested. The Applicant is requesting the redesignation of the subject property from "Low Density Residential" to "Business and Office."

# B. Description of Subject Area.

Subject property consists of approximately 2.3 +/- gross acres (1.78 +/- net acres) of land, located in Section 11, Township 56, Range 39, in unincorporated Miami-Dade County. This subject area is located at the Southwest corner of the intersection of SW 127<sup>th</sup> Avenue and Quail Roost Drive (SW 200 Street), as depicted on the location map accompanying the legal description provided herein.

# C. Acreage.

- 1. Subject Application area: 2.3 +/- gross acres
- 2. Subject Application area: 1.78 +/- net acres
- 3. Acreage Owned by Applicant: 1.78 +/- net acres

## D. Requested Changes.

- It is requested that subject property be re-designated on the Future Land Use Plan map from "Low Density Residential" to "Business and Office."
- It is the requested that this Application be processed as an expedited small scale amendment.

# 4. REASONS FOR AMENDMENT

The Applicant is requesting a redesignation of the subject property from "Low Density Residential" to "Business and Office." The subject property consists of approximately 2.3 +/-gross acres (1.78 +/- net acres), located in Section 11 of Township 56 South, Range 39 East. This subject property is located at the Southwest corner of the intersection of SW 127<sup>th</sup> Avenue and Quail Roost Drive (SW 200<sup>th</sup> Street).

The redesignation to "Business and Office" will allow the applicant to develop the Property into a commercial development. The proposed commercial development will serve the surrounding residential communities located to the north and south of the subject Property by providing much needed additional commercial retail opportunities to its residents.

The Property is ideally situated for a commercial/retail development because it is located at the intersection of two (2) major section-line roadways. The subject property is located between two major thoroughfares (SW 127the Avenue and SW 200<sup>th</sup> Street) and as recommended by the urban guidelines the proposed commercial development is located within an activity node. The applicant can also provide adequate landscaping along the perimeter of the development to buffer the proposed commercial use from the residential developments to the south and the religious institutional use to the east. Furthermore, the Applicant will provide a traffic study depicting the level of service and impacts of the proposed Amendment.

The proposed land use change would also be compatible with the surrounding commercial and residential uses. The properties located directly to the North and South of the subject property are designated as "Business and Office" in the Land Use Plan map of the Comprehensive Development Master Plan (CDMP). The abutting property to the East is designated "Low Density Residential" and it occupied by a religious institution known as the "Apostolic Alliance Church of the Lord Jesus Christ." The proposed commercial development would provide a transition from the residentially designated properties to the East and the proposed "Business and Office" designation. The vacant parcel of land to the South is owned by the Miami-Dade Parks

The guidelines for urban form provide that "intersections of section line roads shall serve as focal points of activity, hereafter referred to as activity nodes. When commercial uses are warranted, they should be located within these activity nodes."

and Recreation Department and is designated as "Low Density Residential." Any proposed use by the Miami-Dade Parks and Recreation Department would be compatible with the proposed commercial development.

Based on the foregoing, the Applicant believes that there is a need to provide additional commercial services to both the surrounding existing residential community, as well as to future residents within the vicinity of the Property, and that the subject property is the appropriate location for this additional inventory.

Accordingly, approval of the requested Amendment would further the implementation of the following CDMP goals, objectives and policies:

LAND USE POLICY 8B: Distribution of neighborhood or community serving retail sales uses and personal and professional offices throughout the urban area shall reflect the spatial distribution of the residential population, among other salient social, economic, and physical considerations. (Business and Office/Commercial).

LAND USE POLICY 1E: In conducting its planning, regulatory, capital improvements and intergovernmental coordination activities, Miami-Dade County shall seek to facilitate the planning of residential areas as neighborhoods which include recreational, educational and other public facilities, houses of worship, and safe and convenient circulation of automotive, pedestrian and bicycle traffic. (Mixed Use).

LAND USE POLICY IH: Business developments shall preferably be placed in clusters or nodes in the vicinity of major roadway intersections, and not in continuous strips or as isolated spots, with the exception of small neighborhood nodes. Business developments shall be designed to relate to adjacent development, and large uses should be planned and designed to serve as an anchor for adjoining smaller businesses or the adjacent business district. Granting of commercial or other non-residential zoning by the county is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways. (Urban Form).

## ADDITIONAL MATERIAL SUBMITTED

Additional information will be supplied at a later date under separate cover.

#### COMPLETED DISCLOSURE FORMS

Attached as Exhibit "C"

Attachments: Legal Description - Exhibit "A"

Location Map for Application - Exhibit "B" Disclosure of Interest Form - Exhibit "C"

## EXHIBIT "A"

A portion of Lot 1 in TROPICO SUBDIVISION, as recorded in Plat Book 2, at Page 57, of the Public Records of Dade County, Florida, and more particularly described as follows:

From the Northeast corner of Lot 1, which is the Point of Beginning, in TROPICO SUBDIVISION, run Westerly along the North line of said Lot 1, 241.69 feet to a point, said line also being the North line of the Northeast Quarter (NE 1/4) of Section 11, Township 56 South, Range 39 East; thence run Southerly along a line parallel to the East line of said Lot 1 229.00 feet to a point; thence at an interior angle of 90 degrees, 30 minutes, 45 seconds, run Easterly 241.69 feet to a point on the East line of said Lot 1; thence at an interior angle of 89 degrees, 29 minutes, 15 seconds, run Northerly 228.90 feet along the East line of said Lot 1 to the point of beginning, less the North and East 35 feet thereof for road purposes, said lands containing 0.92 acres more or less, lying and being in the Northeast Quarter (NE 1/4) of Section 11, Township 56 South, Range 39 East, Dade County, Florida.

#### AND

From the Northeast Corner of Lot 1, in TROPICO SUBDIVISION, run Southerly along the East line of said Lot 1 228.90 feet to the Point of Beginning, said line also being the East line of the NE 1/4 of Section 11, Township 56 South, Range 39 East; thence continue and run Southerly along the East line of said Lot 1 for a distance of 180.21 feet to a point; thence at an interior angle of 89 degrees, 30 minutes, 34 seconds run Westerly 241.69 feet to a point; thence run Northerly along a line parallel to the East line of said Lot 1, 180.30 feet to a point; thence at an interior angle of 89 degrees, 29 minutes, 15 seconds run Easterly 241.69 feet to the Point of Beginning, less the East 35 feet thereof for road purposes, said land containing 0.86 acre, more or less, lying and being in the NE 1/4 of Section 11, Township 56 South, Range 39 East, Dade County, Florida.

# Exhibit "B"

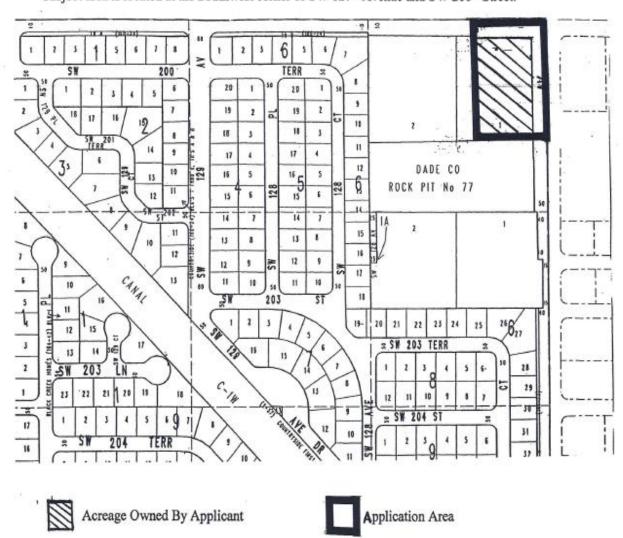
# LOCATION MAP APPLICATION TO AMEND THE MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN

# APPLICANT/REPRESENTATIVE:

Apostolic Alliance Church of the Lord Jesus Christ, Inc. c/o Felix M. Lasarte, Esq.

# DESCRIPTION OF SUBJECT AREA:

Subject property consists of approximately 2.3 +/- gross acres of land (1.78 +/- net acres), located in Section 11, Township 56, Range 39, ln unincorporated Miami-Dade County. This subject area is located at the Southwest corner of SW 127<sup>th</sup> Avenue and SW 200<sup>th</sup> Street.



# Exhibit "C"

# DISCLOSURE OF INTEREST

This form or facsimile must be filed by all applicants having an ownership interest in any real property covered by an application to amend the Land Use Plan map. Submit this form with your application. Attach additional sheets where necessary.

1. APPLICANT(S) NAME AND ADDRESS:
APPLICANT A: Apostolic Alliance Church of the Lord Jesus Christ, Inc.
APPLICANT B:
APPLICANT C:
APPLICANT D:
APPLICANT E:
APPLICANT F:
APPLICANT G:
PROPERTY DESCRIPTION: Provide the following information for all properties in the application area in which the applicant has an interest. Complete information must be provided for each parcel.  APPLICANT OWNER OF RECORD FOLIO NUMBER SIZE  A Apostolic Alliance Church of the Lord Jesus Christ, Inc. 30-6911-001-0010 2.3 Acres

Note: Disclosure of Interest contains only those applicable pages; all others are deleted.

APPLICANT OWNER LESSEE CONTRACT FOR PU	JRCHASE OTHER
A X	
4. DISCLOSURE OF APPLICANT'S INTEREST: Complete all	appropriate sections and
indicate N/A for each section that is not applicable.	
<ul> <li>a. If the applicant is an individual (natural person) list individual owners below and the percentage of interest held by each.</li> </ul>	the applicant and all other
INDIVIDUAL'S NAME AND ADDRESS	PERCENTAGE OF INTEREST
N/A	
	-
b. If the applicant is a CORPORATION, list the corpora address of the principal stockholders and the percentage of stock owner principal officers or stockholders consist of other corporation(s), trust(sentities, further disclosure shall be made to identify the natural per ownership interest].	ed by each. [Note: Where s), partnership(s) or similar
address of the principal stockholders and the percentage of stock owner principal officers or stockholders consist of other corporation(s), trust(sentities, further disclosure shall be made to identify the natural pe	ed by each. [Note: Where s), partnership(s) or similar rsons having the ultimate
address of the principal stockholders and the percentage of stock owner principal officers or stockholders consist of other corporation(s), trust(sentities, further disclosure shall be made to identify the natural perownership interest].  CORPORATION NAME: Apostolic Alliance Church of the Lor	ed by each. [Note: Where s), partnership(s) or similar rsons having the ultimate
address of the principal stockholders and the percentage of stock owner principal officers or stockholders consist of other corporation(s), trust(sentities, further disclosure shall be made to identify the natural perownership interest].	ed by each. [Note: Where s), partnership(s) or similar rsons having the ultimate ed Jesus Christ, Inc.
address of the principal stockholders and the percentage of stock owner principal officers or stockholders consist of other corporation(s), trust(sentities, further disclosure shall be made to identify the natural perownership interest].  CORPORATION NAME: Apostolic Alliance Church of the Lorent AND ADDRESS  Hernando Diaza, 20120 SW 113 Court Miami, Fl 33189	ed by each. [Note: Where s), partnership(s) or similar rsons having the ultimate ed Jesus Christ, Inc.
address of the principal stockholders and the percentage of stock owner principal officers or stockholders consist of other corporation(s), trust(sentities, further disclosure shall be made to identify the natural perownership interest].  CORPORATION NAME: Apostolic Alliance Church of the Lorentz Andrews Andrews Alliance Church of the Lorentz Andrews Andrews Alliance Church of the Lorentz Andrews Andrews Alliance Church of the Lorentz Andrews An	ed by each. [Note: Where s), partnership(s) or similar rsons having the ultimate and Jesus Christ, Inc.  Percentage of Stock Non-Profit
address of the principal stockholders and the percentage of stock owner principal officers or stockholders consist of other corporation(s), trust(sentities, further disclosure shall be made to identify the natural perownership interest].  CORPORATION NAME:Apostolic Alliance Church of the Lorent AND ADDRESS	ed by each. [Note: Where is), partnership(s) or similar risons having the ultimate in disconnected description.  Percentage of Stock Non-Profit  Non-Profit

Note: Disclosure of Interest contains only those applicable pages; all others are deleted.

natural persons, further disclosure shall be made to identify the ultimate ownership interest].	e natural persons having the	
TRUST/ESTATE NAME:		
NAME AND ADDRESS	Percentage of Interest	
N/A		
d. If a PARTNERSHIP owns or leases the subject including general and limited partners. [Note: Where partner(s) or corporation(s), trust(s) or similar entities, further disclosure shall be persons having the ultimate ownership interests].  PARTNERSHIP OR LIMITED PARTNERSHIP NAME:	onsist of other partnership(s),	
NAME AND ADDRESS	Percentage of Ownership	
N/A		
e. If the applicant is party to a CONTRACT FOR PURCHASE, where contingent on the application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the principal officers, stockholders, beneficiaries, or partners. [Note: where the principal officers, stockholders, beneficiaries, or partners consist of another corporation, trust, partnership, or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].		
INDIVIDUAL'S NAME AND ADDRESS PE	RCENTAGE OF INTEREST	
Sergio Delgado 146 Rosales Court Cocoplum, FL 33143	100%	
Date of Cor	ntract: October 2009	
Note: Disclosure of Interest contains only those applicable pag	es; all others are deleted.	

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

39

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.

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

Sworn to and subscribed before me this 30 day of 000 2009. Affiant is ensured when the me or have produced SAILY LANDIN (Notary Public)  Signature)  Sworn to and subscribed before me this 30 day of 000 and 100 and	Hernando Diaza, President	(Applicant's	Signature)
responsible known to me or have produced Zoxida discollection as SAILY LANDIN		1/	
SAILY LANDIN	Cumm to and subscribed before me this	to 05/10/10 60/ 20	09 Affiant is
ON THE STATE OF TH			Ul Las
I IN COMMISSION # D7328801	rsonally known to me or have produced	Iloxida deis	W/ Las

\*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 beld 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.

Note: Disclosure of Interest contains only those applicable pages; all others are deleted.



# **APPENDIX C**

# **Miami-Dade County Public Schools Analysis**

Please see Pg. 3-11 of this Initial Recommendation report. The analysis was performed by DP&Z staff.

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October 2009 Cycle Application No. 3

# **APPENDIX D**

# **Applicant's Traffic Study**

A traffic study is not required for a small-scale application such as this.

# **APPENDIX E**

**Fiscal Impact Analysis** 

# Fiscal Impacts On Infrastructure and Services

On October 23, 2001, the Board of County Commissioners adopted Ordinance No. 01-163 requiring the review procedures for amendments to the Comprehensive Development master Plan (CDMP) to include a written evaluation of fiscal impacts for any proposed land use change. The following is a fiscal evaluation of Application No. 3 of the October 2009 Cycle of Applications to amend the CDMP from county departments and agencies responsible for supplying and maintaining infrastructure and services relevant to the CDMP. The evaluation estimates the incremental and cumulative costs of the required infrastructure and service, and the extent to which the costs will be borne by the property owners or will require general taxpayer support and includes an estimate of that support.

The agencies use various methodologies for their calculations. The agencies rely on a variety of sources for revenue, such as, property taxes, impact fees, connection fees, user fees, gas taxes, taxing districts, general fund contribution, federal and state grants; federal funds, etc. Certain variables, such as property use, location, number of dwelling units, and type of units were considered by the service agencies in developing their cost estimates.

#### **Solid Waste Services**

# Concurrency

Since the Department of Solid Waste Management (DSWM) assesses capacity on a system-wide basis, in part, on existing waste delivery commitments from both the private and public sectors, it is not possible or necessary to make determinations concerning the adequacy of solid waste disposal facilities relative to each individual application. Instead, the DSWM issues a periodic assessment of the County's status in terms of 'concurrency' that is, the ability to maintain a minimum of five (5) years of waste disposal capacity system-wide. The County is committed to maintaining this level in compliance with Chapter 163, Part II F.S. and currently exceeds this standard.

#### Residential Collection and Disposal Service

The incremental cost of adding a residential unit to the DSWM Service Area, which includes the disposal cost of waste, is offset by the annual fee charged to the user. Currently, that fee is \$439 per residential unit. For a residential dumpster account, the current fee is \$339. As of September 30, 2009, the average residential unit generated 2.28 tons of waste, which includes garbage, trash and recycled waste. This value is a 28.75% decrease of the average 3.2 tons reported annually for the April 2009 CDMP applications. The decrease is explained by the general decrease in tonnage collected and disposed of due to a decrease in the number of households receiving service as a result to foreclosure or other circumstance, and the decrease in actual generation of waste by existing residents. As reported in March 2009 to the State of Florida, Department of Environmental Protection, for the fiscal year ending September 30, 2008, the full cost per unit of providing waste collection service was \$490, including disposal and other collection services such as illegal dumping clean-up and code enforcement. The full cost for providing service and residential fee charged for the year ending September 30, 2009 will be available for publication by March 31, 2010.

# Waste Disposal Capacity and Service

The incremental and cumulative cost of providing disposal capacity for DSWM Collections, municipalities and other haulers are paid for by the users. For FY 2009 -10, the DSWM charged a disposal tipping fee at a contract rate of \$59.77 per ton to DSWM Collections and to those private haulers and municipalities with long term disposal agreements with the Department. For non-contract haulers, the rate is \$78.90 per ton in FY 2009 -10. These rates adjust annually with the Consumer Price Index, South Region. In addition, the DSWM charges a Disposal Facility Fee to private haulers equal to 15 percent of their annual gross receipts, which is targeted to ensure capacity in operations. Landfill closure is funded by a portion of the Utility Service Fee charged to all retail customers of the County's Water and Sewer Department and the municipal water and sewer departments.

## Water and Sewer

The Miami-Dade County Water and Sewer Department provides for the majority of water and sewer service throughout the county. The cost estimates provided herein are preliminary and final project costs will vary from these estimates. The final costs for the project and resulting feasibility will depend on actual labor and material costs, competitive market conditions, final project scope implementation schedule, continuity of personnel and other variable factors. The water impact fee was calculated at a rate of \$1.39 per gallon per day (gpd), and the sewer impact fee was calculated at a rate of \$5.60 per gpd. The annual operations and maintenance cost was based on \$1.351 per 1,000 gallons for the water and \$1.564 per 1,000 gallons for the sewer. The connection fee was based on providing a 1-inch service line and meter. Assuming the subject site is developed with 29 units of multi-family apartments (maximum development allowed under the proposed re-designation to "Business and Office", which would generate the greatest demand for water and sewer service), the fees paid by the developer would be \$10,078 for water impact fee, \$40,600 for sewer impact fee, and \$1,300 per unit for connection fee. Annual operating and maintenance cost, based on approved figures through September 30, 2009, is estimated at \$7,714. In addition, the estimated cost of constructing the required 16and 12-inch potable water mains, the required 8-inch gravity sanitary sewer main, and the private sewer pump station is \$155,216.

# **Flood Protection**

The Department of Environmental Resource Management (DERM) is restricted to the enforcement of current stormwater management and disposal regulations. These regulations require that all new development provide full on-site retention of the stormwater runoff generated by the development. The drainage systems serving new developments are not allowed to impact existing or proposed public stormwater disposal systems, or to impact adjacent properties. The County is not responsible for providing flood protection to private properties, although it is the County's responsibility to ensure and verify that said protection has been incorporated in the plans for each proposed development. The above noted determinations are predicated upon the provisions of Chapter 46, Section 4611.1 of the South Florida Building Code; Section 24-58.3(G) of the Code of Miami-Dade County, Florida; Chapter 40E-40 Florida Administrative Code, Basis of Review South Florida Water Management District (SFWMD); and Section D4 Part 2 of the Public Works Manual of Miami-Dade County. All these legal provisions emphasize the requirement for full on-site retention of stormwater as a post development condition for all proposed commercial, industrial, and residential subdivisions.

Additionally, DERM staff notes that new development, within the urbanized area of the County, is assessed a stormwater utility fee. This fee commensurate with the percentage of impervious area of each parcel of land, and is assessed pursuant to the requirements of Section 24-61, Article IV, of the Code of Miami-Dade County. Finally, according to the same Code Section, the proceedings may only be utilized for the maintenance and improvement of public storm drainage systems.

Based upon the above noted considerations, it is the opinion of DERM that Ordinance No. 01-163 will not change, reverse, or affect these factual requirements.

# **Public Schools**

This application, if approved, would result in an increase in residential development from its current "Low Density Residential" CDMP land use designation. However, there is sufficient concurrency capacity to accommodate potential additional students; therefore, there are no capital costs. If at time of issuing a development order and reserving student stations for the development, pursuant to the school concurrency, there is not sufficient capacity, the capital costs will be addressed at that time.

Public School	Number of Additional Students	Capital Costs	Total
Caribbean Elementary	9	\$0	\$0
Mays Middle	4	\$0	\$0
Miami Southridge Senior	6	\$0	\$0

Total Potential Capital Cost:

\$0

Source: Miami-Dade County Department of Planning and Zoning, 2010

## **Fire Rescue**

Data from Miami-Dade County Fire and Rescue Department is pending.

# **APPENDIX F**

# **Proposed Declaration of Restrictions**

- 1. Declaration of Restrictions dated June 9, 2010, proffered by the Applicant and accepted by the Board prior to initial transmittal to DCA.
- 2. Draft Declaration of Restrictions received by the DP&Z on September 3, 2010.

October 2009 Cycle Application No. 3

1.	Declaration of Restrictions dated June 9, 2010, proffered by the Applicant and accepted by the Board prior to initial transmittal to DCA.

October 2009 Cycle Application No. 3

OR Bk 27312 Pss 4816 -RECORDED 06/09/2010 11:18:16 HARVEY RUVIN, CLERK OF COURT MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by: Felix M. Lasarte, Esq. Address: The Lasarte Law Firm

3470 NW 82<sup>nd</sup> Avenue, Suite 660

Doral, Florida 33122

(Space reserved for Clerk)

# **DECLARATION OF RESTRICTIONS**

WHEREAS, the undersigned, Apostolic Alliance Church of the Lord Jesus Christ, Inc. (the "Owners"), hold the fee simple title to that certain parcel of land (hereinafter the "Property") located in Miami-Dade County, which is legally described as follows:

## See Exhibit "A"

WHEREAS, the Owners have applied for an Amendment to the Miami-Dade County Comprehensive Development Master Plan that is pending as Application No. 3 in the October 2009 Cycle (the "Application");

WHEREAS, the Application seeks to re-designate the Property from "Low Density Residential" to "Business and Office" on the Miami-Dade County Comprehensive Development Master Plan Future Land Use Plan Map ("LUP");

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

Energy and Environmental Design. The Owner shall design the Site Plan and (1) Building(s), as applicable at the time of initial rezoning, with the intent to obtain certification under the U.S. Green Building Council's LEED-NC Green Building Rating System or similar

certification by other comparable green building rating agencies, and the then owner shall use best efforts to pursue such certification during the development process.

# (2) Miscellaneous:

- A. <u>Covenant Running with the Land</u>. This Declaration of Restrictions on the part of Owner shall constitute a covenant running with the land and shall be recorded by the Owner, 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 Owner and their heirs, successors, and assigns until such time as the same is modified or released with the approval of the County. These restrictions, during their lifetime, shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the public welfare.
- B. Term. This Declaration of Restrictions 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 that this Declaration of Restrictions 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 in the public records agreeing to change the covenant in whole, or in part, provided that the Declaration of Restrictions 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 land herein described, or any portion thereof, by a written instrument executed by the fee simple owner(s) of the Property, provided that the same is also approved by the Board of County Commissioners. 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 which 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 comprehensive plans as set forth in Section 2-116.1 of the Code of Miami-Dade County, or successor regulation governing amendments to the Miami-Dade comprehensive plan. Notwithstanding anything in this paragraph, in the event that the Property is incorporated within a new municipality which amends, modifies, or declines to adopt the provisions of Section 2-116.1 of the Code of Miami-Dade County, then modifications, amendments or releases of this Declaration of Restrictions 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. Should this Declaration of Restrictions be so modified, amended or released, 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 his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

- person violating, or attempting to violate, the covenants. This enforcement provision shall be in addition to any other remedies available at law, in equity, or both.
- E. <u>Election of Remedies</u>. 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.
- F. <u>Severability</u>. 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.

**G.** Recording. This Declaration of Restrictions shall be filed of record in the public records of Miami-Dade County, Florida at the cost of Owner's following the adoption of the Application. This Declaration of Restrictions 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 of Restrictions 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 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 of Restrictions is null and void and of no further effect.

[Execution Pages to Follow]

PAGE 05/09

IN WITNESS WHEREOF, we have hereunto set our hands and seal this 4 day of , 2010. WITNESSES:

Signature Print Name

Apostolic Alliance Church of the Lord Jesus Christ, Inc., a Florida corporation Name: Title:

NOTARY PUBLIC-STATE OF FLORIDA Ivan A. Cejas
Commission #DD833976
Expires: NOV. 04, 2012
BONDED THRU ATLANTIC BONDING CO, INC.

STATE OF FLORIDA

) \$5: COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 4 day of MAY 2010, by HERNANDO DIAZA, as of Apostolic Alliance Church of the Lord Jesus Christ, Inc. Who is personally known to me or produced LICENSE. (type of identification) as identification. NOTARY PUBLIC-STATE OF FLORIDA Ivan A. Cejas
Commission # DD833976
Expires: NOV. 04, 2012
BONDED THRU ATLANTIC BONDING CO., INC.

NOTARY PUBLIC

(Print, Type or Stamp Commissioned Name of Notary Public)

My Commission Expires:

# JOINDER BY MORTGAGEE TRUSTEE

The undersigned, RONALD G. BAKER, as Trustee of the 200 St. Mortgage Trust, under that certain Mortgage from APOSTOLIC ALLIANCE CHURCH OF THE LORD JESUS CHRIST, INC., a Florida not-for-profit corporation, dated July 28, 2005 and recorded August 2, 2005 in Official Records Book 23632, at Page 3879, of the Public Records of Miami-Dade County, Florida, covering a portion of the real property described in the foregoing mortgage and located at 12720 SW 200<sup>th</sup> Street, Miami, Florida 33177, as more particularly described in Exhibit "A" (the "Property"), does hereby join in the execution of that certain Declaration of Restrictions dated on or about May \_\_\_\_\_\_, 2010, with respect to the Property.

Ronald G. Baker acknowledges by his execution hereof, that he has authority to execute this Joinder By Mortgagee without any further action by the 200 St. Mortgage Trust.

IN WITNESS WHEREOF, these presents have been executed this day of May, 2010.

WITNESSES:

[Signature]

Jael Pineda

[Print Name]

[Signature]

[Print Name]

By:

ROMALD G. BAKER, as Trustee of the

200 St. Mortgage Trust

2655 Lejeune Road, Suite 201

Coral Gables, Florida 33134

Dated: May 3° , 2010

State of Florida County of Miami-Dade

The foregoing instrument was acknowledged before me by RONALD G. BAKER, as Trustee of the 200 St. Mortgage Trust this \_\_\_\_\_\_ day of May, 2010, who [ ] is personally know to me; or who [ ] has produced his driver's license as identification, and has the authority to act on behalf of said Trust.

Notary Public - State of Florida

My Commission Expires:



#### EXHIBIT A

A portion of Lot 1 in TROPICO SUBDIVISION, as recorded in Plat Book 2, at Page 57, Public Records of Miami-Dade County, Florida, and more particularly described as follows:

From the Northeast corner of Lot 1, which is the point of Beginning, in TROPICO SUBDIVISION, run Westerly along the North line of said Lot 1, 241.69 feet to a point, said line also being the North line of the Northeast Quarter (NE ¼) of Section 11, Township 56 South, Range 39 East; thence run Southerly along a line parallel to the East line of said Lot 1, 229.00 feet to a point; thence at an interior angle of 90 degrees, 30 minutes, 45 seconds, run Easterly 241.69 feet to a point on the East line of said Lot 1; thence at an interior angle of 89 degrees, 29 minutes, 15 seconds, run Northerly 228.90 feet along the East line of said Lot 1 to the point of beginning, less the North and East 35 feet thereof for road purposes, lying and being in the Northeast Quarter (NE ¼) of Section 11, Township 56 South, Range 39 East, Miami-Dade County, Florida.

#### AND

From the Northeast Corner of Lot 1, in TROPICO SUBDIVISION, run Southerly along the East line of said Lot 1, 228.90 feet to the Point of Beginning, said line also being the East line of the NE ¼ of Section 11, Township 56 South, Range 39 East; thence continue and run Southerly along the East line of said Lot 1 for a distance of 180.21 feet to a point; thence at an interior angle of 89 degrees, 30 minutes, 34 seconds run Westerly 241.69 feet to a point; thence run Northerly along a line parallel to the East line of said Lot 1, 180.30 feet to a point; thence at an interior angle of 89 degrees, 29 minutes, 15 seconds run Easterly 241.69 feet to the Point of Beginning, less the East 35 feet thereof for road purposes, lying and being in the NE ¼ of Section 11, Township 56 South, Range 39 East, Miami-Dade County, Florida.

STATE OF FLORIDA, COUNTY OF DADE

I HEREBY CERTIFY that this is a tipe copy of the original filed in this offic on hay of the original filed in this offic on A D 20.

WITNESS mand and Official Cash HARVEY RUVIN, CLERK, of Orbuit short County Courts

By

D.C.

#### MIAMI-DADE COUNTY

## OPINION OF TITLE

With the understanding that this Opinion of Title is furnished to Miami-Dade County, as an inducement for acceptance of a Declaration of Restrictions, and approval of an amendment to the Miami-Dade County Comprehensive Development Master Plan Land Use Plan map designation on the real property hereinafter described, it is hereby certified that I have examined a proforma title commitment prepared by Attorneys' Title Fund Services, LLC, bearing File Number 001-2010-005021 with an Effective Date of April 20, 2010, at 11:00 p.m. inclusive, of the following described real property:

# SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

I am of the opinion that on the last mentioned date, the fee simple title to the above described property was vested in:

# APOSTOLIC ALLIANCE CHURCH OF THE LORD JESUS CHRIST, INC., a Florida not-for-profit corporation

Subject to the following liens, encumbrances, and other exceptions:

#### 1. <u>RECORDED MORTGAGES</u>:

Mortgage from APOSTOLIC ALLIANCE CHURCH OF THE LORD JESUS CHRIST, INC., a Florida not-for-profit corporation in favor of RONALD G. BAKER, Trustee of the 200 St. Mortgage Trust, dated July 28, 2005 and recorded August 2, 2005 in Official Records Book 23632, at Page 3879, of the Public Records of Miami-Dade County, Florida.

# 2. RECORDED CONSTRUCTION LIENS, CONTRACT LIENS AND JUDGMENTS: NONE

# 3. GENERAL EXCEPTIONS:

- (a) Taxes for the year 2010 and subsequent years.
- (b) Rights of persons other than the above owners who are in possession.
- (c) Facts that would be disclosed upon accurate survey.
- (d) Any unrecorded labor, mechanics' or materialmen's liens.
- (e) Zoning and other restrictions imposed by governmental authority.

#### 4. SPECIAL EXCEPTIONS:

- (a) All matters contained on the Plat of Tropico, as recorded in Plat Book 2, Page 57, Public Records of Miami-Dade County, Florida.
- (b) Covenants, conditions and restrictions recorded June 30, 1992, in O.R. Book 15570, Page 2362 and O.R. Book 15570, Page 2365, Public Records of Miami-Dade County, Florida.
- (c) Agreement for Water Facilities recorded in O.R. Book 21230, Page 4511, as amended in O.R. Book 22752, Page 3732Public Records of Miami-Dade County, Florida.
- (d) Covenants, conditions and restrictions recorded January 27, 2005, in O.R. Book 23034, Page 1657, Public Records of Miami-Dade County, Florida.
- (e) Covenants, conditions and restrictions recorded April 28, 2008, in O.R. Book 26347, Page 3083, Public Records of Miami-Dade County, Florida.
- (f) Covenants, conditions and restrictions recorded July 1, 2008, in O.R. Book 26458, Page 4393, Public Records of Miami-Dade County, Florida.
- (g) Agreement for Water and Sanitary Sewage Facilities recorded in O.R. Book 26439, Page 714, Public Records of Miami-Dade County, Florida.
- (h) Building Notice and Estoppel Notice recorded in O.R. Book 26495, Page 2027, Public Records of Miami-Dade County, Florida.

It is my opinion that the following party(ies) must join in the agreement in order to make the agreement a valid and binding covenant on the lands described herein, and that none of the foregoing mortgages or exceptions will affect the recordation or effectiveness of the Declaration of Restrictive Covenants.

#### Name

## **Interest/Special Exception Number**

APOSTOLIC ALLIANCE CHURCH OF THE LORD JESUS CHRIST, INC., a Florida not-for-profit corporation

Owner

Ronald G. Baker as Trustee of the 200 St. Mortgage Trust

Mortgagee

I HEREBY CERTIFY that the legal description contained in this Opinion of Title coincides with, and is the same as, the legal description in the proffered, recordable agreement.

Signature Page and Notary Acknowledgment Follow on Page 3 of 4

Page 2 of 4

I, the undersigned, further clarify that I am an attorney-at-law duly admitted to practice in the State of Florida, and am a member in good standing of the Florida Bar.

Respectfully submitted this 4th day of May, 2010.

DJUSTINAVILES, Esquire FLORIDA BAR # 301809 200 West Palmetto Park Road Suite 301 Boca Raton, Florida 33433 (561) 869-1710

STATE OF FLORIDA )

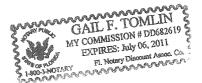
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me this 4th day of May, 2010 by D. JUSTIN NILES, who is personally known to me and who did not take an oath.

Gail F. Tomlin - Notary Public

My Commission Expires:

(NOTARIAL SEAL)



# EXHIBIT A

A portion of Lot 1 in TROPICO SUBDIVISION, as recorded in Plat Book 2, at Page 57, Public Records of Miami-Dade County, Florida, and more particularly described as follows:

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#### **AND**

From the Northeast Corner of Lot 1, in TROPICO SUBDIVISION, run Southerly along the East line of said Lot 1, 228.90 feet to the Point of Beginning, said line also being the East line of the NE ¼ of Section 11, Township 56 South, Range 39 East; thence continue and run Southerly along the East line of said Lot 1 for a distance of 180.21 feet to a point; thence at an interior angle of 89 degrees, 30 minutes, 34 seconds run Westerly 241.69 feet to a point; thence run Northerly along a line parallel to the East line of said Lot 1, 180.30 feet to a point; thence at an interior angle of 89 degrees, 29 minutes, 15 seconds run Easterly 241.69 feet to the Point of Beginning, less the East 35 feet thereof for road purposes, lying and being in the NE ¼ of Section 11, Township 56 South, Range 39 East, Miami-Dade County, Florida.



Draft Declaration of Restrictions received by the DP&Z on September 3, 2010.					

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October 2009 Cycle Application No. 3

This instrument was prepared by: Name: Felix M. Lasarte, Esq.

Address: The Lasarte Law Firm

3470 NW 82<sup>nd</sup> Avenue, Suite 660

Doral, Florida 33122

Application 3 October 2009 cycle 2010 SEP -3 P 5: 37

PLAINING & ZOHING METROPOLITAN PLANNING SECT

(Space reserved for Clerk)

#### **DECLARATION OF RESTRICTIONS**

WHEREAS, the undersigned, Apostolic Alliance Church of the Lord Jesus Christ, Inc. (the "Owners"), hold the fee simple title to that certain parcel of land (hereinafter the "Property") located in Miami-Dade County, which is legally described as follows:

#### See Exhibit "A"

WHEREAS, the Owners have applied for an Amendment to the Miami-Dade County Comprehensive Development Master Plan that is pending as Application No. 3 in the October 2009 Cycle (the "Application");

WHEREAS, the Application seeks to re-designate the Property from "Low Density Residential" to "Business and Office" on the Miami-Dade County Comprehensive Development Master Plan Future Land Use Plan Map ("LUP");

**NOW, THEREFORE, IN ORDER TO ASSURE** Miami-Dade County, Florida (the "County") that the representations made by the Owners during its consideration of the Application will be abided by, the Owners freely, voluntarily, and without duress, make the following Declaration of Restrictions covering and running with the Property:

- (1) <u>Prohibited Uses</u>. Residential uses shall be prohibited on the Property.
- (2) <u>Permitted Uses</u>. The use of the Property shall be limited to commercial and retail uses.

(3) Energy and Environmental Design. The Owner shall design the Site Plan and/or Architectural Code, as applicable at the time of initial rezoning, with the intent to obtain certification under the U.S. Green Building Council's LEED-NC Green Building Rating System or similar certification by other comparable green building rating agencies, and the then owner shall apply for and diligently pursue such certification in good faith during the development process.

#### (4) Miscellaneous:

- A. <u>Covenant Running with the Land</u>. This Declaration of Restrictions on the part of Owner shall constitute a covenant running with the land and shall be recorded by the Owner, 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 Owner and their heirs, successors, and assigns until such time as the same is modified or released with the approval of the County. These restrictions, during their lifetime, shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the public welfare.
- B. Term. This Declaration of Restrictions 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 that this Declaration of Restrictions 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 in the public records agreeing to change the covenant in whole, or in part, provided that the Declaration of Restrictions has first been modified or released by Miami-Dade County.
- **C.** <u>Modification, Amendment, Release</u>. This Declaration of Restrictions may be modified, amended, or released as to the land herein described, or any portion thereof, by a written instrument executed by the fee simple owner(s) of the Property, provided that the same

is also approved by the Board of County Commissioners. 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 which 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 comprehensive plans as set forth in Section 2-116.1 of the Code of Miami-Dade County, or successor regulation governing amendments to the Miami-Dade comprehensive plan. Notwithstanding anything in this paragraph, in the event that the Property is incorporated within a new municipality which amends, modifies, or declines to adopt the provisions of Section 2-116.1 of the Code of Miami-Dade County, then modifications, amendments or releases of this Declaration of Restrictions 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. Should this Declaration of Restrictions be so modified, amended or released, 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 his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

- **D.** Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, the covenants. This enforcement provision shall be in addition to any other remedies available at law, in equity, or both.
- E. <u>Election of Remedies</u>. 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.

- **F.** <u>Severability</u>. 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.
- **G.** Recording. This Declaration of Restrictions shall be filed of record in the public records of Miami-Dade County, Florida at the cost of Owner's following the adoption of the Application. This Declaration of Restrictions 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 of Restrictions 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 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 of Restrictions is null and void and of no further effect.

[Execution Pages to Follow]

IN WITNESS WHEREOF, w , 2010.	e have hereunto	set our hands and seal this day of
WITNESSES:		Apostolic Alliance Church of the Lord Jesus Christ, Inc., a Florida corporation
Signature		By:
Print Name		Name: Title:
Signature		
Print Name		
COUNTY OF MIAMI-DADE  The foregoing instrument	) nt was acknowled	ged before me this day of,
2010, by	<u>c</u> Who is	of Apostolic Alliance Church of personally known to me or produced ation) as identification.
	NOTA	ARY PUBLIC
3)		
		, Type or Stamp Commissioned Name of y Public)
	My C	ommission Expires:



# **APPENDIX G**

**Photos of Application Site and Surroundings** 

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Northern portion of Application site fronting SW 200 Street (Quail Roost Street). Picture taken from SW 127 Avenue. Access to the site can be from both roads



The Apostolic Alliance Church of the Lord Jesus Christ (Applicant/property owner) worship center on the western boundary of the site



The southern portion of the site abutting the inactive park property owned by Miami-Dade County Park and Recreation Department



Walgreens retail store north of the property across SW 200 Street; also accessible from SW 127 Avenue



AutoZone retail store northeast of the property across SW 200 Street; also accessible from SW 127 Avenue



Free-standing Bank of America building east of the property across SW 127 Avenue, fronting SW 200 Street and a part of the Shoppees at Quail Roost shopping center. A bus transit stop station is also located opposite application site along SW 127 Avenue.



Publix grocery store as the anchor store in the Shoppees at the Quail Roost shopping center opposite the site across SW 127 Avenue; also accessible from SW 200 Street.



Residential neighborhood (no name) further west of the property after the worship center fronting SW 200 Street

# **Application No. 4**Commission District 9 Community Council 14

#### **APPLICATION SUMMARY**

Applicant/Representative: Miami-Dade County General Service Administration/

Wendy Norris, Director, 111 NW 1st Street, Suite

2410, Miami, FL 33128

Location: Southwest corner of SW 152 Street and SW 117

Avenue to the northeast of the existing <u>"Miami-Dade</u> Zoological Park and Gardens" (aka Zoo Miami),

formerly known as the Miami Metrozoo

Total Acreage: ±286 Gross Acres (±279.38 Net Acres)

Current Land Use Plan Map Designation: "Institutions, Utilities and Communications" and

"Low-Medium Density Residential"

Proposed Amendment Changes:

1. Modify the "<u>Zoo</u> Miami <del>Metrozee</del> Entertainment Area" land use category text in the Land Use

Element to establish Areas I and II.

2. Add "Zoo Miami Metrozoo Entertainment Area I" to site currently designated on the Adopted 2015 and 2025 Land Use Plan (LUP) map as "Zoo

Miami Metrozoo Entertainment Area".

Requested Land Use Plan Map Designation:

3. Change the land use designation on the subject property (Areas A, B, C & D) as follows:

Area A: ±19.97 Gross Acres

From: Low Medium Density Residential

To: Zoo Miami Metrozoo Entertainment Area II

Area B: ±134.75 Gross Acres

From: Institutions, Utilities and Communications
To: Zoo Miami Metrozoo Entertainment Area II

Area C: ±70.9 Gross Acres

From: Institutions, Utilities and Communications

To: Environmentally Protected Parks

Area D: ±60.6 Gross Acres

From: Institutions, Utilities and Communications
To: Zoo Miami Metrozoo Entertainment Area II

Amendment Type: Standard

Existing Zoning, Use and Site Condition: AU (Agricultural District)

The changes indicated by double strikethrough and double underscore reflect the change in name from Miami Metrozoo to Miami-Dade Zoological Park and Gardens" (aka Zoo Miami) pursuant to Resolution R-329-10.

#### RECOMMENDATIONS

Staff: ADOPT WITH CHANGE AND TRANSMIT

(February 25, 2010)

**NO QUORUM** (March 25, 2010) Redland Community Council (14):

Planning Advisory Board (PAB) acting as

Local Planning Agency:

ADOPT WITH CHANGE AND TRANSMIT

(April 5, 2010)

Board of County Commissioners: ADOPT WITH CHANGE AND TRANSMIT

(May 5, 2010)

Revised Staff Recommendation ADOPT AS TRANSMITTED WITH ADDITIONAL

**CHANGE** (September 13, 2010)

Local Planning Agency:

Final Recommendation of PAB acting as **TO BE DETERMINED** (September 20, 2010)

Final Action of Board of County

Commissioners:

TO BE DETERMINED (October 6, 2010)

#### Revised Staff Recommendation (September 13, 2010)

Staff recommends to ADOPT AS TRANSMITTED WITH ADDITIONAL CHANGE the proposed standard amendment to modify text in the Comprehensive Development Master Plan (CDMP) Land Use Element and the adopted 2015 and 2025 Land Use Plan (LUP) map. Staff's recommended additional changes are detailed in the new information section below and/or reflected in the proposed modifications to the adopted Miami Metrozoo Entertainment Area land use category text. They include modification to the application to reflect the change in name of the Miami Metrozoo consistent with Miami-Dade Board of County Commissioners (BCC) Resolution R-329-10; modification to add language addressing the redelineation of Natural Forest Communities (NFC) within the northern portion (Area B) of the application site; and further modification to clarify that the land use category's floor area ratio restrictions apply only to Area I (this proposed modification shown only in the land use category text).

In the Initial Recommendations report published on February 25, 2010, staff outlined concerns with the Transportation Analysis dated February 2010 submitted in support of the application. Subsequently, a March 2010 version and an April 2010 revised version of the Transportation Analysis were submitted that adequately addressed staff's concerns. The April 2010 revised version of the Transportation Analysis was submitted to DCA in the October 2009 CDMP Amendment Cycle transmittal package as the first of three items included in Exhibit 6, and was identified as "CDMP Amendment Transportation Analysis, dated March 2010 (Revised April 2010)".

#### **New Information**

In April 2010, the BCC adopted Resolution R-329-10 that changed the name of the "Miami-Metrozoo" to "Miami-Dade Zoological Park and Gardens" and also approved "Zoo Miami" as the day to day name for marketing and recognition purposes (Appendix A: Miami-Dade Board of County Commissioners Resolution R-329-10). Therefore, the adopted CDMP text as previously revised in the application are proposed to be further revised to reflect the adopted name change, whereby Miami Metrozoo Entertainment Area references are updated to Zoo Miami Entertainment Area and Miami Metrozoo references are updated to Miami-Dade Zoological Park and Gardens.

Since the BCC transmittal public hearing on May 5, 2010, the Department of Planning and Zoning has received additional information regarding Application No. 4. This information is contained in the Department of Environmental Resources Management's (DERM) Forest Resources Program Inspection Report and the Florida Department of Community Affairs (DCA) "Objections, Recommendations and Comments" (ORC) report dated August 9, 2010, and discussed below.

The DERM conducted an assessment of the 14-acre pine rockland in Area B of application site (generally at SW 120 Avenue on the south side of SW 152 Street) to fulfill the site investigation commitment made in reason 2.d of the Principal Reasons for Recommendation published in the February 2010 Initial Recommendations report. Staff indicated that DERM would conduct an assessment which would determine the quality of the pine rockland and the level of protection warranted, and ultimately, the application would be modified as appropriate. DERM's findings are included in a Forest Resources Program Inspection Report attached as Appendix B. The report states that only sections of the 14-acre pine rockland are either NFC quality or can be restored to NFC quality and that one State endangered and several State threatened plant species are within and adjacent to the 14-acre pine rockland. Accordingly, the redelineation of NFCs within Area B of the application site is deemed the most appropriate action to protect and enhance the sections of the 14-acre pine rockland that are either NFC quality or restorable to NFC quality pine rockland while protecting the endangered and threatened species identified by DERM. Therefore, it is recommended that the application be modified to require the redelineation of NFCs within the application site prior to approval of a zoning change or approval of a development order. The application has been modified accordingly, to include this requirement as an additional change to the proposed Zoo Miami Entertainment Area II text.

Through ORC Comment No. 1, DCA stated that the 14-acre pine rockland in Area B of the application site should be redesignated to Environmentally Protected Parks if it is determined that federally listed and endangered species are present on that 14-acre portion of the site. As discussed above, DERM's site investigation did not identify federally listed and endangered species on the 14-acre pine rockland but instead identified one state endangered and several state threatened plant species.

#### **Proposed Additional Changes to the Transmitted Application**

The following outlines the additional changes proposed by Staff to the transmitted application. The single underline indicates words added and single strikethrough indicates words deleted from the currently adopted CDMP "Miami Metrozoo Entertainment Area" text, as proposed in the Initial Recommendations report and transmitted to DCA. The additional changes are indicated by double strikethrough for words deleted and double underscore for words added, as follows:

#### **Zoo** Miami Metrozoo Entertainment Area (Areas I and II)

This category is for tourist attractions and ancillary uses that are adjacent to the zoological park and that are themed to establish a unified <u>Zoo</u> Miami <del>Metrozoo</del> Entertainment Area. Primary uses in the <u>Zoo</u> Miami <del>Metrozoo</del> Entertainment Areas may include one or more of the following:

attractions and recreation facilities (such as <a href="themo-park">theme park</a> and water park rides and attractions, family entertainment center, museums, and parks and open space) and hotels or other lodging. Certain other related and support activities such as theme-related retail concessions, food and beverage establishments, administrative offices, and passenger transportation facilities that are supportive of the primary uses may also be considered for approval in the <a href="too">Zoo</a> Miami <a href="Motorcoo">Metrozoo</a> Entertainment Area category. The allowable primary uses shall be distributed as follows:

Zoo MiamiMetrozee Entertainment Area (Areas I and II)PercentAttractions and Recreation60 -99Hotels or other lodging1- 40

The development program of the Miami Metrozoo Entertainment Area may include the following uses:

- Water Theme Park (23 acres)
   2,500 visitors
   Food service with 150 seats
   500 parking spaces
- Family Entertainment Center (20 acres)
   Entertainment and arcade (75,000 sq.ft.)
   Food service with 200 seats
   275 parking spaces
- Gold Coast Railroad Museum (45 acres)
   New museum exhibition structures (50,000 sq.ft.)
   Themed Retail (20,000 sq.ft.)
   Restaurant space ancillary to the Museum (30,000 sq.ft.) with 600 seats
   Transit railroad with stops throughout the Miami-Metrozoo DRI site
   385 parking spaces
- Hotels (15 acres)
   200 hotel rooms
   275 parking spaces

The specific range and intensity of uses appropriate in the **Zoo** Miami Metrozoo Entertainment Areas may vary by location as a function of the availability of and ease of access to public services and facilities, and compatibility with neighboring development. The areas within the Zoo Miami Metrezee Entertainment Areas designated for the water theme park, theme park rides and attractions, and the Gold Coast Railroad Museum shall have a maximum allowable floor area ratio (F.A.R.) of 0.30 and the areas designated for the family entertainment center and the hotels shall have a maximum F.A.R. of 0.40. The F.A.R. shall apply only to developable areas (building structures) and shall not apply to parking facilities, landscaped areas, environmentally protected lands, and other non-buildable common areas. Through the zoning review process, the use of particular sites or areas may be limited to something less than the maximum allowed in these categories. Moreover, special limitations may be imposed where necessary to protect environmental resources or to ensure compatibility with adjacent sites. Notwithstanding the foregoing, the use of the Gold Coast Railroad Museum property shall be limited to Parks and Recreation uses, museums, and ancillary food service and related retail establishments that support museum uses, as authorized pursuant to the approved General Plan and Program of Utilization (R-493-85) and Article 7 of the Home Rule Amendment and Charter, Miami-Dade County Florida, as amended from time to time.

The <u>Zoo</u> Miami <u>Motrozoo</u> Entertainment Areas shall be developed in a manner that: is consistent with the adopted goals, objectives, and policies of this plan and with all applicable environmental regulations; preserves Natural Forest Communities (NFC) and other environmentally sensitive areas that are at or adjacent to the site; enhances the quality, utility, or enjoyment of the site and its recreational, entertainment, natural, historical, or archaeological resources; and promotes a pedestrian-oriented environment and provides safe and easy transportation between the primary uses. <u>The development program specific to each Zoo Miami Motrozoo</u> Entertainment Area is as follows:

Zoo Miami Metrozoo Entertainment Area I: This area is located generally between SW 152 Street and theoretical SW 168 Street and between theoretical SW 122 Avenue and theoretical SW 132 Avenue and abuts the north side of the existing Zoo Miami Metrozoo. The F.A.R. shall apply only to developable areas (building structures) and shall not apply to parking facilities. landscaped areas, environmentally protected lands, and other non-buildable common areas. The development program of the Zoo Miami Metrozoo Entertainment Area I may include the following uses:

- Water Theme Park (23 acres)
   2,500 visitors

   Food service with 150 seats
   500 parking spaces
- Family Entertainment Center (20 acres)
   Entertainment and arcade (75,000 sq.ft.)

   Food service with 200 seats
   275 parking spaces
- Gold Coast Railroad Museum (45 acres)
   New museum exhibition structures (50,000 sq.ft.)
   Themed Retail (20,000 sq.ft.)
   Restaurant space ancillary to the Museum (30,000 sq.ft.) with 600 seats
   Transit railroad with stops throughout the Zoo Miami-Metrozoo DRI site 385 parking spaces
- Hotels (15 acres)
   200 hotel rooms
   275 parking spaces

<u>Miami Metrozoo</u> Entertainment Area II: This area is located at the southwest corner of SW 152 Street and SW 117 Avenue to the northeast of the existing <u>Zoo</u> Miami <u>Metrozoo</u>, and east of the <u>Zoo</u> Miami <u>Metrozoo</u> Entertainment Area I. <u>To further protect environmental resources</u>, the redelineation of any NFCs within this area shall be required prior to approval of a <u>zoning change or development order</u>. The development program of the <u>Zoo</u> Miami <u>Metrozoo</u> Entertainment Area II may include the following uses:

Resort Hotel (36 acres)

 600 hotel rooms

 Conference Center (130,000 sq.ft.)

 Restaurants (2) with 600 seats and Bar with 50 seats

 Swimming Pool/Resort Amenities

Theme Park (174 acres)

 1,500,000 visitors

 Entertainment Venues (3,000 seats)
 Theme Park Rides and Related Attractions
 Food service with 1,200 seats

Table 3 Facilities of Countywide Significance

- Tabilitios of Goali	ty mad eigimidanee	<b>BB</b> • • • • • • • • • • • • • • • • • •
Department/Facility	Address	Municipality If Applicable
Water and Sewer Department (WASD)		
Hialeah/Preston WTP	1100 West 2 Ave	Hialeah
Alexander Orr WTP	6800 SW 87 Ave	
North District WWTP	2575 NE 151 St	North Miami
Central District WWTP	3989 Rickenbacker Cswy	Miami
South District WWTP	8950 SW 232 St	
South Miami Heights WTP	11800 SW 208 Street	
	(Proposed)	
Existing and Proposed wellfields and elevated Regional Pump Stations as may be identified I		WASD
Park and Recreation Department (PARD)		
Metropolitan Parks – As located by PARD		Various
Natural Area Preserves – As located by PARD	)	Various
Greenways – As located by PARD		Various
Special Activity Areas – As located by PARD		Various
District Parks – As located by PARD		Various
Corrections		
Pre-Trial Detention Center	1321 NW 13 St	Miami
Women's Detention Center	1401 NW 7 Ave	Miami
Turner Guilford Knight Correctional Center	7000 NW 41 St	
Training and Treatment Center	6950 NW 41 St	
Metro West Detention Center	13850 NW 41 St	
Public Health Trust		
Jackson Memorial Hospital	1611 NW 12 Ave	Miami
Jackson South Community Hospital	9333 SW 152 St	
Ports		
Seaport	1015 North America Way	
Miami International Airport	4200 NW 21 Street	
Opa Locka Airport	4051 NW 145 Street	
Opa Locka West Airport	Sections 2 and 3,	
opa zoona rroot/mport	Township 52, Range 39	
Kendall-Tamiami Executive Airport	12800 SW 145 Avenue	
Homestead General Aviation Airport	28700 SW 217 Avenue	
Homestead Air Reserve Base	29050 Coral Sea Blvd	

Table 3 Facilities of Countywide Significance

	y wide orginileanee			
Department/Facility	Address	Municipality If Applicable		
Other facilities as may be identified by the Aviation or Seaport Departments				
Vizcaya Museum and Gardens	3251 South Miami Ave	Miami		
Deering Estate	16701 SW 72 Avenue	Palmetto Bay		
Miami <u>-Dade <mark>Metrozoo</mark> Zoological Park and</u> <u>Gardens (aka Zoo Miami)</u>	12400 SW 152 Street			
<u>Zoo</u> Miami <del>Metrozoo</del> -Entertainment Area <u>I</u>	12400 SW 152 Street			
Zoo Miami Metrozoo Entertainment Area II	12300 SW 152 Street			
Miami-Dade Police Department Training Bureau Metro Training Center MDPD Headquarters Complex Other facilities as may be identified by the Police	9601 NW 58 Street 9105 NW 25 Street ce Department	Doral Doral		
Miami-Dade Fire Rescue Department Headquarters, Emergency Operations Center, & Training Complex Other facilities as may be identified by the Fire	9300 NW 41 Street Rescue Department	Doral		
Florida Power and Light Cutler Plant Turkey Point Plant (Fossil) Turkey Point Plant Nuclear	14925 SW 67 Avenue 9700 SW 344 Street 9760 SW 344 Street	Palmetto Bay		
Department of Solid Waste Management Resources Recovery North Dade Landfill South Dade Landfill Old South Dade Landfill (Closed) 58 Street Landfill / Household Hazardous Waste Facility Northeast Transfer Station West Transfer Station Areas Central Transfer Station Areas Trash and Recycling Stations as may be identic	6990 NW 97 Avenue 21300 NW 47 Avenue 24000 SW 97 Avenue 24800 SW 97 Avenue 8831 NW 58 Street 18701 NE 6 Avenue 2900 SW 72 Avenue 1150 NW 20 St fied by the Solid Waste Depa	Doral Miami artment		

#### **Miami-Dade Transit**

Miami Intermodal Center

Current and future Metrorail station facilities as identified by Miami-Dade Transit Miami-Dade County bus depots, rail terminals, and transportation maintenance facilities as may be identified by Miami-Dade Transit

Source: Miami-Dade County Comprehensive Development Master Plan, Intergovernmental Coordination Element, Pgs. VIII-10 and VIII-11.

#### Initial Staff Recommendations of February 25, 2010

In the Initial Staff Recommendations Report published on February 25, 2010, the staff recommended: "ADOPT WITH CHANGE AND TRANSMIT" the proposed standard amendment to modify text in the Comprehensive Development Master Plan (CDMP) Land Use Element and the adopted 2015 and 2025 Land Use Plan (LUP) map based on the following considerations:

#### **Principal Reasons for Recommendation:**

- 1. The Comprehensive Development Master Plan (CDMP) amendment Application No. 4 proposes to modify the "Miami Metrozoo Entertainment Area" land use category to establish "Miami Metrozoo Entertainment Area I" (MMEA-I) and "Miami Metrozoo Entertainment Area II" (MMEA-II). The MMEA-I would be applied to the area currently designated on the adopted 2015 and 2025 Land Use Plan (LUP) map as "Miami Metrozoo Entertainment Area", and the application site would be redesignated to MMEA-II. The Staff recommended change to the application is to reflect the proposed text change on Table 3, Facilities of Countywide Significance, of the CDMP Intergovernmental Coordination Element (ICE). Table 3 lists the Miami Metrozoo Entertainment Area and the recommended change is to ensure internal consistency within the CDMP as required by Land Use Element Policy LU-8D, if the application is approved.
- 2. Policy LU-8E of the CDMP Land Use Element requires LUP map amendment applications to be evaluated against factors such as the proposed development's ability to satisfy a deficiency in the LUP map to accommodate projected population or economic growth in the County; impacts to County services at or above level of service (LOS) standards; compatibility with abutting and nearby land uses; impacts to environmental and historical resources; and the extent to which the requested CDMP land use designation and ultimately the proposed development would promote transit ridership and pedestrianism.
  - a. *Economic Growth:* The Miami-Dade Parks and Recreation Department prepared the 'Economic Impact Study, Miami Metrozoo Entertainment Area Sub Area II' dated October 2009, in support of the application. The Study projects that the proposed resort hotel and theme park development, if built, would generate over 8,500 construction jobs and over 3,000 permanent jobs. The Study also forecasts that the proposed development, if built and operational, would generate in excess of \$10 million in annual tax revenues and a positive annual economic impact of over \$119 million. This level of employment and economic impact would provide a significant boost to the economy of the Miami Metrozoo area and the general south Miami-Dade County. (See Appendix G: Executive Summary and Attachment 1 of Economic Impact Study.)
  - b. *County Services:* With the exception of fire-rescue services, sewer services, and roadways, public facilities and services in the application area have the capacity to adequately serve the application site, if approved, and continue to operate within the applicable adopted LOS standards.

The Miami-Dade Fire Rescue Department (MDFR) indicates that the proposed development would generate approximately 859 annual alarms. This would have a severe impact to existing fire-rescue services in the area. However, MDFR indicates

that the application's impacts to fire-rescue services can be minimized by the inclusion of two first aid stations within the proposed MMEA-II development in addition to the planned construction of Fire Rescue Station No. 71 in the vicinity of SW 157 Avenue and SW 184 Street.

The Miami-Dade Water and Sewer Department (MDWASD) indicates that a private sewer pump station would be required to serve the development proposed in the application.

Transportation Consultants Kimley-Horn and Associates Inc., and Cathy Sweetapple and Associates, conducted a Transportation Analysis for the proposed project that examined the current traffic conditions, performed a year 2015 short-term level of service (concurrency) analysis, and a year 2025 future conditions analysis. The Analysis was submitted for review by the Miami-Dade County Planning and Zoning and Public Works Departments on February 19, 2010. Staff reviewed the February 2010 Transportation Analysis and has some questions and concerns regarding the assumptions and methodology including, among others, trip distribution, trip assignments, and the need for a weekend peak period analysis. The analysis concludes that SW 152 Street and some intersections would need to be improved to mitigate the impacts of the application. The recommended improvements include an additional east bound lane along SW 152 Street from the Miami Metrozoo entrance at SW 124 Avenue to SW 117 Avenue, and several intersection improvements along SW 152 Street at SW 137, SW 127, SW 122, and SW 117 Avenues. However, staff's questions and concerns especially regarding the weekend peak period analysis are to be addressed prior to staff's acceptance of the conclusions and recommendations of the analysis. Staff will continue to work with the transportation consultants in order to address staff's concerns.

c. Compatibility: The requested MMEA-II designation is generally compatible with the areas surrounding the application site. The area to the north of the application site, north of SW 152 Street, is designated "Low-Medium Density Residential", "Medium Density Residential" and "Business and Office". The area to the east is designated "Business and Office" and "Industrial and Office". The area to the south is designated "Institutions, Utilities and Communications" and the area to the west is designated "Parks and Recreation" and "Miami Metrozoo Entertainment Area". (See Appendix A: Map Series.)

If approved, the allowable development on the application site would be restricted to the development program included in the CDMP Land Use Element text for the proposed MMEA-II future land use category. Additionally, the allowable intensity (floor area ratio) of development within the MMEA-II land use category is consistent with the intensity of the current Miami Metrozoo Entertainment Area LUP map designation of the abutting property to the west. The proposed resort hotel would be developed at a floor area ratio (F.A.R.) of 0.40 and the proposed theme park at an F.A.R. of 0.30 both consistent with the F.A.R. for the hotel and other development approved for the abutting LUP map designated "Miami Metrozoo Entertainment Area".

The uses proposed for the application site includes a theme park with rides and attractions and a resort hotel with a conference center, restaurant and bar. These proposed uses are compatible with the existing and planned uses adjacent to the

site, including the existing Miami Metrozoo to the southeast and the planned hotel, Family Entertainment Center, Water Park and Gold Coast Railway Museum for the area immediately west of the application site. The proposed uses are also generally compatible with the commercial, office and multifamily residential uses to the north beyond SW 152 Street which is a 6-lane Urban Principal Arterial roadway. The resort hotel is proposed to be located on the northwestern portion of the application site closest to the existing residential uses and would serve to buffer the residential area from the impacts of the more intense theme park use (See Appendix G: Executive Summary and Attachment 1 of Economic Impact Study). The proposed uses are also compatible with the warehouses, the Miami-Dade County Public Schools Maintenance Facility and other light industrial type uses to the east, and the University of Miami's Center for Southeastern Tropical Advanced Remote Sensing (CSTARS) to the south.

d. *Environmental and Historical Resources:* If adopted, the application would impact environmental, historic or archaeological resources. The application site contains a County designated Natural Forest Community (NFC), the ±70-acre Area C of the site, within which the federally listed and endangered Small's milkwort (Polygala smallii) is known to exist (for areas within the application site see Appendix A: Map Series). The NFC site is also on the County's Environmentally Endangered Lands (EEL) program property acquisition list, managed by DERM. CDMP Conservation, Aquifer Recharge and Drainage Element Objective CON-8 and attendant policies require the protection of upland forests included on the County's Natural Forest inventory. Additionally, Objective CON-9 and attendant policies require that threatened and endangered species and their habitat be protected to the maximum extent possible. The application proposes to designate the NFC site on the LUP map as "Environmentally Protected Parks" consistent with the preservation and management of this environmentally sensitive site.

DERM indicates that the Small's milkwort (Polygala smallii), may also exist on an approximate 14-acre pine rockland within Area B at the northern portion of the application site, and generally located at SW 120 Avenue on the south side of SW 152 Street. DERM recommends that this pine rockland be designated "Environmentally Protected Parks" consistent with the designation of the NFC within Area C of the application site, discussed above. It should be noted that the CDMP Land Use Element interpretive text for the "Miami Metrozoo Entertainment Area" future land use category requires development within such designated properties to preserve NFCs and other sensitive areas that are on the site. The modification to the CDMP text, as proposed by the application, retains this language and applies this requirement to both the MMEA-I and MMEA-II designations. The entire ±14-acre pine rockland is fenced and Miami-Dade County owns and has access to an approximate 3-acre portion of the property (part of the former US Coast Guard housing site discussed below). The remaining approximately 11-acre portion is owned by the US Coast Guard, whose authorization must be obtained in order to gain access to that portion of the pine rockland. In the upcoming months and prior to the final hearing for the application, the Miami-Dade County Parks and Recreation Department will seek authorization to access the US Coast Guard owned portion of the pine rockland. Once access is authorized, DERM will conduct an on-site assessment to document the plant and animal species within the pine rockland and determine its quality. The application would then be modified to reflect the level of

protection that is warranted as determined through DERM's assessment of the pine rockland.

The DP&Z's Office of Historic Preservation indicates that archeological remnants of the Richmond Naval Air Station (RNAS) are within Area B of the application site. These components include 3 circular mooring pads and portions of a taxiway for the former Hangar 3. The development of Area B must take measures to preserve these archeological remnants pursuant to Miami-Dade County's historic preservation regulations. It is also recommended that a cultural resource assessment be conducted by a professional consultant prior to any development, to identify and record historic features associated with the RNAS. This is consistent with the CDMP Land Use Element interpretive text for the "Miami Metrozoo Entertainment Area" future land use category which requires sites designated as such to be developed in manner that enhances the quality, utility or enjoyment of the site and its historical and archaeological resources. This language is retained by the application and would be applicable to both the MMEA-I and MMEA-II, if the application is approved.

- e. *Transit Ridership and Pedestrianism:* According to the Miami-Dade Transit's (MDT) analysis, the application, if approved and developed, would increase daily transit ridership within the area. MDT also indicates that the planned service improvement to Metrobus Route 252/Coral Reef Max would be adequate to accommodate the increased ridership. Route 252 provides direct transit service to the Miami Metrozoo and connects to Metrorail (commuter rail service) at the Dadeland South Metrorail Station. Additionally, the CDMP Land Use Element interpretive text for the "Miami Metrozoo Entertainment Area" future land use category requires sites designated as such to be developed in manner that promotes a pedestrian-oriented environment, among others. This language is retained by the application and would be applicable to both the MMEA-I and MMEA-II, if the application is approved.
- 3. For over 10 years the Miami-Dade Board of County Commissioners (BCC) has expressed, through a series of actions, a policy direction to build a theme park adjacent to the Miami Metrozoo to enhance the zoo and the areas economic development. The BCC adopted Resolution R-639-97 directing the County Manager to conduct a feasibility study for the construction of a theme park in the vicinity of the Miami Metrozoo. In 1999, the BCC adopted Resolution R-971-99 authorizing the development of a Miami Metrozoo Master Plan and Further Developments, which was completed in 2002 and the portion of the plan that focused on the publicly-owned and operated animal attractions was approved by the BCC through Resolution R-745-02. The subsequent County Manger's memorandum dated July 6, 2006, informed the BCC that development of a resort hotel and theme park depends on the acquisition of property from the US Coast guard (the application site). A ±39-acre portion of the site (Area A and part of Area B), identified as the former US Coast Guard housing site on the northwestern portion of the application site, has since been acquired by the County under BCC authorization through Resolution No. 484-06 of April 2006. The resort hotel and theme park uses proposed for the application site are consistent with the further development contemplated for the Miami Metrozoo zoological park and adjacent properties, and furthers the BCC's policy direction toward the Miami Metrozoo area development.

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October 2009 Cycle Application No. 4

#### **APPENDICES**

Miami-Dade Board of County Commissioners Resolution R-329-10 Appendix A:

Department of Environmental Resources Management's Forest Resources Program Inspection Report Appendix B:

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October 2009 Cycle Application No. 4

# **APPENDIX A**

Resolution No. 329-10, Dated April 6, 2010, Approving the Renaming of "Miami MetroZoo" to "Miami-Dade Zoological Park and Gardens"

October 2009 Cycle Application No. 4

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October 2009 Cycle Application No. 4

### OFFICIAL FILE COPY CLERK OF THE BOARD OF COUNTY COMMISSIONERS MIAMI-DADE COUNTY, FLORIDA

FROM: R. A. Cuevas, Jr.

County Attorney

### **MEMORANDUM**

Agenda Item No.

TO:

Honorable Chairman Dennis C. Moss

DATE:

April 6, 2010

and Members, Board of County Commissioners

SUBJECT:

Resolution approving the

renaming of Miami MetroZoo to "Miami-Dade Zoological Park and Gardens" after a public

hearing

Resolution No. R-329-10

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Chairman Dennis C. Moss.

County Attorney

RAC/cp

# Memorandum MIAMI



Date:

April 6, 2010

To:

Honorable Chairman Dennis C. Moss

and Members, Board of County Commissioners

From:

George M. Bulles County Manager

Subject:

Renaming of Miami MetroZoo of "Miami-Dade Zoological Park and Gardens"

### Recommendation

It is recommended that the Board approve the attached resolution authorizing the renaming of Miami MetroZoo to "Miami-Dade Zoological Park and Gardens".

### Scope

Miami MetroZoo is located at 12400 SW 152 Street in Commission District 9. The Zoo is operated by the Park and Recreation Department (MDPR) and is open to all residents and visitors of Miami-Dade County. The impact of this agenda item is countywide.

### Fiscal Impact/Funding Source

There is no fiscal impact to the County related to this name change.

### Track Record/Monitor

N/A

### **Background**

Miami MetroZoo, consistently rated one of America's top ten zoos, is the only zoo in a sub-tropic region of the continental United States. More than 800,000 visitors enjoy the Zoo annually; it has reached more than 15 million people of all ages since opening at its current location in 1981. Miami MetroZoo reaches a broad and diverse audience including local and statewide residents, as well as national and international visitors. Twenty-five percent of the Zoo's visitors are from outside Miami-Dade County, according to a 2005 study by Morey & Associates Marketing Researchers.

A new exhibit, Amazon and Beyond opened at MetroZoo on December 6, 2008. This new exhibit has 27 acres dedicated to the flora and fauna of tropical America. It features over 100 astonishing species with a total of over 600 new animals. Some of the featured animals in this exhibit include jaguars, anacondas, giant river otters and harpy eagles. This one exhibit is larger than most zoos in the nation. A world-class exhibit, Amazon and Beyond focuses local, national and international attention on Miami MetroZoo and consequently, on the State of Florida as a leader in conservation, education and cultural enrichment. It is the largest exhibit on tropical American flora and fauna in the United States and possibly the world.

As Miami MetroZoo celebrates its 30<sup>th</sup> Anniversary, the MDPR, Zoological Society of Florida and MetroZoo Oversight Board are recommending a renaming to adequately reflect its current operation as a world class zoo. The new name, "Miami-Dade Zoological Park and Gardens" is more consistent with that of other leading world-class zoos and it better encompasses the variety

Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners Page 2

of flora and fauna found at MetroZoo. For marketing and recognition purposes in local, state-wide and international communities, the day to day name to be used will be "Zoo Miami".

**Attachments** 

Assistant County Manager



# MEMORANDUM

(Revised)

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Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE:

April 6, 2010

FROM:

Please note any items checked.

SUBJECT: Agenda Item No. 5(B)

	9
	"3-Day Rule" for committees applicable if raised
	6 weeks required between first reading and public hearing
***************************************	4 weeks notification to municipal officials required prior to public hearing
	Decreases revenues or increases expenditures without balancing budget
	Budget required
	Statement of fiscal impact required
	Ordinance creating a new board requires detailed County Manager's report for public hearing
<u> </u>	No committee review
S24-3-1	Applicable legislation requires more than a majority vote (i.e., 2/3's, 3/5's, unanimous) to approve
	Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _	<u>Mayor</u>	Agenda Item No.	5(B)
Veto _		4-6-10	
Override _			

# RESOLUTION NO. R-329-10

RESOLUTION APPROVING THE RENAMING OF MIAMI METROZOO TO "MIAMI-DADE ZOOLOGICAL PARK AND GARDENS" AFTER A PUBLIC HEARING

WHEREAS, Miami MetroZoo is a Zoological Park of national stature and recognition, and is consistently rated one of America's top ten zoos; and

WHEREAS, Miami MetroZoo is one of the County's most unique public assets and visitor attractions; and

WHEREAS, more than 800,000 visitors enjoy Miami MetroZoo annually, and more than 15 million people of all ages have visited the zoo since it opened at its current location in 1981; and

WHEREAS, Miami MetroZoo reaches a broad and diverse audience including local and statewide residents, as well as national and international visitors; and

WHEREAS, Miami MetroZoo's newest exhibit, Amazon and Beyond is the largest exhibit on tropical American flora and fauna in the U.S. and possibly the world with 27 acres featuring over 100 astonishing species, with a total of over 600 new animals; and

WHEREAS, Amazon and Beyond, larger than most zoos in the nation, focuses local, national and international attention on Miami MetroZoo, and consequently on the State of Florida, as a leader in conservation, education and cultural enrichment; and

WHEREAS, Miami MetroZoo will celebrate its 30th Anniversary on July 4, 2010; and

WHEREAS, the Park and Recreation Department, Zoological Society of Florida and MetroZoo Oversight Board jointly agree that renaming Miami MetroZoo to "Miami-Dade Zoological Park and Gardens" is the most appropriate way to commemorate this 30<sup>th</sup> Anniversary celebration of Miami MetroZoo; and

WHEREAS, the name "Miami-Dade Zoological Park and Gardens" is more consistent with that of other leading world-class zoos and better encompasses the variety of flora and fauna found at Miami MetroZoo: and

WHEREAS, the day to day name for the Zoo will be "Zoo Miami" for marketing and recognition purposes,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

<u>Section 1.</u> Approves the renaming of Miami MetroZoo as "Miami-Dade Zoological Park and Gardens" after a public hearing.

Section 2. Directs the Clerk of the Board to transmit a certified copy of this resolution to the United States Postal Service, and the following County Departments: General Services Administration, Traffic Signals and Signs Division of the Public Works Department, Land Development Division of the Public Works Department, Miami-Dade Folice Department, and Miami-Dade Fire Rescue Department.

The Prime Sponsor of the foregoing resolution is Chairman Dennis C. Moss. It was offered by Commissioner Dennis C. Moss , who moved its adoption. The motion was seconded by Commissioner Joe A. Martinez and upon being put to a vote, the vote was as follows:



### Resolution No. R-329-10

Agenda Item No. 5(B) Page No. 3

Dennis C. Moss, Chairman aye Jose "Pepe" Diaz, Vice-Chairman aye

Barbara J. Jordan aye Joe A. Martinez ay Dorrin D. Rolle aye Natacha Seijas ay	ye ye ye ye ye

The Chairperson thereupon declared the resolution duly passed and adopted this 6<sup>th</sup> day of April, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: DIANE COLLINS
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency.

WW2

Monica Rizo





# **APPENDIX B**

U.S. Coast Guard Forest Resources Program Inspection Report, Dated April 13, 2010

October 2009 Cycle Application No. 4

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October 2009 Cycle Application No. 4

### FOREST RESOURCES PROGRAM INSPECTION REPORT **Project** Coast Guard T/P #: Name: Location: 12300 SW 152 Street (Folio: 30-5925-000-0010) 4/13/2010 Date: Time: 8:30 am **DERM Staff:** Tim Joyner Type of Inspection (Choose all that apply): **Tree Permit Enforcement** Complaint Landscape **Barrier** Follow up NFC **Meeting** PLAT/ZAB/DIC EEL **RX Burn Need for Compliance Environmental Assessment** Preserve Location/assessment/mgmt

### **REPORT**

On April 13, 2010, Joe Maguire (Parks) and I inspected three remnant pine rockland areas located within the above-referenced site owned by the US Coast Guard. Pat Dixon (USCG), Keith Wright (USCG) and Jim Flynn (USCG) were present during the inspection and escorted us to the various sites. The purpose of the inspection was to identify any possible Natural Forest Community (NFC), restorable pine rockland or listed species within Area B of the site plan associated with October 2009 CDMP Application No. 4. The inspection was not an official NFC boundary determination.

The inspection was broken down into three (3) separate areas (see attached aerial map). The following are the plant lists and general observations that were made for the three areas:

### Area #1

<u>Plant list: (\*This is not a complete plant list)</u>

Common Name	Scientific Name	Status
Earleaf acacia	Acacia auriculiformis	Exotic
Myrsine	Rapanea punctata	Native
Five-Petal Leaf-Flower	Phyllanthus pentaphyllus	Native
Narrow leaf yellow tops	Flaveria linearis	Native
Pine fern	Anemia adiantifolia	Native
Poison wood	Metopium toxiferum	Native
Candy weed	Ploygala grandiflora	Native
White top sedge	Rynchospora floridensis	Native

Oyster plant Burma reed Blue porterweed Dade County pine	Tradescantia spathacea  Neyraudia reynaudiana  Stachytarpheta jamaicensis	Exotic Exotic
Blue porterweed  Dade County pine		
Dade County pine	Siacnyiarpheia janaicensis	Native
	Pinus elliottii var. densa	Native
Cheese weed	Morinda royoc	Native
Pineland snowberry	Chiococca parvifolia	Native
Bracken fern	Pteridium aquilinum var. caudatum	Native
Sabal palm	Sabal palmetto	Native
Saw palmetto	Serenoa repens	Native
Silver palm	Coccothrinax argentata	Native (State Threatened)
Live oak	Quercus virginiana	Native
Shoebutton ardisia	Ardisia elliptica	Exotic
Corky-stem Passion-flower	Passiflora suberosa	Native
Shrubby false buttonweed	Spermacoce verticillata	Exotic
Mahogany	Swietenia mahagoni	Native
Whisk fern	Psilotum nudum	Native
Golden polypody	Phlebodium aureum	Native
White indigoberry	Randia aculeata	Native
Coontie	Zamia pumila	Native (State Commercially Ex.)
Brazilian pepper	Schinus terebinthifolious	Exotic
Locustberry	Byrsonima lucida	Native (State Threatened)
West Indian Lilac	Tetrazygia bicolor	Native (State Threatened)
Resurrection fern	Pleopeltis polypodioides var. michauxiana	Native
Wax myrtle	Myrica cerifera	Native
Pineland croton	Croton linearis	Native
Creeping oxeye	Wedelia trilobata	Exotic
Love vine	Cassytha filiformis	Native
Spanish needles	Bidens alba var. radiata	Native
Shrubverbena	Lantana camara	Exotic
Florida trema	Trema micranthum	Native
Southern sumac	Rhus copallina var. leucantha	Native

Area #1 Summary: Area #1 contains slash pine canopy and a native shrub dominated understory. The dominant exotic species are Earleaf acacia (*Acacia auriculiformis*) and Brazilian pepper (*Schinus terebinthifolius*). The margins of the area contain most of the exotic species while the interior is dominated by native shrubs and palms. This area is an average quality pine rockland that can be managed to increase native diversity and overall site quality. A formal NFC boundary inspection is required in order to determine which portion of the area contains NFC and which portion are restorable.

(Photos Taken)



Photo of SE corner of Area #1. Note Earleaf acacia, Neyraudia, Schinus and native palms in foreground and slash pines in background.



Photo of interior portion of Area #1,dominated by native palms and shrubs.



Photo of the interior of Area #1. Note Resurrection fern, Locustberry and live oak.

## Area #2

<u>Plant list: (</u>\*This is not a complete plant list)

C N.	C-14*0* NI	C4 - 4
Common Name	Scientific Name	Status
Earleaf acacia	Acacia auriculiformis	Exotic
Myrsine	Rapanea punctata	Native
Narrow leaf yellow tops	Flaveria linearis	Native
Pine fern	Anemia adiantifolia	Native
Poison wood	Metopium toxiferum	Native
White top sedge	Rynchospora floridensis	Native
Oyster plant	Tradescantia spathacea	Exotic
Burma reed	Neyraudia reynaudiana	Exotic
Blue porterweed	Stachytarpheta jamaicensis	Native
Dade County pine	Pinus elliottii var. densa	Native
Cheese weed	Morinda royoc	Native

Pineland snowberry	Chiococca parvifolia	Native
Bracken fern	Pteridium aquilinum var. caudatum	Native
Sabal palm	Sabal palmetto	Native
Saw palmetto	Serenoa repens	Native
Silver palm	Coccothrinax argentata	Native (State Threatened)
Live oak	Quercus virginiana	Native
Shoebutton ardisia	Ardisia elliptica	Exotic
Corky-stem Passion-flower	Passiflora suberosa	Native
Shrubby false buttonweed	Spermacoce verticillata	Exotic
Mahogany	Swietenia mahagoni	Native
White indigoberry	Randia aculeata	Native
Coontie	Zamia pumila	Native (State Commercially Ex.)
Brazilian pepper	Schinus terebinthifolius	Exotic
Locustberry	Byrsonima lucida	Native (State Threatened)
West Indian Lilac	Tetrazygia bicolor	Native (State Threatened)
Wax myrtle	Myrica cerifera	Native
Pineland croton	Croton linearis	Native
Creeping oxeye	Wedelia trilobata	Exotic
Spanish needles	Bidens alba var. radiata	Native
Shrubverbena	Lantana camara	Exotic
Florida trema	Trema micranthum	Native
Southern sumac	Rhus copallina var. leucantha	Native
Pineland heliotrope	Heliotropium polyphyllum	Native
Tread softly	Cnidoscolus stimulosus	Native
Wild sage	Lantana involucrata	Native
Pineland blackanthers	Melanthera parvifolia	Native (State Threatened)
Ground cherry	Physalis walteri	Native
Eyebright ayenia	Ayenia euphrasiifolia	Native
Wild tamarind	Lysiloma latisiliquum	Native
Sisal hemp	Agave sisalana	Exotic
Umbrella tree	Schefflera actinophylla	Exotic
Running oak	Quercus pumila	Native
Long-stalked stopper	Psidium longipes	Native (State Threatened)

Satin leaf	Chrysophyllum oliviforme	Native (State Threatened)
Arrowhead vine	Syngonium spp.	Exotic
Strangler fig	Ficus aurea	Native
Cure for all	Pluchea carolinensis	Native

Total species = 48, Native species = 37, Exotic species = 11, Listed species = 7

**Area#2 Summary:** Area #2 contains a large amount of exotic cover and is highly disturbed in some areas. Portions of the site contain good quality pine rockland that need management and other lower quality areas that can be restored. Portions of the area are highly disturbed as well as exotic dominated and may be beyond restoration. A formal NFC boundary inspection is required in order to determine the NFC boundaries as well as the boundaries of restorable and non-restorable areas. (Photos Taken)



Photo of SE corner of Area #2. Note native species dominance. Neyraudia and Earleaf acacia are the most prevalent exotics.



Photo of east edge of Area #2. This portion is a mix of native and exotic species and can potentially be restored.



Photo of Slash pine and *Croton linearis* growing in the east firebreak.



Photo of NE corner of Area #2. This portion needs management and is NFC quality.



Photo of area SW of NE corner. Note increased hardwood cover.

Management is needed. This portion is NFC quality.



Photo of central portion of Area #2. Note increased hardwood cover. This area is transitioning into hammock and is NFC quality.



Photo of Area #2 taken from south firebreak looking north. Note native shrub layer. This portion is NFC quality.

<u>Area #3</u>		
<u>Plant list: (*This is not a complete plant li</u>		
Common Name	Scientific Name	Status
Eyebright ayenia	Ayenia euphrasiifolia	Native
Running oak	Quercus pumila	Native
Sabal palm	Sabal palmetto	Native
Saw palmetto	Serenoa repens	Native
Silver palm	Coccothrinax argentata	Native (State Threatened)
Poison wood	Metopium toxiferum	Native
Narrow leaf yellow tops	Flaveria linearis	Native
Southern sumac	Rhus copallina var. leucantha	Native
Gumbo limbo	Bursera simaruba	Native
Greenbrier	Smilax spp.	Native
Blue porterweed	Stachytarpheta jamaicensis	Native
Locustberry	Byrsonima lucida	Native (State Threatened)
Pineland allamanda	Angadenia boteroi	Native (State Threatened)
Pineland heliotrope	Heliotropium polyphyllum	Native
Mahogany	Swietenia mahagoni	Native
Pineland snowberry	Chiococca parvifolia	Native
Five-Petal Leaf-Flower	Phyllanthus pentaphyllus	Native
Cheese weed	Morinda royoc	Native
White top sedge	Rynchospora floridensis	Native
Florida trema	Trema micranthum	Native
Burma reed	Neyraudia reynaudiana	Exotic
Myrsine	Rapanea punctata	Native
Brazilian pepper	Schinus terebinthifolius	Exotic
Corky-stem Passion-flower	Passiflora suberosa	Native
White indigoberry	Randia aculeata	Native
Shrubby false buttonweed	Spermacoce verticillata	Exotic
Spanish needles	Bidens alba var. radiata	Native
Virginia creeper	Parthenocissus quinquefolia	Native
Tread softly	Cnidoscolus stimilosus	Native

Pitted stripeseed	Piriqueta caroliniana	Native
Coontie	Zamia pumila	Native (State Commercially Ex.)
Love vine	Cassytha filiformis	Native

Total species = 37, Native species = 34, Exotic species = 3, Listed species = 4

Area #3 Summary: Area #3 contains a dominance of native pine rockland plant species and is a good to fair quality pine rockland. The herb layer is almost gone with most of the herbaceous species existing along the edges of the site. This area qualifies as NFC and can easily be managed to be a good quality remnant pine rockland strip. A formal NFC boundary inspection is required in order to officially delineate the NFC boundaries.

(Photos Taken)



Photo of SW corner of Area #3. Note running oak, native palms and hardwoods.



Photo of south perimeter of Area #3. Note large locust berry, slash pines and native palms.



Photo of interior of Area #3. Note ~100% native cover.

Mowed Area  Plant list: (*This is not a complete plant list)		
Eyebright ayenia	Ayenia euphrasiifolia	Native
Gopher apple	Licania michauxii	Native
Blue porterweed	Stachytarpheta jamaicensis	Native
Candy weed	Ploygala grandiflora	Native
Narrow leaf yellow tops	Flaveria linearis	Native
Pineland croton	Croton linearis	Native
Dade County pine	Pinus elliottii var. densa	Native
Cheese weed	Morinda royoc	Native
Pineland snowberry	Chiococca parvifolia	Native
Quail berry	Crossopetalum ilicifolium	Native (State Threatened)
Pitted stripeseed	Piriqueta caroliniana	Native
Pineland allamanda	Angadenia berteroi	Native (State Threatened)
Pineland heliotrope	Heliotropium polyphyllum	Native
Long-stalked stopper	Psidium longipes	Native (State Threatened)
Pineland blackanthers	Melanthera parvifolia	Native (State Threatened)
Pineland lantana	Lantana depressa	Native (State Endangered)
White top sedge	Rynchospora floridensis	Native
Low rattlebox	Crotalaria pumila	Native
Saw palmetto	Serenoa repens	Native
Silver palm	Coccothrinax argentata	Native (State Threatened)
Scaleleaf aster	Aster adnatus	Native
Pineland twinflower	Dyschoriste angusta	Native
Mexican clover	Richardia grandiflora	Exotic
Queen's delight	Stillingia sylvatica	Native
Butterfly pea	Centrosema virginanum	Native
Five-Petal Leaf-Flower	Phyllanthus pentaphyllus	Native
Pineland jacquemontia	Jacquemontia curtisii	Native (State Threatened)
American bluehearts	Buchnera americana	Native

**Mowed area summary:** The mowed areas in the vicinity of the three (3) remnant pine rocklands were observed to contain a significant number of pine rockland species, including several listed species. Several species that were not found in the pine rockland areas were observed. The routine mowing appears to have allowed these species to persist. A thorough inspection of the mowed areas is needed to verify if more State or any Federally-listed species exist within the mowed areas. These areas are restorable pine rockland.

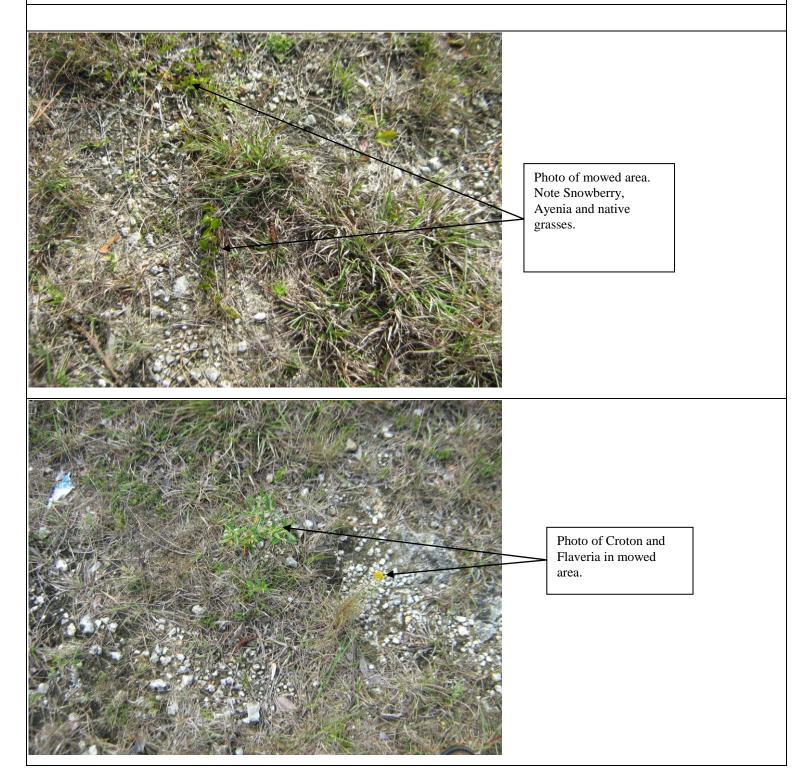




Photo of Psidium longipes mats in mowed area.



Close up of a Psidium longipes mat.



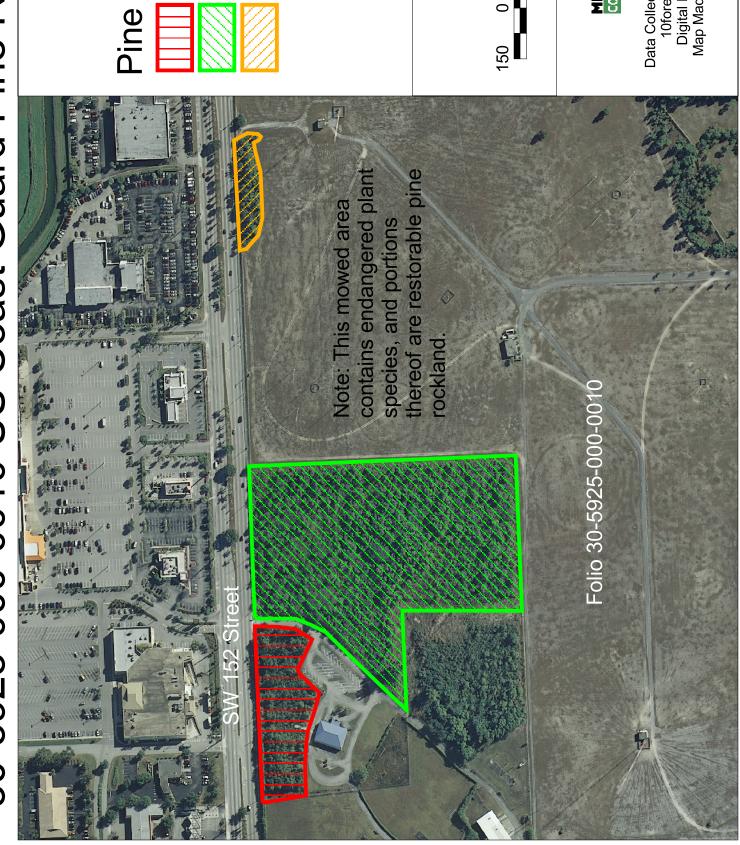


Photo of Buchnera and Flaveria in mowed area.

Photo date: 4/13/2010 Photo taken by: Tim Joyner

Location: 12300 SW 152 Street Folio: 30-5925-000-0010

# 30-5925-000-0010 US Coast Guard Pine Rockland

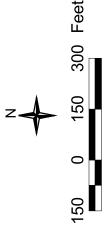


Pine Rockland

Mrea 1

Area 2

Area 3





Data Collected by TJ,JM 4/13/10 10forest\_resources.apr Digital Image Dated 2009 Map Made by HG,TJ 8/10/10

# **Application No. 5**

# Commission District 13 Community Council 5

### APPLICATION SUMMARY

Applicant/Representative: Miami- Dade County/

Marc C. LaFerrier, AICP, Director Department of Planning and Zoning

111 NW 1 Street, Suite 1110 Miami, Florida 33128-1972

Location: Generally in the unincorporated Country Club of

Miami/Palm Springs North Area of the County. Specifically bounded by NW 57 Avenue (Red Road) on the east, the Moors residential development along NW 67 Avenue (Ludlum Road) on the west, NW 167 Street (Palmetto Expressway) on the south and NW 183 Street

(Miami Gardens Drive) on the north.

Requested Change: Designate a Community Urban Center (CUC) for

the Country Club of Miami/Palm Springs North unincorporated area of the County on the Adopted

2015 and 2025 Land Use Plan map

Amendment Type: Standard Amendment

# **RECOMMENDATIONS**

Staff: ADOPT AND TRANSMIT (February 25, 2010)

Country Club of Miami Community

Council (CC5):

Planning Advisory Board (PAB) acting as

Local Planning Agency:

ADOPT WITH CHANGE AND TRANSMIT

(April 5, 2010)

**NOT APPLICABLE** 

Board of County Commissioners: ADOPT AND TRANSMIT (May 5, 2010)

Revised Staff Recommendation: ADOPT AS TRANSMITTED (September 13, 2010)

Final Recommendation of PAB acting as

Local Planning Agency:

**TO BE DETERMINED** (September 20, 2010)

Final Action of Board of County

Commissioners:

**TO BE DETERMINED** (October 6, 2010)

October 2009 Cycle Revised September 13, 2010 5 - 1

Application 5

### Revised Staff Recommendation (September 13, 2010)

Based on the reasons in the Initial Recommendation, staff recommends **ADOPT AS TRANSMITTED** the proposed application to amend the Adopted 2015 and 2025 Land Use Plan (LUP) map for Miami-Dade County to designate a community urban center in the area generally bounded by NW 57 Avenue on the east, the Moors residential development on the west, NW 167 Street on the south and NW 183 Street on the north for the following reason:

1. The reasons stated in the initial recommendations for the adoption of the application are still valid. The designation of a Community Urban Center (CUC) in the adopted LUP map will facilitate the implementation of the town center concept that was included in the Country Club/Palm Springs North Charrette report. An urban center at this location would encourage a high level of pedestrianism and promote public mass transit service.

### **New Information/DCA Comments**

Since the BCC transmittal public hearing on May 5, 2010, the Department of Planning and Zoning has received additional information regarding Application No. 5 in the DCA's "Objections, Recommendations and Comments" (ORC) report, which was issued on August 9, 2010. DCA identified comments related to Application No. 5 as follows: "The Future Land Use Element (FLUE) text should be clarified to note the three step process of designating a Community Urban Center (CUC), as follows: 1.) The CUC is designated on the FLUM as an expression of the County's policy direction; 2.) A small area study is completed to determine the specific parcels that are candidates for higher densities and intensities; and 3.) Comprehensive plan amendments are transmitted to the Department for the FLUM amendments related to the proposed increased densities and intensities."

### **Initial Staff Recommendation** (February 25, 2010)

Staff recommends **ADOPT AND TRANSMIT** the proposed application to amend the Adopted 2015 and 2025 Land Use Plan map for Miami-Dade County to designate a community urban center in the area generally bounded by NW 57 Avenue on the east, the Moors residential development on the west, NW 167 Street on the south and NW 183 Street on the north for the following reasons:

1. The Country Club/Palm Springs North Charrette Area Plan Report and its recommendation for a town center has been supported or accepted by several resolutions. The Country Club of Miami Community Council (CC 5) passed Resolution No. 5-02-06 (See Appendix A1) on May 4, 2006 which recommended to the Board of County Commissioners (BCC), Mayor and the County Manager that they adopt and implement the recommendations in the Country Club/Palm Springs North Charrette Area Plan Report in order to realize the community's vision. On July 18, 2006, the Report was accepted by the BCC in Resolution R-870-06 (See Appendix A2) and staff was authorized to prepare implementation strategies. Community Council 5 passed Resolution No. 05-03-09 on September 23, 2009 (See Appendix A3) that supported the designation of a CUC on the LUP map for properties generally bounded by NW 57 Avenue on the east, the Moors residential development on the west, NW 163 Street on the south and NW 183 Street on the north, and the adoption of zoning standards to implement the town center recommendations in the Country Club/Palm Springs North

Charrette Report. The southern boundary of the town center is NW 167 Street (Palmetto Expressway/SR 826) as shown on page 11 of the Charrette report and not NW 163 Street as mistakenly stated in the application and Resolution No. 05-03-09.

2. The Comprehensive Development Master Plan (CDMP) encourages and promotes the development of urban centers within the County. The location of urban centers and the configuration of the land uses within them would be designed to encourage convenient alternatives to travel by automobile, to provide more efficient land use than suburban development forms, and to create identifiable town centers for the County's diverse communities.

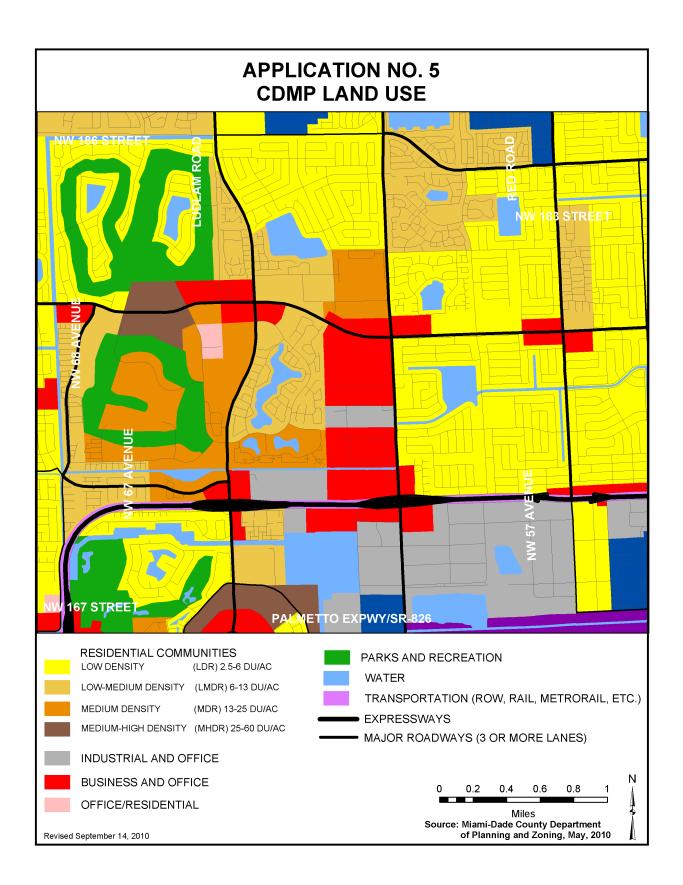
The designation of a community urban center in the area generally bounded by NW 57 Avenue on the east, the Moors residential development on the west, NW 167 Street on the south and Miami Gardens Drive (NW 183 Street/NW 186 Street) on the north will facilitate the implementation of the town center concept described in the Country Club/Palm Springs North Charrette Area Plan Report (See Appendix B). Country Club/Palm Springs North residents participating in the charrette identified the area to the west of the Wal-Mart Supercenter on NW 57th Avenue as the desired site for a future town center. The site is suitable for a town center due to its proximity to NW 57th Avenue, Miami Gardens Drive and the Palmetto Expressway, convenient access to transit, and significant amount of vacant land and other properties with a high probability for redevelopment. As described in the Country Club/Palm Springs North Charrette Area Plan Report, the resident's vision for this area is a mixed-use development with high quality urban design, moderate density and direct access to transit. Designation as a community urban center and subsequent adoption of zoning regulations to implement the community's vision will provide for better mobility and a clustering of uses that will allow residents to walk or bike for daily trips to work and shopping.

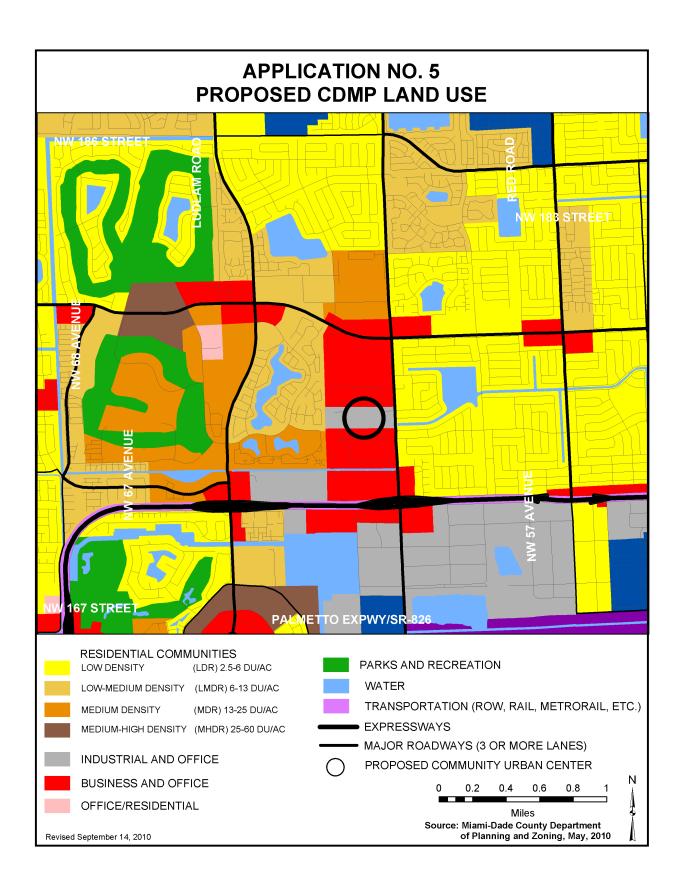
3. The CDMP text for urban centers provides that the County give special emphasis to providing a high level of public mass transit service to all planned urban centers. Metrobus Route 183 (183 Street Local) provides service between NW 87 Avenue and Aventura Mall with peak period headways of 12 minutes on weekdays. This route serves the north end of the proposed town center. Metrobus Routes 49, 75 and 286 serve the east end of the proposed town center along NW 57 Avenue with varying headways.

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# **Appendix**

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# **Application No. 6 Commission District 2 Community Council 8**

## **APPLICATION SUMMARY**

Applicant/Representative: Imperial Management, LLC/ Jeffrey Bercow, Esq. and

Michael J. Marrero, Esq.

Southwest corner of NW 32 Avenue and NW 79 Street Location:

Total Acreage: 37.0 Gross Acres (37.0 Net Acres)

Current Land Use Plan Map

Designation:

Business and Office and Community Urban Center

Requested Change: previously proffered Release/delete and accepted

> Declaration of Restrictions for Application No. 7 of the October 2005 Cycle CDMP Amendments as indicated on Page I-74.2 of the CDMP; and proffer a new Declaration of Restrictions for consideration by the Board of County

Commissioners

Amendment Type: Standard

Existing Zoning/Site Condition: BU-2 (Special Business)/vacant

## RECOMMENDATIONS

Staff: ADOPT AND TRANSMIT with acceptance of proffered

declaration of restrictions (February 25, 2010)

North Central Community Council (8): ADOPT AND TRANSMIT with acceptance of proffered

declaration of restrictions (March 23, 2010)

as Local Planning Agency:

Planning Advisory Board (PAB) acting ADOPT AND TRANSMIT with acceptance of proffered

declaration of restrictions (April 5, 2010)

**ADOPT WITH CHANGE** requiring the applicant to work Board of County Commissioners:

> with DP&Z staff to include connectivity with mass transit Transmit with Acceptance of Proffered

**Declaration of Restrictions** (May 5, 2010)

ADOPT With Acceptance of Revised Declaration of Revised Staff Recommendation:

Restrictions, Dated September 13, 2010 (September

13, 2010)

Final Action of Planning Advisory

Board:

TO BE DETERMINED (September 20, 2010)

Final Action of Board of County

Commissioners:

**TO BE DETERMINED** (October 6, 2010)

October 2009 Cycle September 13, 2010

#### Revised Staff Recommendation (September 13, 2010)

Based on the reasoning in the Initial Recommendation, staff recommends **ADOPT With Acceptance of Revised Declaration of Restrictions** the proposed standard amendment to release, delete and replace previously proffered and accepted Declaration of Restrictions for Application No. 7 of the October 2005 Cycle CDMP Amendments as indicated in the Restrictions Table on Page I-74.2 of the CDMP based on the following:

- 1. The reasons stated in the initial recommendations for adoption of the application are still valid. The existing CDMP covenant prohibits residential use and includes at a minimum on the site a single retail use of at least 100,000 square feet of floor area. The request to release and delete the recorded covenant and replace it with one allowing residential uses would be beneficial because it would allow for mixed-use development that would be more supportive of public transit than a shopping center with a large surface parking lot. The removal of the no residential development provision from the covenant governing development of the property would be consistent with the two designated Community Urban Centers (CUCs) on the LUP map that are focused on the Northside and Tri-Rail Metrorail Stations. The current proposal of a maximum of 1200 dwelling units on a 37-acre site was evaluated using the current level of service (LOS) standard for public school facilities, which is 100% utilization of Florida Inventory of School Houses (FISH) with relocatable This LOS would be met for the 1200 dwelling units if adjacent classrooms. concurrency service areas for elementary schools are considered. All roadways adjacent to and in the vicinity of the Application site are projected to operate within acceptable peak period level of service conditions. Furthermore, the subject application is located within the County's Urban Infill Area, a Transportation Concurrency Exception Area (TCEA), which is an area where a proposed development will not be denied a concurrency approval for transportation facilities provided that the development is consistent with the adopted CDMP and meets the criteria established in the Concurrency Management Program of the Capital Improvements Element.
- 2. When the Board of County Commissioners (BCC) transmitted the application to the Florida Department of Community Affairs on May 5, 2010, the BCC requested that the applicant work with DP&Z staff to include connectivity with mass transit in the covenant. The applicant provided a revised covenant on September 7, 2010 that included a provision to accommodate future transit facilities within the Property, including bus shelters, pull-out bays, and other facilities, by allowing transit-related encroachments onto the Property. This obligation shall not require a modification to an approved final plat.

However, the primary issue regarding mass transit at this 37 gross acre site, which is adjacent to the Northside Metrorail station and within walking distance of the Trirail Metrorail Station, is connectivity to the Metrorail Stations but not connectivity to local bus routes. For Bus routes L, 32 and 79 Street Max, the information supplied by Miami-Dade Transit indicates that the existing bus stop is only 0.0 miles from the site.

The covenant should be revised further to address pathways for pedestrians and cyclists to travel to the train stations and existing bus stops since the development of the site could include commercial development and up to 1200 dwelling units. Policy LU-7B of the Land Use Element states the following regarding connectivity to rapid transit stations: "It is the policy of Miami-Dade County that both the County and its municipalities shall accommodate new development and redevelopment around rapid transit stations that is well designed, conducive to both pedestrian and transit use, and architecturally attractive. In recognition that many transit riders begin and end their trips as pedestrians, pedestrian accommodations shall include, as appropriate, continuous sidewalks to the transit station, small blocks and closely intersecting streets, buildings oriented to the street or other pedestrian paths, parking lots predominantly to the rear and sides of buildings, primary building entrances as close to the street or transit stop as to the parking lot, shade trees, awnings, and other weather protection for pedestrians."

#### **New Information**

Since the BCC transmittal public hearing on May 5, 2010, the Department of Planning and Zoning has received additional information regarding Application No. 6. The applicant on September 7, 2010 submitted a revised declaration of restrictions or covenant addressing connectivity with mass transit (see Appendix after page 6-6).

## **Initial Staff Recommendations** (February 25, 2010)

In the Initial Staff Recommendations Report published on February 25, 2010, the staff recommended: **ADOPT with acceptance of proffered covenant AND TRANSMIT** the proposed standard amendment to release, delete and replace previously proffered and accepted Declaration of Restrictions for Application No. 7 of the October 2005 Cycle CDMP Amendments as indicated in the Restrictions Table on Page I-74.2 of the CDMP is based on the Staff Conclusions and Principal Reasons for Recommendations summarized below:

## **Principal Reasons for Recommendations:**

1. The Miami-Dade County Board of County Commissioners on October 4, 2006 adopted by Ordinance No. 06-139 Application No. 7 of the October 2005 Cycle of applications to amend the Comprehensive Development Master Plan (CDMP), and accepted a proffered declaration of restrictions limiting development for an approximately 37 gross acre site at the southwest corner of theoretical NW 78 Street and NW 32 Avenue. The CDMP amendment redesignated 34.58 gross acres of a 37.072-acre property from "Industrial and Office" to "Business and Office" on the Adopted 2015-2025 Land Use Plan (LUP) map and amended Page I-74.2 of a table that is entitled "Restrictions Accepted by the Board of County Commissioners in Association with the Land Use Plan Map Amendments" in the Land Use Element of the CDMP. The remaining 2.492 acres of the property were already designated as "Business and Office" on the LUP map. The application was approved in anticipation that a Wal-Mart Superstore could be built on the site and provide jobs to the residents of the area.

The current applicant, Imperial Management, LLC, is requesting that the previously proffered and accepted CDMP declaration of restrictions or covenant recorded on October 30, 2006 be released, deleted from the table in the Land Use Element and replaced with another CDMP covenant. The existing CDMP covenant prohibits residential use and includes at a minimum on the site a single retail use of at least 100,000 square feet of floor area. This covenant was proffered to provide assurances that a big box retail operation, such as a Wal-Mart, would occur on site as well as other commercial activities. The applicant's representative submitted on January 28, 2010 a draft covenant that would eliminate the requirement for a single retail use of at least 100,000 square feet of floor area and would remove the prohibition for residential uses. Instead, the new covenant allows up to a maximum of 1200 residential units on the site or a mixture of both non-residential and residential uses.

The Department supports the request to release and delete the recorded covenant and replace it with one allowing residential uses because it would allow for mixed-use development that would be more supportive of public transit than a shopping center with a large surface parking lot. The application site has good access to Metrorail and Metrobus services since it is located in the premium rail transit corridor between the Northside (adjacent to the east) and Tri-Rail (1200' to the west) Metrorail stations, and about 1/3 mile from Tri-Rail and Amtrak stations to the west as well. During the morning and evening peak periods on week days, Metrorail provides service every 7.5 minutes to Hialeah, Civic Center, Downtown Miami and Dadeland. Metrobus Route L, which connects the application site to Hialeah and Miami Beach, has 12-minute headways on weekdays during peak periods and midday and 15-minute headways on Saturdays. Metrobus Route 32, which connects the application site to Miami Gardens, Opa-locka and the Omni Bus Terminal, and Metrobus Route 79 Street Max, which connects the Northside Metrorail Station to Miami Beach, have 24-minute headways during peak periods on weekdays.

2. The removal of the no residential development provision from the covenant governing development of the property would be consistent with the two designated Community Urban Centers (CUCs) on the LUP map that are focused on the Northside and Tri-Rail Metrorail Stations. CUCs should be planned and designed to serve a local community, and have as their focus the mass transit stop in their center. Mixed commercial, office and residential uses should be located near the core, where commuters and residents can easily access them from the transit stop and local residential blocks. The densities and intensities of development located within designated CUCs and around rail rapid transit stations should be no more than 125 dwelling units per gross acre and the average Floor Area Ratio (FAR) should greater than 1.5 in the core and not less than 0.5 in the edge of the urban center. Non-residential intensities are generally measured as FARs, which for a particular property is the square footage of the floor area of buildings (not counting parking structures) divided by the net land area of the parcel.

An example of how the CUC concept could be applied to the subject property is if the draft North Central Urban Area District (NCUAD) is adopted. This draft zoning district is primarily based on the North Central Charrette Area Plan, which was accepted by the BCC in 2004 (Resolution 497-04).

The draft NCUAD contains several proposed regulating plans that could affect the application site. The Land Use Regulating Plan designates the northern portion of the site along NW 79 Street for Mixed Use Main Street and the southern portion for Mixed-

Use Corridor. Mixed Use Main Street allows for free standing buildings with commercial, office or institutional uses and mixed-use multi-story story buildings with residential uses on the upper floors and commercial, office or institutional uses on the ground floor. Mixed-Use Corridor allows for free standing buildings with commercial, office or institutional uses and buildings with a mixture of residential and nonresidential uses.

The other regulating plans address residential density, height of buildings, the sub-districts of the urban center, designated open space and streets. The Density Regulating Plan designates the northeastern portion of the site adjacent to Northside MetroRail Station for a maximum of 125 units per acre, the central and southeastern portions for a maximum of 90 units per acre and the western portion for a maximum of 60 units per acre. The applicant is limiting the residential development to a maximum of 1200 dwellings or 32.4 units per gross acre, which would be consistent with the NCUAD Density Regulating Plan. None of these regulating plans would apply to properties located in the proposed NCUAD until an application for a district boundary change to NCUAD has been heard and approved.

- 3. When the first CDMP application was reviewed in February 2006, the development potential for the site was 585,097 sq. ft of commercial space or 2,014 multi-family dwelling units on a 34.58 gross acre parcel. The analysis at that time showed that the application site had no historic or environmental resources and that the solid waste, water and wastewater capacities were all sufficient to handle the impacts of the development potential. However, there were concerns in 2006 with public schools and fire and rescue services. After the Initial Recommendations Report for the October 2005 Cycle was published in February 2006, representatives of Wal-Mart submitted a covenant prohibiting residential development on the property. The current proposal of a maximum of 1200 dwelling units on a 37-acre site was evaluated using the current level of service (LOS) standard for public school facilities, which is 100% utilization of Florida Inventory of School Houses (FISH) with relocatable classrooms. This LOS would be met for the 1200 dwelling units if adjacent concurrency service areas for elementary schools are considered. Miami-Dade Fire and Rescue Department has a concern with the potential maximum residential development on the property because 1200 dwelling units would generate 336 alarms, which would be a severe impact to fire and rescue services.
- 4. All roadways adjacent to and in the vicinity of the Application site are projected to operate within acceptable peak period level of service conditions. Two development scenarios were analyzed. Scenario 1 assumed that the application site was developed with retail space (644,888 sq. ft.), and Scenario 2 assumed that the application site was developed with multi-family apartments (1,200 units). The traffic concurrency analysis indicates that with either scenario NW 79 Street, between NW 27 and NW 37 Avenues and from NW 37 to NW 47 Avenues, would operate at LOS C and D, respectively; and NW 32 Avenue, between NW 79 and NW 54 Streets, would operate at LOS C, with the impacts of Application No. 6. With either scenario, these roadways are projected to meet the adopted LOS E+50% standard applicable to those roadways. Furthermore, the subject application is located within the County's Urban Infill Area, a Transportation Concurrency Exception Area (TCEA), which is an area where a proposed development will not be denied a concurrency approval for transportation facilities provided that the development is consistent with the adopted CDMP and meets the criteria established in the Concurrency Management Program of the Capital Improvements Element.

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# **APPENDIX**

Declaration of Restrictions Submitted to the DP&Z September 13, 2010

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October 2009 Cycle

# October 2009 cycle Application 6

2010 SEP 13 A 8: 28

PLANNING & ZONING METROPOLITAN PLANNING SECT

This instrument was prepared by:

Name:

Michael J. Marrero, Esq.

Address:

Bercow Radell & Fernandez, P.A.

200 S. Biscayne Boulevard, Suite 850

Miami, FL 33131

(Space reserved for Clerk)

## **DECLARATION OF RESTRICTIONS**

WHEREAS, the undersigned Owner holds the fee simple title to approximately 37 acres of land in Miami-Dade County, Florida, described in Exhibit "A," attached to this Declaration (the "Property"), which statement as to title is supported by the attorney's opinions attached to this Declaration as Exhibit "B";

WHEREAS, the Property is the subject of a Comprehensive Development Master Plan ("CDMP") Amendment Application No. 6 of the October 2009 Amendment Cycle;

WHEREAS, the Owner has sought a Land Use Plan amendment to release the existing Declaration of Restrictions, recorded in the public records of Miami- Dade County, OR 25052, Page 2263 and proffered in conjunction with Amendment No. 7 from the October 2005 CDMP Amendment Cycle;

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

<u>Limitation on Density.</u> Residential density on the Property shall be limited to no more than 1,200 dwelling units.

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.

<u>Transit Improvements</u>. In an effort to promote public transportation in the area, prior to the approval of a final plat for the Property, the Owner shall work with Miami-Dade Transit in good faith to accommodate future transit facilities within the Property, including bus shelters, pull-out bays, and other facilities, by allowing transit-related encroachments onto the Property. This obligation shall not require a modification to an approved final plat.

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 land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of the fee simple title to the Property, provided that the same is also approved by the Board of County Commissioners of Miami-Dade County, Florida. Any such modification 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 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 that amends, modifies, or declines to adopt

the provisions of Section 2-116.1 of the Miami-Dade County Code, then modifications 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 the provisions of the municipality's ordinances that apply to the adoption of district boundary changes. Should this Declaration be so modified, amended, or released, the Director of the Department of Planning and Zoning 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 office, 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.

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 any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

<u>Election of Remedies</u>. 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.

<u>Presumption of Compliance</u>. 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.

<u>Severability</u>. 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. 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 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 Pages Follow]

## **Application No. 7 Commission District 12 Community Council 10**

## APPLICATION SUMMARY

107<sup>th</sup> Avenue Gamma, LLC/ Jeffrey Bercow, Esq., Applicant/Representative:

Michael Larkin, Esq., & Michael Gil, Esq.

Chapter 380 Regional Activity Center

Location: Northwest corner of NW 107 Avenue and NW 12

Street

Total Acreage: 63.95 Gross Acres (54.24 Net Acres)

Plan Current Land Use Map

Designation:

Requested Change: Delete and replace previously proffered and

> accepted Declaration of Restrictions for Application No. 3 of the April 2007 CDMP Amendment Cycle as indicated in the Restrictions Table on Page I-74.5 of

Business and Office, Metropolitan Urban Center, and

the CDMP

Amendment Type: Standard

Existing Zoning/Site Condition: IU-2 (Heavy Industrial Manufacturing District), IU-C

(Conditional Industrial District) and GU (Interim

District) / Undeveloped with existing lake.

## RECOMMENDATIONS

**DENY AND DO NOT TRANSMIT** Staff:

(February 25, 2010)

Westchester Community Council (10): ADOPT AND TRANSMIT with acceptance of

> proffered covenant and with the caveat that the Applicant will continue to work with County staff to create an acceptable covenant (March 18, 2010)

Planning Advisory Board (PAB) acting as

Local Planning Agency:

ADOPT AND TRANSMIT with acceptance of proffered covenant and with the caveat that the

Applicant will continue to work with County staff to create an acceptable covenant (April 5, 2010)

TRANSMIT WITH NO RECOMMENDATION and Board of County Commissioners:

with Declaration of Restrictions dated May 4. 2010 and Further Change to Covenant regarding

payment of fees by Applicant (May 5, 2010)

Revised Staff Recommendation: ADOPT AS TRANSMITTED WITH ADDITIONAL

**CHANGE** by revising the proffered covenant.

(September 13, 2010)

Final Action of Planning Advisory Board: TO BE DETERMINED (September 20, 2010)

Final Action of Board of County

Commissioners:

TO BE DETERMINED (October 6, 2010)

## Revised Staff Recommendation (September 13, 2010)

Staff recommends **ADOPT AS TRANSMITTED WITH ADDITIONAL CHANGE** the proposed standard amendment to delete in its entirety the previously proffered and accepted Declaration of Restrictions for Application No. 3 of the April 2007 CDMP Amendment Cycle from the Restrictions Table on Page I-74.5 of the Land Use Element and to replace it with a new proffered Declaration of Restrictions based on the following:

1. The existing CDMP declaration of restrictions or covenant dated April 24, 2008 includes numerous provisions. The Maximum Development Program (MDP) is 1,050 dwelling units or 1,701,000 gross sq. ft. for residential development, 799,900 gross sq. ft. of retail/service space, 430 hotel rooms or 225,000 gross sq. ft. and 225,000 gross sq. ft. of office space. The existing CDMP covenant allows the densities and intensities for these land uses to be increased or decreased if certain conditions regarding cumulative impacts are addressed. The owner would fund and construct a Metrobus terminal with a 260-space parking garage within three years from the date that Application No. 3 of the April 2007 CDMP Amendment Application becomes final and nonappealable. The owner funds and constructs certain roadway improvements to NW 12 Street, NW 111 Avenue, NW 14 Street and NW 107 Avenue. Other provisions in the existing CDMP covenant address workforce housing, design principles, a site plan, certificates of occupancy (COs) and school concurrency.

The principal changes being requested to the covenant involves constructing the public transportation facility in phases instead of building a Metrobus terminal with a 260-space parking garage within three years from the date that Application No. 3 of the April 2007 CDMP Amendment Application becomes final and nonappealable and allowing the first 400,000 square feet of retail floor area to be built without the obligations set forth in the covenant except for the roadway improvements. The Department recognizes that economic conditions have changed since the BCC adopted on April 24, 2008, Application No. 3 of the April 2007 cycle of applications to amend the CDMP and accepted the proffered declaration of restrictions recorded on June 17, 2008 and dated April 24, 2008. The current economic environment is having a detrimental impact to the real estate and credit markets. However, the Department recognizes that there is a substantial need for a park-and-ride facility (identified by Miami-Dade Transit as the Dolphin Station Metrobus Terminal) in West Miami-Dade that would connect the west Miami-Dade community at the Dolphin Station Metrobus Terminal to the new Miami Intermodal Center (MIC) currently under construction.

The Department along with Miami-Dade Transit is willing to work with the applicant to restructure the covenant provisions governing development of this property. The applicant has submitted eight versions of the covenant which have over time addressed most of the County staff's concerns. However, County staff still objects to several of the provisions currently proposed in the draft covenant dated September 9, 2010. These are the following:

• The eighth version of the proposed covenant states on page 4 that "...Notwithstanding the foregoing, only those uses permitted in the BU-1 (Neighborhood Business District), BU-1A (Limited Business District), and BU-2 (Special Business District) zoning districts shall be permitted within the Property (with the exception of the Triangular Parcel, as defined below, where BU-3 zoning may be necessary to accommodate the improvements that constitute the

Public Transportation Facility, as defined below). This sentence should be revised to eliminate the need to rezone the Triangular Parcel to BU-3 (Liberal Business District), which allows open lot car sales and rentals, automobile body and top work and painting, garage or mechanical service, second hand stores for the disposal of furniture, fixtures and tools, wholesale salesroom and storage, and other similar uses. Actually, the BU-2 zoning district allows parking garages, not over six stories in height. In addition, if the concern is the bus terminal a use variance could be filed to allow the bus terminal.

- While Phase 2 (the 260-space Metrobus parking garage) is being constructed on the transit site, a temporary staging area with a minimum of 139 parking spaces for transit commuters would be provided elsewhere on the application site (See Page 6 of version 8 of the covenant). Phase 1 would result in a surface parking lot with 189 parking spaces. The temporary staging area should have 189 parking spaces so there will be no net loss of parking spaces for transit commuters while the parking garage is being constructed.
- The proposed covenant states on Page 8 that "...The issuance of a certificate of completion for Phase I of the Public Transportation Facility shall exempt the Property from any transportation concurrency requirements." This sentence should be revised to also include Phase II of the Public Transportation Facility.

## **New Information**

Since the BCC transmittal public hearing on May 5, 2010, the Department of Planning and Zoning has received additional information regarding Application No. 7. The additional information is the Department of Community Affairs (DCA) "Objections, Recommendations, and Comments Report," (ORC), issued on August 9, 2010. In the ORC report, DCA did not object to or comment on Application No. 7. The applicant on September 10, 2010 submitted a revised declaration of restrictions or covenant (version 8).

## **Initial Staff Recommendations** (February 25, 2010)

In the Initial Staff Recommendations Report published on February 25, 2010, the staff recommended: **DENY AND DO NOT TRANSMIT** the proposed standard amendment to delete in its entirety the previously proffered and accepted Declaration of Restrictions for Application No. 3 of the April 2007 CDMP Amendment Cycle from the Restrictions Table on Page I-74.5 of the Land Use Element and to replace it with a new proffered Declaration of Restrictions based on the Staff Conclusions and Principal Reasons for Recommendations summarized below:

## **Principal Reasons for Recommendations:**

1. The Miami-Dade County Board of County Commissioners (BCC) on April 24, 2008 adopted by Ordinance No. 08-43 Application No. 3 of the April 2007 Cycle of applications to amend the Comprehensive Development Master Plan (CDMP) and accepted a proffered declaration of restrictions limiting development and providing for capital improvements for a 63.95 gross acre (54.24 Net Acres) site at the northwest corner of NW 12 Street and NW 107 Avenue. The CDMP amendment redesignated the

subject site from "Industrial and Office" and "Business and Office" to "Business and Office" on the Land Use Plan (LUP), designated the site as a Regional Activity Center (RAC), and moved the symbol for the Metropolitan Urban Center on the LUP map from the site of the International Mall in the City of Doral to the subject property. The application also resulted in changes to text, figures and tables in the Land Use Element, Mass Transit Subelement and Capital Improvements Element of the CDMP. The applicant is requesting that the covenant recorded on June 17, 2008 and dated April 24, 2008 be deleted from the Restrictions Table on Page I-74.5 of the Land Use Element in the CDMP and be replaced by another proffered covenant.

The existing CDMP declaration of restrictions or covenant dated April 24, 2008 includes numerous provisions. The Maximum Development Program (MDP) is 1,050 dwelling units or 1,701,000 gross sq. ft. for residential development, 799,900 gross sq. ft. of retail/service space, 430 hotel rooms or 225,000 gross sq. ft. and 225,000 gross sq. ft. of office space. The existing CDMP covenant allows the densities and intensities for these land uses to be increased or decreased if certain conditions regarding cumulative impacts are addressed. The owner would fund and construct a Metrobus terminal with a 260-space parking garage within three years from the date that Application No. 3 of the April 2007 CDMP Amendment Application becomes final and nonappealable. The owner has the option of requesting an extension of time from the Director of Miami-Dade Transit or his designee for funding and constructing a Metrobus terminal. The owner funds and constructs certain roadway improvements to NW 12 Street, NW 111 Avenue, NW 14 Street and NW 107 Avenue. Other provisions in the existing CDMP covenant address workforce housing, design principles, a site plan, certificates of occupancy (COs) and school concurrency. Further details on these provisions can be found by referring to the CDMP covenant dated April 24, 2008 in the appendices.

Since the Application was filed in October 2009, two draft covenants have been submitted to the Department for review. The initial proposed covenant dated October 30, 2009 would allow the first 400,000 square feet of retail floor area to be built without the obligations set forth in the covenant except for the roadway improvements. In addition, it would change the date that the MetroBus Terminal shall be funded and constructed from three years of the date that Application No. 3 of the April 2007 CDMP Amendment Application becomes final and nonappealable to 15 years after the date that Application No. 7 of the October 2009 CDMP Amendment Application becomes final and nonappealable.

The applicant's representative submitted on February 5, 2010 a new revised draft covenant dated January 22, 2010 with changes to provisions on the MetroBus Terminal, workforce housing, commercial development, project design, and LEED Certification. For a detail analysis of these provisions, the Staff Analysis section of this application review has a table which compares the provisions in both the recorded covenant dated April 24, 2008 and the draft covenant dated January 22, 2010 and both of these covenants can be found in the Appendices.

The Department recognizes that economic conditions have changed since the BCC on April 24, 2008 adopted Application No. 3 of the April 2007 cycle of applications to amend the CDMP and accepted the proffered declaration of restrictions recorded on June 17, 2008 and dated April 24, 2008. The current economic environment is having a detrimental impact to the real estate and credit markets.

The Department is willing to work with the applicant to restructure the covenant provisions governing development of this property. However, it does object to several provisions currently being proposed in the draft covenant dated January 22, 2010.

Public Transportation Facility. Staff is especially concerned with those provisions in the draft covenant impacting the public transportation facility, which is a location where several routes or lines, or different modes, converge. These facilities are designed to handle the movement of transit vehicles and the boarding, alighting and transferring of passengers between transit routes, lines or transit modes. The major concern is the delay in building the Multi-Modal Transit Center (also known as Dolphin Station MetroBus Terminal), which is currently identified on Table 11 (Mass Transit) of the adopted schedules of capital improvements in the Capital Improvements Element of the CDMP to be completed in 2012 at a cost of \$13,700,000 with funding from developer fees/donation. The current covenant states "The MetroBus Terminal shall be funded and constructed within three years from the date that Application No. 3 of the April 2007 CDMP Amendment Application becomes final and nonappealable" (See page 3 in the recorded covenant dated April 24, 2008 or the language being stricken through at the bottom of page 4 in the draft covenant dated January 22. 2010). Based on the above provision, August 13, 2012 would be the date the terminal is required to be completed unless the Owner requested a time extension and it was granted by the Director of Miami-Dade Transit or his designee. Based on provisions in the new revised draft covenant, the date the terminal is required to be completed could be in the 2020s (see table comparing covenants in Staff Analysis). The draft covenant provides that the completion date for Terminal building should occur within 10 years of effective date of the development agreement, which will be become effective after approval of the zoning application becomes final and nonappealable (See pages 6 and 8 in the draft covenant). Another provision in the draft covenant provides for an additional five-year time extension that could be granted by the Director of Miami-Dade Transit or his designee (See page 6 in the draft covenant). Thus, the terminal with the garage may not be built until 2026 ((see table comparing covenants in Staff Analysis).

According to Miami-Dade Transit, stretching out the build out date for the Dolphin Station Metrobus Terminal to the 2020s is unacceptable when balanced against the transit needs for west Miami Dade County. Miami-Dade Transit's 2009 Transit Development Plan (TDP) in addition to the Miami-Dade County Metropolitan Planning Organization's 2010 Transportation Improvement Program (TIP) includes the planned Dolphin Station Metrobus Terminal within their planning programs. Additionally, the TDP identifies within its Recommended Service Plan a new express-bus service, the SR-836 Express, which would connect the west Miami-Dade community at the Dolphin Station Metrobus Terminal to the soon to be open Miami Intermodal Center (MIC). The MIC project includes a Metrorail station, currently under construction, that will link passengers to downtown Miami, the Health District area and other destinations along the Metrorail alignment. These projects are due to be completed and operational during the second calendar quarter of 2012. Planning for the SR-836 Express route is on-going and the implementation of this new route along with any realigning of existing service into the Dolphin Station Terminal could be implemented as early as 2011 in order to coincide with the opening of the MIC

during the second calendar quarter of 2012. This new express route is also dependant on this transit facility because there is no other likely park-and-ride facility in the immediate west Miami-Dade area. A park-and-ride facility is critical for the success of this new express route. In addition to the projects listed in the 2009 Transit Development Plan, MDT is also proposing additional express and/or rapid bus projects which would link the west Miami-Dade area with downtown Miami. Additionally, the South Florida Regional Transportation Authority (SFRTA – Tri-Rail) is planning a new shuttle route linking the Airport West's employment base along NW 12<sup>th</sup> Street from the Tri-Rail Airport Station. This new service would also benefit from a bus terminal which would inter-connect several bus routes at the Dolphin Station Terminal and at the MIC.

According to the draft covenant dated January 22, 2010, the applicant seeks to construct the Public Transportation Facility in two phases (See pages 5 and 6). Staff had previously suggested that the project could be done in phases.

#### Phase 1

Phase 1 would include the construction of the roadway access, 10 saw-tooth bus bays, bus operator rest rooms and a temporary surface parking lot on the transit site. Phase 1 has a parking issue since the draft covenant did not identify the number of spaces and the site plan shown to staff had only 139 parking spaces for the facility. Metro-Dade Transit states at least 200 parking spaces are needed.

Another problem with the Phase 1 improvements is that they may not be completed in time to satisfy transit needs since SR-836 Express bus service will be operational by November 2011 and the MIC will be opened by 2012. Based on provisions in the draft covenant, the applicant has until December 2012-January 2013 or December 2013-January 2014 to construct Phase 1 if the certificate of completion is not obtain in time (See comparison table in the Staff Analysis Section for details on dates). A Phase 1 transit facility with at least 200 parking spaces needs to be completed by November 2011 since Metro-Dade Transit will be able to use the facility by that time.

#### Phase 2

The Phase 2 improvements would involve landscaping the transit site and building a three-story garage containing 260 parking spaces, 10 saw-tooth bus bays, a restroom facility for bus operators and transit users, transit lounge, a kiss-and-ride area and a transit-oriented commercial area with a maximum of 10,000 square feet. In addition, the support columns and other load bearing components within the building would be designed so that a forth story could be added to provide additional parking capacity. The primary problem with Phase 2 is the delay in getting the building constructed. The draft covenant states that the parking garage may not be built until 15 years after the development agreement is signed. Metro-Dade Transit states that the garage should be built within five years with a possible extension of three years. A park-and-ride facility with at least 260 parking spaces will be needed by that time.

While Phase 2 was being constructed on the transit site, a temporary staging area would be provided elsewhere on the application site. The problems with the provision on the temporary staging area are that the draft covenant did not

- identify how many parking spaces for commuters would be provided and it did not state where on this 54-acre property the temporary staging area would be located (See page 5 in the draft covenant dated January 22, 2010).
- LEED certification for Public Transportation Facility. A revision in the draft covenant deletes a requirement for Leadership in Energy and Environmental Design (LEED) certification for the Metrobus Terminal (See page 9 in the draft covenant dated January 22, 2010). This revision is not consistent with Policy LU-10C of the Land Use Element of the CDMP, which encourages energy conservation measures such as LEED Certification for County—owned facilities.
- First 400,000 square feet of retail floor area. The draft covenant allows the first 400,000 square feet of retail floor area to be built without the obligations set forth in it applying except for the roadway improvements and the development agreement (See page 9 in the draft covenant dated January 22, 2010). These obligations include provisions on project design, LEED certification, and water conservation regulations (See pages 6 and 7 and Exhibits C, D and E in the recorded covenant dated April 24, 2008). Deleting these obligations for the first 400,000 square feet of retail floor area would not be consistent with Policy LU-10E which encourages the incorporation of energy efficiency and other conservation measures in the design and construction of buildings.
- Certificates of Occupancy. The obtaining of certificates of occupancy (COs) for new buildings is restricted until certain public buildings are built. The recorded covenant dated April 24, 2008 states that the Owner agrees not to obtain a CO for any building (except the public transportation facility) unless the public transportation facility and the Dolphin Fire Station (or any other new fire station serving the property) have received temporary COs. The draft covenant dated January 22, 2010 revises the provision by making an exception for the first 400,000 square feet of floor area for retail use and its associated parking. (See page 8 in the draft covenant). Thus, the first 400,000 square feet of floor area for retail use and its associated parking could receive a CO before either the fire station or the public transportation facility receive a temporary CO. The Miami-Dade Fire and Rescue Department has agreed that the obligations requiring a temporary CO for Station No. 68 (Dolphin) shall not apply to the first 400,000 square feet of floor area for retail use except for the obligation for roadway improvements. However, at least the Phase 1 improvements of the public transportation facility with an adequate number of parking spaces need to have a temporary certificate of occupancy before the first 400,000 square feet of floor area for retail use and its associated parking can receive certificate of occupancy.
- Workforce Housing. The applicant states in the draft covenant that 10 percent of the dwellings will be workforce housing but deletes the provision contained in the recorded covenant that provided a mechanism for identifying workforce units or ensuring that workforce housing units would remain as such for a period of 30 years (See page 10 in the draft covenant dated January 22, 2010). The specific language being deleted is "The Owner shall, upon site plan approval or prior to obtaining the initial building permit for a residential structure on the Property, whichever is the required date according to the relevant County regulation, identify those units within such structure, if any, that satisfy this workforce

housing requirement. A declaration of restrictive covenants, in form acceptable to the County, shall be recorded in the public records of Miami-Dade County, Florida stating that the unit is a workforce housing unit and shall remain as such for a period of 30 years from the time of recordation of the declaration of restrictive covenants." The applicant replaced this text with new language that is consistent with County regulations for residential development but is a weaker commitment to workforce housing than the original covenant dated April 24, 2008 has.

# **APPENDIX**

Declaration of Restrictions Submitted to the DP&Z September 10, 2010

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October 2009 Cycle Application No. 7

# October 2009 cycle Application 7

2010 SEP 10 P 4: 30

This instrument was prepared by: Name:

Michael W. Larkin, Esq.

Address: Bercow Radell & Fernandez, P.A.

200 S. Biscayne Boulevard, Suite 850

Miami, FL 33131

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#### **DECLARATION OF RESTRICTIONS**

WHEREAS, the undersigned Owner, 107th Avenue Gamma, LLC ("Owner") holds the fee simple title to a 54.20 net acre parcel of land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property," which is supported by the attorney's opinion; and

WHEREAS, the Property is was the subject of a standard Comprehensive Development Master Plan ("CDMP") Amendment Application No. 3 of in the April 2007 Amendment Cycle; and

WHEREAS, CDMP Amendment Application No. 3 sought (1) a Land Use Plan (LUP) amendment to change the designation of the Property from "Industrial and Office" and "Business and Office" to "Business and Office" and (2) an amendment to the Land Use Plan Map and a text amendment to the Land Use Element of the CDMP to designate the Property as a Regional Activity Center ("RAC") in accordance with relevant Florida Statutes and provisions of the Miami-Dade County Comprehensive Development Master Plan; and

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Covenant Version No. 8 - September 9, 2010.

(Public Hearing)

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WHEREAS, the Owner has sought a Land Use Plan (LUP) amendment to change the designation of the Property from "Industrial and Office" and "Business and Office" to "Business and Office"; and

WHEREAS, the Owner has <u>also</u> sought an amendment to the Land Use Plan Map and a text amendment to the Land Use Element of the CDMP to designate the Property as a Regional Activity Center ("RAC") in accordance with relevant Florida Statutes and provisions of the Miami Dade County Comprehensive Development Master Plan; and

WHEREAS, during consideration of CDMP Amendment Application No. 3, the Department of Planning and Zoning ("DP&Z") recommended to the Board of County Commissioners ("BCC") that the graphic symbol for the Metropolitan Urban Center (MUC) designation on the LUP map of the CDMP be relocated to the Property from Miami International Mall which is now located within the boundaries of the City of Doral; and

WHEREAS, on April 24, 2008, the BCC voted to adopt CDMP Amendment Application No. 3 with acceptance of the proffered covenant and with DP&Z's recommendation to relocate the graphic symbol for the MUC designation on the LUP map of the CDMP to the Property; and

WHEREAS, the Owner desires to promote public transportation by incorporating within the Property a public transportation facility; and

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NOW THEREFORE, in order to assure Miami-Dade County (the "County") that the representations made by the Owner during consideration of Amendment Application No. 3 7 in the October 2009 CDMP Amendment Cycle will be abided by the Owner, its successors and assigns, freely, voluntarily, and without duress, makes the following Declaration of Restrictions covering and running with the Property:

<u>Maximum Development Program.</u> The maximum development program for the Property ("MDP") shall be:

Residential	1050 dwelling units or 1,701,000 gross square feet
Retail/Service	799,900 gross square feet
Hotel	430 rooms or 225,000 gross square feet
Office	225,000 gross square feet

Notwithstanding the foregoing limitations any transportation concurrency exemption that is granted for the Property, the Owner may simultaneously increase and decrease the MDP's land use categories provided that the cumulative impacts of the reallocated land uses may not exceed (a) the PM peak hour trips established for the MDP, which equates to 2,807 net PM peak hour trips, or (b) average daily potable water demand or maximum daily potable water demand of the MDP, which equate to .361 million gallons per day and .812 million gallons per day, respectively. The square footage (or floor area) in the MDP, as the MDP may be amended in the future if the Property is designated as a Metropolitan Urban Center, is based upon the entirety of the Property, including the portion of the Property that Owner will dedicate in the future to the County as described below. "Retail/Service" as set forth above shall mean any proposed retail, service, or wholesale business establishment or group of

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establishments which deals primarily with the general public onsite, including those uses permitted in the BU zoning districts, as amended. Notwithstanding the foregoing, only those uses permitted in the BU-1 (Neighborhood Business District), BU-1A (Limited Business District), and BU-2 (Special Business District) zoning districts shall be permitted within the Property (with the exception of the Triangular Parcel, as defined below, where BU-3 zoning may be necessary to accommodate the improvements that constitute the Public Transportation Facility, as defined below).

Transit Improvements. The Owner intends to develop the Property as a project that promotes public transportation, and subject to County approval, and therefore the Owner shall incorporate within the portion of the Property legally described in Exhibit A.1 ("Triangular Parcel") a MetroBus Terminal for multiple MetroBus routes. Additionally, Owner agrees to reserve within the portion of the Property that will be dedicated to the County as described below sufficient area for a future possible MetroRail Station, to be built only if and when all Federal Transit Administration requirements are met, so as not to preclude any future transit service enhancements to the Property. Such MetroRail station or MetroBus Terminal shall be referred to as the "Public Transportation Facility." or "PTF."

If the Public Transportation Facility is a MetroBus Terminal, the terminal shall include a maximum of ten (10) saw-tooth bus bays, the driveway network serving the bus bays, ("Parking Area"), 260 parking spaces designated for transit users, a restroom facility for bus operators and transit users, a kiss-and-ride area, transit-oriented commercial uses ("Commercial Area") not to exceed a maximum of 10,000 square feet, transit lounge, and landscaping for this area. The Owner agrees to fund and construct a parking garage where the bus bays, Commercial Area, and Parking Area will be located ("Parking Structure") pursuant to the phased development schedule for the PTF set forth in this covenant. The support columns and other structural and load

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bearing components within the Parking Structure shall be designed in a manner so that a fourth story can be added to the Parking Structure in the future.

— Owner shall-fund and construct—the foregoing described MetroBus Terminal improvements within three (3) years from the date that Amendment Application No. 3 becomes final and nonappealable.

The foregoing described MetroBus Terminal improvements shall be constructed pursuant to the phased development schedule described below:

- o Phase I Ten (10) saw-tooth bus bays, the Parking Area, bus operator restrooms, and a temporary surface parking lot capable of accommodating a minimum of 189 parking spaces Owner shall fund and construct the improvements that constitute Phase I of the PTF no later than August 31, 2012. Notwithstanding the foregoing, this timeframe shall be tolled if Application No. 7 in the October 2009 CDMP Amendment Cycle or any of the necessary development approvals becomes challenged by a third party. In the event of such a challenge, the August 31, 2012 deadline shall be tolled until such time as Application No. 7 in the October 2009 CDMP Amendment Cycle or any subsequent development approvals become final and nonappealable.

  Moreover, Owner shall not be responsible for any application fees associated with the development approvals for the Phase I improvements, including, but no limited to, zoning, platting, and permitting.
- Phase II Parking garage capable of accommodating 260 parking spaces
  designated for transit users, a restroom facility for bus operators and transit
  users, a kiss-and-ride area, the Commercial Area, transit lounge, and
  landscaping for this area. Owner shall fund and construct the improvements

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that constitute Phase II of the PTF within five (5) years from the effective date of the development agreement referred to below.

During the period of time that the improvements that constitute Phase II are being constructed, in an effort to avoid interruption of the MetroBus Terminal, if necessary, the Owner shall provide Miami-Dade Transit with a temporary staging area on a portion of the Property to assure Miami-Dade Transit the continued capability to operate up to a maximum of seven (7) bus routes and accommodate a minimum of 139 parking spaces (the "Temporary Staging Area"). Specifically, the Temporary Staging Area shall be located either within the Triangular Parcel or, if located within the southeastern corner of the Property's parent tract (the portion of the Property located on the north side NW 12th Street), the Temporary Staging Area shall be located no more than a maximum radius of 700 feet from the northern boundary of the Triangular Parcel. This Temporary Staging Area shall cease to exist once a certificate of occupancy is obtained for the improvements that constitute Phase II of the PTF. Owner-shall coordinate the design of the Parking Structure with Miami Dade Transit. If all or a portion of the funding is provided through local, state, or federal grant or similar subsidy, this shall reduce the Owner's responsibility to fund the construction of the MetroBus Terminal improvements by a proportionate amount.

If the improvements that constitute Phase I of the PTF are substantially constructed prior to August 31, 2012, the Owner may request an extension of time from the Director of Miami-Dade Transit or his designee for a maximum of one (1) additional year. Owner agrees that the decision of whether to grant the foregoing extension of time shall be at the sole discretion of the Director of Miami-Dade Transit or his designee. provided that a building permit for the improvements has issued prior to the end of the three ten year period. Similarly, if Owner is unable to obtain a certificate of occupancy for the Phase II improvements within five (5) years from the effective date of the development agreement, prior to the expiration of the five year

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period of time, Owner may request an extension of time from the Director of Miami-Dade Transit or his designee for a maximum of three (3) additional years.

Owner's obligation to fund and construct the foregoing described transit improvements is contingent upon the creation of a community development district, as defined by Florida Statutes, for the Property by the County. The community development district's powers may include, but not be limited to, the funding and construction of any other project, facility, or service required by a development approval, interlocal agreement, zoning condition, or permit issued by a governmental authority with jurisdiction in the district. If the County permits the creation of the community development district, the Owner agrees to apply for the creation of a multipurpose special taxing district to maintain the development's infrastructure such as roadways, storm drainage, water, sewer, and landscape should the community development district be dissolved or fail to fulfill its maintenance obligations. The special taxing district shall remain dormant until such time as Miami-Dade County determines to implement it. If the County does not permit the creation of a community development district, Owner shall identify and be permitted to use an alternative source of funding for the construction of the foregoing described improvements.

With the exception of the area of the Property on which the driveway network leading from NW 12th Street to the MetroBus Terminal Improvements will be located, Owner shall dedicate to the County on terms acceptable to the County and subject to County approval the portion of the Property on which the MetroBus Terminal Improvements will be located ("Dedication") once the foregoing described improvements that constitute Phase II of the PTF have received a certificate of occupancy from the County. For the purpose of joint use of the foregoing described driveway network by Owner and County, at time of dedication, Owner shall grant an easement to the County that will permit ingress and egress from NW 12th Street to the Public Transportation Facility for all county employees and patrons of the facility upon

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the issuance of a certificate of completion for Phase I of the PTF. Once the certificate of completion issues for Phase I of the PTF, the County shall be responsible for all maintenance costs (including, but not limited to, trash pickup, landscape costs, routine repairs, and security) and utility expenses associated with the PTF. Owner shall be responsible for the payment of property taxes associated with the the PTF until such time as the Dedication occurs. Owner and the County shall enter into a user agreement that will address, but not be limited to, the following matters: access to the PTF, indemnification by the County, and rental value for the County's use of the PTF. Owner and County shall execute the foregoing user agreement prior to the issuance of a certificate of completion for the improvements that constitute Phase I of the PTF. The Owner shall (1) retain the right to install signage with regard to any use within the Property on the Parking Structure. The Owner and (2) shall retain exclusive lease rights to the Commercial Area, which include, but are not limited to, the right to all rent monies. The issuance of a certificate of completion for Phase I of the Public Transportation Facility shall exempt the Property from any transportation concurrency requirements.

Development Agreement. Owner shall enter into a development agreement with the County pursuant to Section 33G-8 of the Code of Miami-Dade County, as amended, in connection with the PTF. The development agreement will, at a minimum, address the following subjects: development approval fees and impact fees associated with the construction of the PTF; operation of the PTF; maintenance of the PTF; design of the PTF; the location, size, design and other related details of the Temporary Staging Area; any County or other public funding for Phase II; the dedication of land for the MetroBus Terminal; as well as dedication of land for the future possible MetroRail Station; either funding or funding and construction of Phase II of the PTF; design, construction and funding of the future possible MetroRail Station; and any other terms and conditions necessary to address the foregoing. Owner shall

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request approval of the development agreement at the time it processes the first zoning application for the Property which shall not include any application for zoning approval, if necessary, plat approval, or building permit approval for Phase I of the PTF. The development agreement shall be reviewed by the County contemporaneously with the processing of such—zoning application, and shall be executed by the Owner and the County after the approval of such zoning application for the Property becomes final and non-appealable.

Roadway Improvements. The Owner shall fund and construct the roadway improvements described in Exhibit B. The foregoing roadway improvements shall be open to traffic prior to the issuance of any Certificate of Occupancy for any building within the Property, except for those buildings that constitute the Public Transportation Facility. The roadway improvements described in Exhibit B shall be accepted by the County as a contribution in lieu of payment of all or a portion of the required Road Impact fees under Section 33E of the Code of Miami-Dade County.

Certificate of Occupancy Date. Owner agrees not to obtain a certificate of occupancy for any building within the Property, except for those buildings that constitute the Public Transportation Facility, until such time as either the Dolphin Fire Rescue Station (No. 68) has received a temporary certificate of occupancy or any other new Fire Rescue Station designated by the Fire Rescue Department that will service the Property. Finally, Owner agrees not to obtain a certificate of occupancy for any other building within the Property until such time as all of the buildings that constitute the Public Transportation Facility have received a temporary certificate of occupancy. Notwithstanding the foregoing, Owner may seek a certificate of occupancy for the first 400,000 square feet of floor area for retail use within the Property and its accessory parking ("Retail Square Footage"). Owner agrees that the certificate of completion for the improvements that constitute Phase I of the PTF must issue prior to the issuance of the certificate of occupancy for the Retail Square Footage.

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Residential Uses. Owner agrees not to file a zoning application proposing a residential use on the Property until such time as Miami Dade County has adopted a public school facilities element, entered into an Interlocal Agreement with the Miami Dade County Public School System with regard to school concurrency, and amended its Comprehensive Development Master Plan to implement school concurrency.

<u>Fire Rescue.</u> Owner agrees to support the creation of a non ad valorem fire assessment fee.

Project Design. The Owner represents that the Property will be developed in a manner that assures a high quality, unified development design in accordance with coordinated and cohesive design principles which reflect the general guidelines contained in Exhibit "C" ("Design Guidelines"). In that regard, with the exception of those buildings that will constitute the Public Transportation Facility, prior to any development approvals being sought for residential, retail, hotel, or office uses on the Property, the Owner agrees to seek and obtain site plan approval for the entire Property which reflects substantial conformity with the Design Guidelines. Notwithstanding the foregoing, Owner may obtain site plan approval for the Retail Square Footage prior to obtaining site plan approval for the entire Property. Owner agrees that any site plan approval with regard to the Retail Square Footage will be in substantial conformity with the Design Guidelines. or, alternatively, submit for approval to the Director of the Planning and Zoning Department (or its successor planning agency), or his/her designee, and upon receiving said approval, record an architectural code or equivalent design standards to govern development of the entire Property, which are substantially in accordance with the attached Design Guidelines.

<u>LEED Certification.</u> All buildings developed on the Property will be Leadership in Energy and Environmental Design (LEED) certified in accordance with the standards set forth by the United States Green Building Council.

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Workforce Housing. Owner agrees that a minimum of 10% of the residential units on the Property shall be designated for workforce housing and shall meet the criteria of workforce housing in Miami-Dade County. Workforce housing shall be deemed to be the sale or rental of property for persons within the income range of 65% to 140% of the median family income for Miami-Dade County as published annually by the U.S. Department of Housing and Urban Development. Notwithstanding anything to the contrary in this Declaration of Restrictions, the Owner may utilize any residential density bonuses granted by Miami-Dade County, or successor municipality, for the development of workforce housing on the Property. A declaration of restrictive covenants, in form acceptable to the County, shall be recorded in the public records of Miami-Dade County, Florida stating that the unit is a workforce housing unit and shall remain as such for a period of 30 years from the time of recordation of the declaration of restrictive covenants.

In the event the Owner seeks any density and intensity bonuses as provided by the Workforce Housing Development Program ("Program"), Chapter 33, Article XIIA of the Code of Miami-Dade County, then the Owner shall voluntarily comply with the provisions of the Program. If the Owner does not seek any density and intensity bonuses as provided by the Program, then the Owner is not obligated to comply with the provisions of the Program. Notwithstanding the foregoing, the Owner shall ensure that a minimum of 10% of the residential units within the Property satisfy the criteria for workforce housing.

The Owner-shall, upon-site plan approval-or-prior-to-obtaining the initial building permit for a residential structure on the Property, whichever is the required date-according to the relevant County regulation, identify those units within such structure, if any, that satisfy this workforce housing requirement.

<u>Water Conservation Regulations.</u> The Owner shall incorporate the measures listed in Exhibit D, where practicable, into the design, construction and operation of

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any residential development on the Property. Similarly, the Owner shall incorporate the measures listed in Exhibit E, where practicable, into the design, construction and operation of any commercial development on the Property.

<u>Subdivision of Property.</u> In the event the Property is subdivided into multiple ownerships, responsibility for the obligations contained in this Declaration that are related to the provision of workforce housing units in the absence of a duly enacted ordinance shall be allocated on a pro-rata per acre basis <u>only for such parcels which are designated for residential uses</u>. Workforce housing units on any particular subparcel of the Property shall be developed simultaneously with any <u>market rate</u> <u>non-designated workforce</u> housing units on that subparcel.

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 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.

<u>Term.</u> 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.

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Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of the fee simple title to the Property, provided that the same is also approved by the Board of County Commissioners of Miami-Dade County, Florida. Any such modification 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 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 that amends, modifies, or declines to adopt the provisions of Section 2-116.1 of the Miami-Dade County Code, then modifications 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 the provisions of the municipality's ordinances that apply to the adoption of district boundary changes. Should this Declaration be so modified, amended, or released, the Director of the Department of Planning and Zoning 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 office, 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 Deleted: 7

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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.

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 any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

<u>Election of Remedies</u>. 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.

<u>Presumption of Compliance</u>. 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.

<u>Severability</u>. 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. 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

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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 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 Pages Follow]

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## Exhibit "A"

# Legal Description

The South 1/2 of the South 1/2 of the East 2/6 of Section 31, Township 63 South, Renge 40 East of Miemi-Dade County, Florida; Less existing Right of Way of Records.

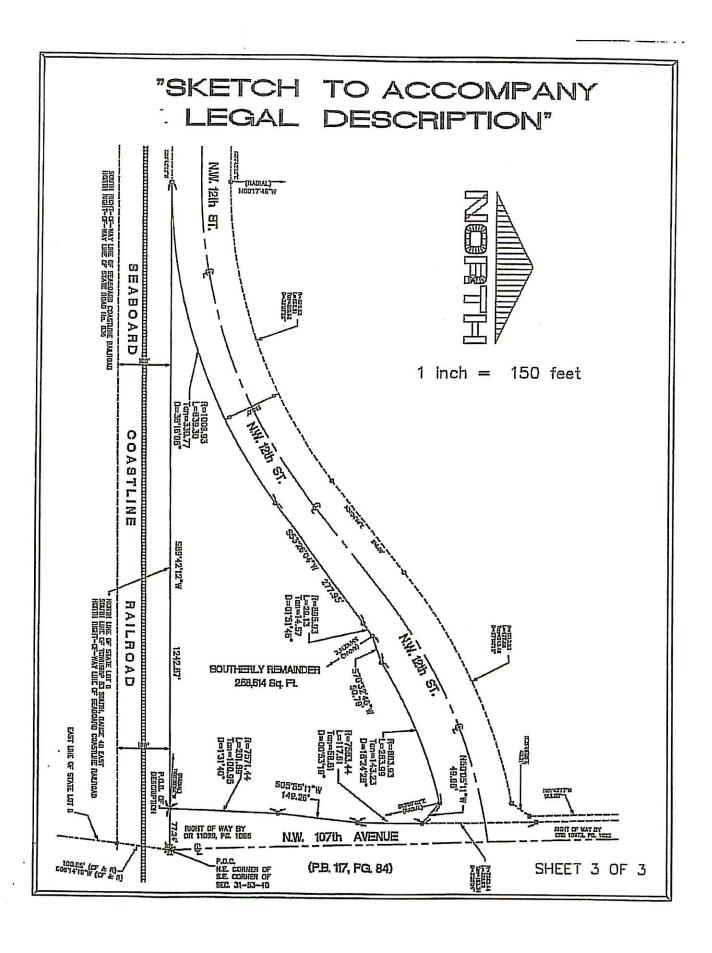
# "SKETCH TO ACCOMPANY LEGAL DESCRIPTION"

#### LEGAL DESCRIPTION:

All that portion lying Southerly of NW 12<sup>th</sup> Street right-of-way in the South ½ of the South ½ of the East 2/5, Section 31, Township 53 South, Range 40 East, less Official Records Book 11099, Page 1065, lying and being in Miami-Dade County, Florida; more particularly described as follows:

Commence at the Southeast corner of Southeast %, Section 31, Township 53 South, Range 40 East, Thence South 89°42'12" West along the South line of said Southeast ¼, Section 31, Township 53 South, Range 40 East for a distance of 77.24 feet to the Point of Beginning; thence Northerly along a circular curve concave to the West; said curve being the Westerly right-of-way line of NW 107th Avenue; said curve radius point bears North 86°36'04" West, having a radius of 7,571.44 feet, a central angle of 01°31'40" an arc distance of 201.89 feet, to a point; thence North 05°55'11" East along the Westerly right-of-way line of NW 107 Avenue for a distance of 149.26 feet to a point of commence of a circular curve concave to the West; thence Northerly along said curve and the Westerly right-of-way line of NW 107 Avenue; said curve having a radius of 7,583.44 feet, a central angle of 00°53′19" for an arc distance of 117.60 feet to a point; thence North 50 05'11" West along the Southerly right-of-way line of N.W. 12 Street for a distance of 49.66 feet to a point of commence on a non-tangent circular curve concave to the South; thence Southwesterly along said curve and the Southerly right-of-way line of N.W. 12th Street. Said curve radial point bears South 13 07'02" East having a radius of 883.93 feet, a central angle of 18°24'28", an arc distance of 283.99 feet to a point; thence South 70°32'46" West along the Southerly right-of-way line of N.W. 12<sup>th</sup> Street for a distance of 50.79 feet to a point of commence on a nontangent circular curve concave to the Southeast; thence Southwesterly along the Southerly right-of-way line of N.W. 12<sup>th</sup> Street; said curve radial point bears South 34"42'11" East having a radius of 895.93 feet, a central angle of 01"51'46", an arc distance of 29.13 feet to a point; thence South 53"26'04" West along the Southerly right-of-way line of NW 12<sup>th</sup> Street for a distance of 277.95 feet to a point of commence of a circular curve concave to the Northwest; thence Westerly along the Southerly right-of-way line of N.W. 12<sup>th</sup> Street, said curve having a radius of 1,009.93 feet, a central angle of 36°16'08", an arc distance of 639.30 feet to a point on the South line of S.E. ¼ of Section 31, Township 53 South, Range 40 East; thence North 89"42'12" East along the South line of S.E. %, of Section 31, Township 53 South, Range 40 East for a distance of 1,242.87 feet to the Point of Beginning.

Said land containing 258,514 square feet more or less.



## Exhibit "B"

## **Roadway Improvements**





54.196 Acre Amendment Site



Business and Office – 54.196 acres With a RAC Overlay Designation Figure 8 Proposed Infrastructure Improvements Dolphin Station September 2007

#### Exhibit "C"

## Design Guidelines

1. The plan for development of the Property shall allow for a mix of uses, including \_\_\_\_\_\_ Deleted: which will include commercial and residential uses.

- The proposed buildings shall be designed using compatible and complementary architectural styles and designs.
- Design features shall be included at appropriate locations of the buildings, in order to maintain architectural and design continuity.
- Consistent sign criteria and standards shall be established at the time of initial rezoning to encourage aesthetic compatibility within the sign program.
- Large expanses of opaque or blank building wall shall be minimized <u>and/or articulated</u> and shall have landscaped areas providing a visual barrier, to the maximum extent feasible.
- Uniform street furniture and lighting standards shall be provided throughout the Property.
- Pedestrian crosswalks shall be clearly delineated on any proposed private roads within the Property.
- 3. The development pattern shall respect the general concepts of the Minmi-Dade County Urban Design Guidelines to the extent practicable.
- The streets shall be designed for pedestrian mobility, interest, safety, and comfort as well as vehicular mobility.
- The proposed development shall contain open spaces that may include public squares, greens, and pedestrian promenades.
- 11. The buildings and their landscapes within the proposed development shall be built to the sidewalk edge to the greatest extent possible in a manner that frames the adjacent street to create a public space in the street corridor that is comfortable, interesting, as well as safe for pedestrians.
- 12. The architectural elements of the buildings at street level shall have a human scale, abundant windows and doors, <u>display windows</u> and design variations at short intervals to create interest for the passing pedestrian.

13. Parking areas shall be minimized at grade between the street and main building entrances to the extent possible. Subterranean parking between the street and main building entrances is, however, permitted.

### Exhibit "D"

## Water Conservation Measures for Residential Development

- Installing only High Efficiency Toilets (HET), which shall be defined as 1.2 gallons per flush, that meet the standard specifications of the Unified North America Requirements (UNAR) and display the Environmental Protection Agency's WaterSense label.
- Using only one control valve, or one set of hot and cold valves required for each High Efficiency Showerhead, which shall be defined to provide no more than 1.5 gallon per minute (gpm).
- Using Efficiency faucets which shall be defined to provide 1.0 gpm.
- Using High Efficiency (HE) Clothes Washer(s) with a water factor of 6 or less (Tier 3b) as identified by the Consortium for Energy Efficiency at http://www.ceel.org/reid/seha/rwsh.rwsh-prod.pdf, Energy Star (and WaterSense certified when available) for residential units equipped with clothes washer connections.
- Using dishwashers rated with use of 6.5 gallons/cycle or less, Energy Star and WaterSense certified.
- Installing sub-metering for all multi-unit residential development which shall
  include separate meter and monthly records kept of all major water-using
  functions such as cooling towers and individual buildings.
- Applying Florida Friendly Landscapes guidelines and principles to all landscape installations in compliance with Florida Yards & Neighborhoods criteria.
- Using gutter downspouts, roof runoff, and rain harvesting to encourage increased recharge and other non-potable uses on the property, thru the use of elements and features such as rain barrels and directing runoff to landscaped areas.
- Providing "Florida Friendly Landscapes" within all public rights-of-way.
- Using drip irrigation or micro-sprinklers when appropriate.
- Using porous surfaces (bricks, gravel, turf block, mulch, pervious concrete, etc)
   whenever possible on walkways, driveways, and patios.

- Including Florida Yards and Neighborhoods Program information on "Florida Friendly Landscapes" in the sales literature provided to homebuyers.
- Developing the landscape plan and plant palette based on site characteristics (soil, drainage, structural limitations, utilities, overhangs, lights, etc.), which shall include:
  - o Per the County's Landscaping Ordinance, existing native trees, palms and associated native understory, shall be retained and preserved along with identified undergrowth and be a focal point of the landscape.
  - 80% of plant materials to be utilized on site shall be from the Florida-Friendly Plant List and shall have a moderate to high drought tolerance.
  - All plants will be grouped in the landscape plan by similar water and maintenance requirements and shall be spaced to allow for maturation.
  - Turf areas will be evenly shaped for ease of maintenance and will be no less than 4 feet wide and will not be placed on any berms.
  - No more than 30% of the total area required for landscaping may be turf or grass.
  - Soils analysis should be completed and used in the plant selection process where applicable and a copy should be provided to the home buyer.
  - Limit use of rock mulch due to heat loading: rock mulch shall not exceed
     of total landscaped area.
  - Use of environmentally friendly organic mulches that are applied 3 inches deep around plants and trees with two inches clear around each plant.
- Using a low volume irrigation system to irrigate all landscape beds.
- Irrigating turf by zones separate from zones for irrigation of shrubs and ground cover plantings.
- Using swing joints or flex pipe when installing sprinklers to help prevent broken pipes and sprinklers.
- · Designing irrigation systems for minimum overlap.
- Installing soil moisture sensors or other water saving technologies.

## Exhibit "E"

# Water Conservation Measures for Commercial Development

- · Using waterless technologies where available.
- Maximizing use of on-site sources of water.
- Choosing equipment that is water and energy efficient.
- Installing automatic shut offs, solenoids and controllers to turn water off when not in use.
- Installing flow restrictors when possible.
- · Eliminating once-through cooling.

# **Application No. 9**Land Use Element Text Amendment

## **APPLICATION SUMMARY**

Applicant/Representative: Vecellio & Grogan, Inc. d/b/a White Rock

Quarries/ Kerri Barsh, Esq.

Location: LAND USE ELEMENT, Open Land Subarea 1

Requested Text Changes: Modify the text of Open Land Subarea 1 (Snake-

Biscayne Canal Basin) in the Land Use Element of the Comprehensive Development Master Plan

(CDMP), to allow nurseries and tree farms.

Amendment Type: Standard Text Amendment

RECOMMENDATIONS

Initial Staff Recommendation: ADOPT WITH CHANGE AND TRANSMIT

(February 25, 2010)

Planning Advisory Board (PAB) ADOPT AND TRANSMIT

acting as Local Planning Agency: (April 5, 2010)

Board of County Commissioners: ADOPT WITH CHANGE as per Staff

Recommendation, dated April 26, 2010 and

**Transmit** (May 5, 2010)

Revised Staff Recommendation ADOPT AS TRANSMITTED

(September 13, 2010)

Final Action of PAB acting as Local Planning

Agency

**TO BE DETERMINED** (September 20, 2010)

Final Action of Board of County Commissioners: **TO BE DETERMINED** (October 6, 2010)

## REQUESTED TEXT AMENDMENT

**Revised Staff Recommendation** (September 13, 2010)

Staff recommends **ADOPT AS TRANSMITTED** the proposed amendment to add language to the Open Land Subarea 1 section of the Land Use Element in the "Adopted Components of the Comprehensive Development Master Plan for Miami-Dade County, Florida", to allow nurseries and tree farms, agriculture production, and limited raising of livestock.

The reasons stated in the Initial Recommendations are still valid.

#### New Information: Objections, Recommendations and Comments Report from the DCA

The Department of Planning and Zoning (DP&Z) has received the Department of Community Affairs' (DCA) "Objections, Recommendations and Comments" (ORC) report dated August 9, 2010, that identifies an objection to the proposed text amendment and recommendations. The DCA's objection to this application is based upon potential impacts to groundwater quality from proposed additional land uses for properties in Open Land Subarea 1. The DCA offered four recommendations that include required onsite retention of stormwater, implementation of agricultural BMPs as established by the Florida Department of Agricultural and Consumer Services, consistency with Total Maximum Daily Load surface water quality standards within the Subarea, and no unauthorized use of South Florida Water Management District rights-of-way within the Subarea.

#### **Initial Staff Recommendations** (February 25, 2010)

In the Initial Staff Recommendations Report published on February 25, 2010, the staff recommended to **ADOPT WITH CHANGE AND TRANSMIT** the proposed amendment to add language to the Open Land Subarea 1 section of the Land Use Element in the "Adopted Components of the Comprehensive Development Master Plan for Miami-Dade County, Florida, October 2006 Edition" to allow nurseries and tree farms. This recommendation was based on the staff analysis as summarized in the Principal Reasons for Recommendation below. On April 26, staff recommended changes to allow agriculture production and limited raising of livestock in addition to the uses proposed by the applicant.

#### **Principal Reasons for Recommendations**

1. Open Land Subarea 1 currently allows 'seasonal agriculture' as a use that may be considered for approval. The land south of NW 186 Street in this subarea is zoned for agriculture with the remaining land zoned as GU (Interim), which allows for agricultural use. Additionally, the CDMP restricts the type of allowable agriculture to row crops, container nurseries or other agricultural uses that are seasonal or "above ground" uses. Over the years, several year-round agricultural activities, such as tree farms, were established in this area, in large part due to permits only being reviewed for consistency with the zoning category. However, consistency with the CDMP was not conducted prior to the allowance of year round agricultural activities in this area.

Currently many wetland violations are under enforcement in Open Land Subarea 1 due to illegal filling of lands, many of which are currently in agricultural use. Issuance of Class IV permits or "after the fact" permits require that the intended use be consistent with the CDMP; tree farms are currently not a consistent use. Although mitigation and penalties are paid, the owners cannot continue their tree farms with the current CDMP language. Part of the remedy for those violations involving wetlands with tree farming establishments is that the growers must remove their trees. This can cause severe economic loss to the farm owner.

Amending the text in Open Land Subarea 1, to allow nurseries and tree farms uses for consideration, may provide many of the currently illegal tree farm uses an avenue to become consistent with the CDMP and potentially retain their use.

- 2. The proposed North Lake Belt Storage Area, a Comprehensive Everglades Restoration Plan (CERP) project that will be used for water storage, will comprise approximately 4,500 acres (59%) of Subarea 1 when completed. Most of this land is currently being utilized for limestone rockmining, or is owned or being acquired by various government agencies in order to accommodate the CERP project. The CERP project is not scheduled to begin until 2025 at the earliest with a majority of this Subarea to be excavated and the agricultural activity within the CERP footprint being removed. In the interim, however, additional agricultural uses in this basin should be explored.
- 3. A major concern to the South Florida Water Management District (SFWMD) and the Miami-Dade Department of Environmental Resource Management (DERM) is that increased agricultural uses not impact this basin's groundwater quality. As reported by the Miami-Dade County Cooperative Extension Service, the use of fertilizers and pesticides for nurseries and tree farms is equal to or less than that used by row crops. This is mainly due to the length of the growing season and the efficiency of the fertilizers to ensure the economics of the crop. For example, more fertilizer will be used to ensure the quick growth of a row crop with a short growing season, while products such as slow release fertilizers can be used in longer growing cycle of a tree farm.

A second component to water quality is stormwater runoff. As per objective CON-4A, "the aquifer recharge values of wetland areas shall be maintained and, where feasible, enhanced or restored. There shall be no further positive drainage of wetlands to accommodate urban development or agricultural uses." In accordance with DERM regulations, tree farm and nursery operations shall be required to contain storm water runoff on site. There must be no positive drainage of the facility to off-site ditches or canals.

Application of Chapter 24 by DERM through wetland permits should ensure that agricultural crops, regardless of the crop, will not compromise groundwater quality as indicated in the text of the CDMP for Open Land Subarea 1.

4. Open Land Subarea 1 is a low lying, poorly drained area with high water tables. Thus, much of the area contains jurisdictional wetlands as defined in Chapter 24-5 of the Code of Miami-Dade County, and any properties found to have jurisdictional wetlands will require a Class IV permit prior to any work being undertaken on said property. The SFWMD and DERM have expressed concerns regarding excessive filling of the wetlands and the raising and lowering of water levels in the area to accommodate year round agriculture, as well as the potential loss of wetlands due to agricultural practices. As noted in CON-4A, "the aquifer

recharge values of wetland areas shall be maintained and, where feasible, enhanced or restored. There shall be no further positive drainage of wetlands to accommodate urban development or agricultural uses." Therefore, it should be clearly noted that additional flood protection will not be afforded to this basin and there must be no lowering of groundwater levels to support year-round agriculture, instead the grading of the site must be sufficient to lift the root zone of plant materials above the seasonal water table, if needed. It is recommended that any year round farming be tied to an affidavit from the land owner acknowledge that 1) no additional flood protection will be provided; 2) all agricultural use would be conducted at the farmers risk; 3) future CERP plans for the area may preclude long term operation of farming activities; and 4) filling of the wetlands will be minimized for agricultural uses.

# **Application No. 11** TEXT AMENDMENT

## APPLICATION SUMMARY

Applicant/Representative: Miami-Dade County Department of Planning and

Zoning / Marc C. LaFerrier, AICP, Director

Land Use and Capital Improvements Elements Element(s) to be Amended:

Requested Text Changes: A. Revise Land Use Element Policy LU-2A to refer

to provisions in the "Concurrency Management Program" in the Capital Improvements Element

(CIE).

B. Revise the text in Concurrency Management Program of the Capital Improvements Element on page IX-15 to reflect the level of public school facilities concurrency review for zoning actions consistent with the Interlocal Agreement for Public School Facility Planning between Miami-Dade County and Miami-Dade County Public Schools.

Amendment Type: Standard Text Amendment

## RECOMMENDATIONS

Staff Initial Recommendation: **ADOPT AND TRANSMIT** (February 25, 2010)

Community Council: NOT APPLICABLE

Planning Advisory Board (PAB) Acting as **ADOPT AND TRANSMIT** (April 5, 2010)

Local Planning Agency:

Board of County Commissioners: **ADOPT AND TRANSMIT** (May 5, 2010)

ADOPT AS TRANSMITTED WITH ADDITIONAL Revised Staff Recommendation:

**CHANGE** (September 13, 2010)

Final Action of Planning Advisory Board

Acting as Local Planning Agency:

**TO BE DETERMINED** (September 20, 2010)

Final Action of Board of County

Commissioners:

TO BE DETERMINED (October 6, 2010)

#### Revised Staff Recommendation (September 13, 2010)

Based on the reasoning in the Initial Recommendation, staff recommends ADOPT WITH CHANGE for the proposed text amendment based on the following:

The reasons stated in staff's initial recommendation for adoption of the subject application are still valid. As the County and Miami-Dade County Public Schools began implementing public school concurrency, it has been determined that there is an inconsistency between the concurrency management provisions contained in the Land Use Element, Capital Improvements Element, Educational Element and the Interlocal Agreement. The inconsistency relates to the timing of concurrency determinations for zoning actions. In addition, the amendments are needed to maintain consistency between the CDMP and the Interlocal Agreement.

The County Attorney's Office has suggested further revisions to the text amendment as transmitted to DCA. These further changes are additions identified with double underlining and deletions identified with double strikethroughs to the text in the Concurrency Management Program of the Capital Improvements Element on page IX-15 as follows:

In its concurrency management program, Miami-Dade County shall make appropriate concurrency determinations in conjunction with the following development approval activities: 1) at the time of zoning actions, site plan approvals and subdivision approvals; 2) prior to the issuance of building permits; and 3) prior to the issuance of certificates of use and occupancy. Consideration will be given to effective measures which may be employed to mitigate traditional service impacts of developments. In general, no zoning action authorizing a new use or the expansion of an existing use and no subdivision plat or site plan shall be approved unless the facilities necessary to maintain level of service standards exist or are projected to exist when necessary to serve the development. For all public facilities and services, except public schools facilities, zoning approvals shall be based on inclusion of necessary facilities in the applicable service Element of the Comprehensive Development Master Plan, in the adopted Capital Improvements Element of the CDMP, in the adopted Miami-Dade County Public Schools Facilities Work Program dated September 2007, for educational facilities, or in the plan or work program of the State agency having functional responsibility for provision of the facilities. Such findings shall be included in staff recommendations to the Board of County Commissioners, Community Zoning Appeals Board (CZAB), or other applicable board of or agency. If the foregoing plans and programs indicate a low probability that concurrency will be met, but the necessary facilities are technically feasible, such rezoning action should be preceded by a CDMP amendment to add the necessary facilities. Alternatively, such zoning may be approved if the applicant executes a written agreement to provide the necessary facilities on a timely basis. Consistent with Education Element Policy EDU-1F and the provisions in the Interlocal Agreement for Public Facility Planning between Miami-Dade County and Miami-Dade County Public Schools, a Schools Planning Level Review will be conducted for zoning actions containing residential units, and but such reviews will not constitute a public school concurrency review. As described below, a principal concurrency determination will be made for adequate public school facilities will be made prior to approval of consideration of intermediate development order, including final subdivision plats or site plan approval, or the functional equivalent. All such development approvals prior to the "Principal Concurrency Determination" will contain a notice reserving the right of the County to make its principal concurrency determination prior to issuance of building permits.

#### **New Information**

Since the BCC transmittal public hearing on May 5, 2010, the Department of Planning and Zoning has received additional information regarding Application No. 11. The Florida Department of Community Affairs (DCA) issued on August 9, 2010 the "Objections, Recommendations, and Comments Report," (ORC). In the ORC report, DCA did not object to or comment on Application No. 11.

### **Initial Staff Recommendation** (February 25, 2010)

In the initial Recommendations Report, dated February 25, 2010, the Staff recommended **ADOPT AND TRANSMIT** the proposed text amendment to the CDMP based on the following reasons:

#### **Principal Reasons for Recommendations**

- 1. The amendments are needed to maintain consistency among the affected CDMP elements and the Interlocal Agreement for Public School Facility Planning between Miami-Dade County and Miami-Dade County Public Schools (Interlocal Agreement) as it relates to school concurrency reviews for zoning actions.
- 2. The 2005 Florida Legislature amended Chapter 163, Florida Statues, to require a public school facilities element, school concurrency and updates to the Interlocal Agreement for Public School Planning. Miami-Dade County first adopted an Educational Element in 1996. Amendments were required to existing elements and Interlocal Agreement for Public School Facility Planning between Miami-Dade County and Miami-Dade County Public Schools. In July of 2008, Miami-Dade County adopted a level of service standard for public school facilities. Amendments also included revisions to the Educational Element, Intergovernmental Coordination and Capital Improvements Elements of the Comprehensive Development Master Plan (CDMP) and to the Interlocal Agreement. The amendments were approved and found in compliance with state law by the Florida Department of Community Affairs in July 2009.
- 3. As the County and Miami-Dade County Public Schools began implementing public school concurrency, it has been determined that there is an inconsistency between the concurrency management provisions contained in the Land Use Element, Capital Improvements Element, Educational Element and the Interlocal Agreement. The inconsistency relates to the timing of concurrency determinations for zoning actions.

Section 7.5 of the Interlocal Agreement describes the review at the time of zoning are as follows:

The review by School Board staff regarding comprehensive plan amendments, rezoning and Development of Regional Impact proposals or amendments containing residential units shall be classified as "Public Schools Planning Level Review (Schools Planning Level Review)". The Schools Planning Level Review does not constitute public school concurrency review. This Section shall not be construed to obligate the County to deny or approve (or to preclude the County approving or denying) an application.

Therefore, the amendments are needed to maintain consistency between the CDMP and the Interlocal Agreement.

## **Requested Text Amendments:**

- A. LU-2A. All development order authorizing new or significant expansion of existing urban land uses shall be contingent upon the provision of services at or above the Level of Service (LOS) standards specified in the Capital Improvements (CIE), except as otherwise provided in the "Concurrency Management Program" section of the CIE.
- B. Revise the text in the Concurrency Management Program of the Capital Improvements Element on page IX-15 as follows:

In its concurrency management program, Miami-Dade County shall make appropriate concurrency determinations in conjunction with the following development approval activities: 1) at the time of zoning actions, site plan approvals and subdivision approvals; 2) prior to the issuance of building permits; and 3) prior to the issuance of certificates of use and occupancy. Consideration will be given to effective measures which may be employed to mitigate traditional service impacts of developments. In general, no zoning action authorizing a new use or the expansion of an existing use and no subdivision plat or site plan shall be approved unless the facilities necessary to maintain level of service standards exist or are projected to exist when necessary to serve the development. For all public facilities and services, except public schools facilities, zoning approvals shall be based on inclusion of necessary facilities in the applicable service Element of the Comprehensive Development Master Plan, in the adopted Capital Improvements Element of the CDMP, in the adopted Miami-Dade County Public Schools Facilities Work Program dated September 2007, for educational facilities, or in the plan or work program of the State agency having functional responsibility for provision of the facilities. Such findings shall be included in staff recommendations to the Board of County Commissioners, Community Zoning Appeals Board (CZAB), or other applicable board of agency. If the foregoing plans and programs indicate a low probability that concurrency will be met, but the necessary facilities are technically feasible, such rezoning action should be preceded by a CDMP amendment to add the necessary facilities. Alternatively, such zoning may be approved if the applicant executes a written agreement to provide the necessary facilities on a timely basis. Consistent with Education Element Policy EDU-1F and the provisions in the Interlocal Agreement for Public School Facility Planning between Miami-Dade County and Miami-Dade County Public Schools, a Schools Planning Level Review will be conducted for zoning actions containing residential units and such reviews will not constitute a public school concurrency review. As described below, a principal concurrency determination will be made for adequate public schools prior to approval of final subdivision plats or site plan approval, or the functional equivalent. All such development approvals prior to the "Principal Concurrency Determination" will contain a notice reserving the right of the County to make its principal concurrency determination prior to issuance of building permits.

# Application No. 12 TEXT AMENDMENT

## **APPLICATION SUMMARY**

Applicant/Representative: Miami-Dade County Department of Planning and

Zoning / Marc C. LaFerrier, AICP, Director Miami-

**Dade County** 

Element(s) to be Amended: Land Use Element

Reguested Text Changes: Revise Policies LU-3-G, and LU-3H in the Land

Use Element to indicate that the super majority vote applies to text changes in the CDMP as well

as land use map amendments.

Amendment Type: Standard Text Amendment

## RECOMMENDATIONS

Staff Initial Recommendation: ADOPT AND TRANSMIT (February 25, 2010)

Community Council: NOT APPLICABLE

Planning Advisory Board (PAB) acting as

Local Planning Agency:

**ADOPT AND TRANSMIT** (April 5, 2010)

Board of County Commissioners: ADOPT AND TRANSMIT (May 5, 2010)

Revised Staff Recommendation: ADOPT AS TRANSMITTED (September 13, 2010)

Final Recommendation of PAB acting as

Local Planning Agency:

TO BE DETERMINED (Sept. 20, 2010)

Final Action of Board of County

Commissioners:

TO BE DETERMINED (Oct. 6, 2010)

#### Revised Staff Recommendation (September 13, 2010)

Based on the reasoning in the Initial Recommendation, staff recommends ADOPT AS TRANSMITTED for the proposed text amendment based on the following:

The reasons stated in staff's initial recommendation for adoption of the subject application are still valid. This application would revise Policies LU-3G and LU-3H to require a super-majority vote by the Board of County Commissioners (BCC) for any Comprehensive Development Master Plan (CDMP) text amendments that allow new land uses within one mile of Krome Avenue for properties designated "Open Land" or "Environmental Protection" on the Land Use Plan map of the CDMP. Currently, Policy LU-3F requires a super-majority vote by the Board of County Commissioners for both CDMP text and map amendments that restrict uses on land designated "Agriculture" and are located within one mile of Krome Avenue.

#### **New Information**

Since the BCC transmittal public hearing on May 5, 2010, the Department of Planning and Zoning has received additional information regarding Application No. 12. The Florida Department of Community Affairs (DCA) issued on August 9, 2010 the "Objections, Recommendations, and Comments Report," (ORC). In the ORC report, DCA did not object to or comment on Application No. 12.

#### **Initial Staff Recommendation** (February 25, 2010)

In the initial Recommendations Report, dated February 25, 2010, the Staff recommended ADOPT AND TRANSMIT the proposed text amendment to the CDMP based on the following reasons:

#### **Principal Reasons for Recommendations**

- 1. Current CDMP text language associated with Policy LU-3G and LU-3H of the Land Use Element state that any amendment to the Land Use plan map that would authorize uses other than those currently allowed in Open Land or Environmental Protection for land within 1 mile of Krome and outside the Urban Development Boundary (UDB) would require a 2/3 affirmative vote of the total membership Board of County Commissioners for such approval. This super-majority vote is already required for Land Use plan map amendments by Section 2-116(4)(c), Miami-Dade County Code. However, additional use allowances through text amendments are not properly addressed in these policies, and use changes in the Open Land and Environmental Protection categories that are in close proximity to Krome Avenue can occur with a simple majority vote.
- 2. The BCC expressed, through adoption of Policies LU-3-F, LU-3G, and LU-3H, the intent to prevent sprawl along Krome Avenue. The long history of these amendments indicates that the BCC did not want additional uses along Krome as a result of the widening project. Additionally, the original policy developed by the staff, Policy LU-3F, restricting uses on land designated "Agriculture" along Krome Avenue, was stated for any CDMP amendment. Policies LU-3G and LU-3H, developed in response to State objections, only addressed the changes to the Land Use Plan (LUP) map.
- 3. CDMP policies should be consistent as to the amendment process. Currently an amendment to change a land use on the LUP map outside the UDB requires a 2/3 majority

vote of the BCC. A private text application was filed in each of the April 2009 and October 2009 CDMP Amendment cycles, which would allow uses other than those currently allowed on lands designated either "Agriculture" or "Open Land". In both cases, the proposed amendment was filed to satisfy the needs of a single applicant and do not demonstrate an overwhelming need within the category.

In the April 2009 Amendment cycle an amendment was filed to allow truck parking in Open Land Subarea 1. This application was filed to legalize a land use which was under enforcement. The language of Policies LU-3G and LU-3H, intended to restrict new uses around Krome Avenue on lands designated Open Land and Environmental Protection, currently require a 2/3 vote only to amendments to the Land Use plan map. As a result, a use such as truck parking in the Open Land can be approved with a simple majority vote. Policy LU-3F states that changes to the CDMP "for uses on land designated "Agriculture" within one mile of Krome Avenue that are not related to direct agriculture production or rural residential will require a 2/3 affirmative vote by the BCC." Based on this language, Application No. 8, filed in the October 2009 CDMP cycle, which proposes amended language to the Agricultural text to allow for the expansion of existing rockmining operations in agricultural areas, would require an affirmative vote of at least 9 BCC members for final approval.

4. If approved, the modifications to the text will require any amendment to the CDMP to have a super majority vote if the amendment liberalizes uses outside the UDB and within one mile of Krome Avenue, other than those uses identified in the adopted policies. This would reduce the ability of applicants to circumvent the intent of the Krome Avenue policies with the filing of text amendments. Additionally, the language of Section 2-116 (c)(4) should be modified to require a 2/3 affirmative vote of the total Board membership for any CDMP amendment that adds uses to land use categories outside the UDB. This will prevent land use changes in categories outside the UDB from being filed through CDMP text amendments.

#### **Recommended Text Changes**

- LU-3G. Any zoning action, or amendment to the Land Use plan map CDMP that would approve a use of property other than limestone quarrying, seasonal agriculture or permitted residential use in an area designated as Open Land on land that is, a) outside the Urban Development Boundary (UDB), and b) within one mile of the right-of-way line of any portions of Krome Avenue designated in this Plan for improvement to 4-lanes, shall require an affirmative vote of not less than five members of the affected Community Zoning Appeals Board and two-thirds of the total membership of the Board of County Commissioners then in office, where such Community Zoning Appeals Board or Board of County Commissioners issues a decision. This policy is not intended to permit any use not otherwise permitted by the CDMP. Any modification to this section to allow additional uses within the one mile distance from Krome Avenue shall require an affirmative vote of not less than two-thirds of the Board of County Commissioners then in office.
- LU-3H. Any zoning action, or amendment to the Land Use plan map <u>CDMP</u> that would approve a use of property other than seasonal agricultural use in the Dade-Broward Levee Basin or permitted residential use in an area designated as Environmental Protection, on land that is, a) outside the Urban Development Boundary (UDB), and b) within one mile of the right-of-way line of any portions

of Krome Avenue designated in this Plan for improvement to 4-lanes, shall require an affirmative vote of not less than five members of the affected Community Zoning Appeals Board and two-thirds of the total membership of the Board of County Commissioners then in office, where such Community Zoning Appeals Board or Board of County Commissioners issues a decision. This policy is not intended to permit any use not otherwise permitted by the CDMP. Any modification to this section to allow additional uses within the one mile distance from Krome Avenue shall require an affirmative vote of not less than two-thirds of the Board of County Commissioners then in office.

## **APPENDIX A**

Objections, Recommendations and Comments (ORC) Report, Dated August 9, 2010 from the Department of Community Affairs This Page Intentionally Left Blank

October 2009 Cycle



## DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST

THOMAS G. PELHAM Secretary

August 9, 2010

The Honorable Carlos Alvarez Mayor, Miami-Dade County Stephen P. Clark Center 111 N.W. 1st Street, 29th Floor Miami, Florida 33128

Dear Mayor Alvarez:

The Department of Community Affairs completed its review of the Miami-Dade County proposed Comprehensive Plan Amendment (DCA No. 10-2), which was received on June 9, 2010. Copies of the proposed amendment have been distributed to appropriate state, regional, and local agencies for their review, and their comments are enclosed. The Department reviewed the comprehensive plan amendment for consistency with Rule 9J-5, Florida Administrative Code, and Chapter 163, Part II, Florida Statutes, and prepared the attached Objections, Recommendations, and Comments Report which outlines our findings concerning the comprehensive plan amendment. The Department identified one objection and two comments related to the amendment.

My staff and I are available to assist the County in addressing the issues identified in our report. If you have any questions, please contact Bill Pable, AICP, at (850) 922-1781.

Sincerely,

Mike McDaniel, Chief

Office of Comprehensive Planning

MM/bp

Enclosures:

Objections, Recommendations and Comments Report

Review Agency Comments

cc: Mr. George Burgess, County Manager, Miami-Dade County

Mr. Marc C. LaFerrier, Director, Miami-Dade County Planning and Zoning Department Ms. Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council

## **DEPARTMENT OF COMMUNITY AFFAIRS**

## **OBJECTIONS, RECOMMENDATIONS, AND COMMENTS**

### **FOR**

Miami-Dade County

Amendment 10-2

# August 9, 2010 Division of Community Planning

This report is prepared pursuant to Rule 9J-11.010

#### INTRODUCTION

The following objections, recommendations and comments are based upon the Department's review of the Miami-Dade County proposed Comprehensive Plan pursuant to Section 163.3184, F.S.

Objections relate to specific requirements of relevant portions of Chapter 9J-5, F.A.C., and Chapter 163, Part II, F.S. Each objection includes a recommendation of one approach that might be taken to address the cited objection. Other approaches may be more suitable in specific situations. Some of these objections may have been raised initially by one of the other external review agencies. If there is a difference between the Department's objection and the external agency advisory objection or comment, the Department's objection would take precedence.

The County should address each of these objections when the amendment is resubmitted for our compliance review. Objections which are not addressed may result in a determination that the amendment is not in compliance. The Department may have raised an objection regarding missing data and analysis, items which the County considers not to be applicable to its amendment. If that is the case, a statement justifying its non-applicability pursuant to Rule 9J-5.002(2), F.A.C., must be submitted. The Department will make a determination as to the non-applicability of the requirement, and if the justification is sufficient, the objection will be considered addressed.

The comments which follow the objections and recommendations are advisory in nature. Comments will not form a basis for determination of non-compliance. They are included to call attention to items raised by our reviewers. The comments can be substantive, concerning planning principles, methodology or logic, as well as editorial in nature dealing with grammar, organization, mapping, and reader comprehension.

Appended to the back of the Department's report are the comment letters from the other state review agencies, other agencies, organizations and individuals. These comments are advisory to the Department and may not form a basis for Departmental objections unless they appear under the "Objections" heading in this report.

#### TRANSMITTAL PROCEDURES

Upon receipt of this letter, the County has 60 days in which to adopt, adopt with changes, or determine that the County will not adopt the proposed amendment. The process for adoption of local government comprehensive plan amendments is outlined in s. 163.3184, F.S., and Rule 9J-11.011, F.A.C. The County must ensure that all ordinances adopting comprehensive plan amendments are consistent with the provisions of Chapter 163.3189(2)(a), F.S.

Within ten working days of the date of adoption, the County must submit the following to the Department:

- Three copies of the adopted comprehensive plan amendments;
- A listing of additional changes not previously reviewed;
- A listing of findings by the local governing body, if any, which were not included in the ordinance; and
- A statement indicating the relationship of the additional changes to the Department's Objections, Recommendations and Comments Report.

The above amendment and documentation are required for the Department to conduct a compliance review, make a compliance determination and issue the appropriate notice of intent.

In order to expedite the regional planning council's review of the amendments, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to the Executive Director of the South Florida Regional Planning Council.

Please be advised that Section 163.3184(8)(c), F.S., requires the Department to provide a courtesy information statement regarding the Department Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by law to furnish the names and addresses of the citizens requesting this information to the Department. Please provide these required names and addresses to the Department when you transmit your adopted amendment package for compliance review. In the event there are no citizens requesting this information, please inform us of this as well. For efficiency, we encourage that the information sheet be provided in electronic format.

# OBJECTIONS, RECOMMENDATIONS, AND COMMENTS COMPREHENSIVE PLAN AMENDMENT 10-2 Miami-Dade County

#### I. Consistency with Rule 9J-5, F.A.C., and Chapter 163, F.S.

This Objections, Recommendations, and Comments (ORC) Report pertains to Application #9 of Miami-Dade County's 10-2 amendment. Application #9 proposes to amend the description of Open Land Sub-Area 1 in the Future Land Use Element. The text amendment changes the allowable uses in Open Land Subarea 1, as follows: a.) Adds "nurseries and tree farms"; b.) Replaces "seasonal agriculture" with "agriculture production"; c.) Adds "limited raising of livestock"; and d.) Adds a footnote that requires the adoption of a zoning overlay or land development regulations to address the specific types of permitted new uses in these categories and to address flood protection.

- A. The Department identifies the following objection and recommendation related to Application #9.
  - 1. Application #9 has the potential to result in adverse impacts to natural resources. The amendment could adversely impact groundwater quality due to the addition of nurseries, tree farms, and the raising of livestock as permitted uses within Open Land Sub-Area 1. Activities of concern related to nurseries include stock piling material (mulch, raw manure, soil, etc.), extensive use of impervious plastic covering, soil disturbance, increased vehicle traffic, and increased irrigation. Activities of concern related to raising livestock include manure management, pasture management, concentrated feed areas, and erosion control.

<u>Authority</u>: Sections 163.3177(6)(a), (c), and (d), F.S.; and Rules 9J-5.006(3)(b)4, (3)(c)4 and 6; 9J-5.011(2)(b)5, and (2)(c)4; 9J-5.013(2)(b)2 and 4, (2)(c)1 and 6, and (3), F.A.C.

Recommendation: The County should do the following: a.) Revise the amendment to require total on-site retention of stormwater runoff; b.) Require implementation of best management practices, pursuant to the criteria of the Florida Department of Agricultural and Consumer Services; c.) Address and ensure the compatibility and consistency of the proposed development's surface water management plan and resulting water quality with Total Maximum Daily Load (TMDL) criteria for the C-9 Canal and Biscayne Bay; d.) Prohibit any use and/or occupancy of District rights-of-way, especially along the C-9 Canal, unless the District has issued a right-of-way occupancy permit authorizing the proposed activities.

- B. The Department identifies the following comments related to the proposed amendment.
  - 1. Application #4 If it is determined that federally listed and endangered species are present on the 14-acre pine rockland which is part of Area B in Application #4, it should be designated "Environmentally Protected Parks".
  - 2. Application #5 The Future Land Use Element (FLUE) text should be clarified to note the three step process of designating a Community Urban Center (CUC), as follows: 1.) The CUC is designated on the FLUM as an expression of the County Commission's policy direction; 2.) A small area study is completed to determine the specific parcels that are candidates for higher densities and intensities; and 3.) Comprehensive plan amendments are transmitted to the

Department for the FLUM amendments related to the proposed increased densities and intensities.

## II. Consistency with Chapter 187, F.S., State Comprehensive Plan

The proposed amendment is inconsistent with the following provisions of Chapter 187, F.S.:

- A. Section 187.201(7), Water Resources, Policies (b)1, 5, 9, 10: Protect water supplies, sources, and aquifers.
- B. Section 187.201(9), Natural Systems, Policies (b)1 and 7: Conserve wetlands to maintain their environmental value. Protect and restore the ecological functions of wetlands.
- C. Section 187.201(15), Land Use, Policies (b)2 and 6: Encourage a separation of urban and rural land uses. Consider the impact of land use on water quality and quantity.
- D. Section 187.201(25), Plan Implementation, Policy (b)7: Ensure the development of strategic regional policy plans and local plans that implement and accurately reflect state goals and policies and that address problems, issues, and conditions that are of particular concern in a region.

By addressing the concerns noted in Section I, this inconsistency with Chapter 187, Florida Statutes, can be addressed.

## NOTICE OF REVISIONS TO PROCESSING PROCEDURES

#### Effective Date of Revisions to Rule 9J-11 Florida Administrative Code

The Department has revised the procedures for submitting comprehensive plan amendments. These new procedures became effective May 12, 2010.

#### **Reason for Revisions**

The revisions implement statutory changes to Chapter 163, Part II, Florida Statutes, related to allowable exemptions from the twice per calendar year limitations and prohibitions that may affect adoption of comprehensive plan amendments. In addition, changes were made to clarify plan amendment submittal requirements based on the Department's recent experience.

#### **Highlight of Revisions**

The revised procedures relate to the submittal of proposed and adopted comprehensive plan amendments, including small scale amendments, and a revised RPM-BSP-EXEMPT REVIEW Form used when submitting exempt and small scale amendments. The major revisions to Rule 9J-11, include 1) the deletion of the requirements to submit replacement pages and a revised table of contents to the comprehensive plan; 2) an update to the allowable exemptions to the twice per calendar year limitation; 3) an update to the statutory prohibitions that may affect adoption of comprehensive plan amendments; 4) clarification on the submittal of the de minimis impact report associated with the capital improvement annual update amendment; 5) a requirement that all future land use map amendments be submitted in color format; and 6) the revised RPM-BSP-EXEMPT REVIEW Form to address affordable housing and Areas of Critical State Concern.

#### **Effect of Revisions**

The revisions improve the overall comprehensive plan amendment process by helping local governments prepare and submit complete plan amendment packages. The rule provides the local government with a complete list of statutory exemptions and a complete list of possible prohibitions to the amendment process. In addition, the revised rule clarifies submittal requirements and this increases the likelihood that a submittal package will be initially determined complete.

#### **Location of Revisions**

The revisions are located on the Division of Community Planning's website to assist local governments with the submittal of their comprehensive plan amendment packages and may be viewed at "Submitting Comprehensive Plan Amendments and Developments of Regional Impact" <a href="http://www.dca.state.fl.us/fdcp/dcp/Procedures/index.cfm">http://www.dca.state.fl.us/fdcp/dcp/Procedures/index.cfm</a>.

#### **Additional Information**

Ray Eubanks, Plan Processing Administrator

(850) 922-1767

ray.eubanks@dca.state.fl.us





"Scott, W Ray" <scottra@doacs.state.fl.us> 07/13/2010 01:08 PM

To <DCPexternalagencycomments@dca.state.fl.us>

CC

bcc

Subject FDACS LGCP Amendment Review

FDACS has reviewed the following LGCP amendments and has no objections, recommendations, or comments:

Miami-Dade County 10–2 Brevard County 10–1

Please call if you have any questions or comments:

W. Ray Scott
Conservation & Water Policy Federal Programs Coordinator
Office of Agricultural Water Policy
Florida Department of Agriculture and Consumer Services
The Capitol (PL-10)
Tallahassee, FL 32399-0810
(office) 850-410-6714
(mobile) 850-544-9871
(fax) 850-922-4936



# SOUTH FLORIDA WATER MANAGEMENT DISTRICT

11 BD 7/15/10

July 9, 2010

Ray Eubanks, Administrator Plan Review and Processing Department of Community Affairs 2555 Shumard Oak Boulevard Tallahassee, FL 32399-2100

Dear Mr. Eubanks:

Subject: Miami-Dade County, DCA #10-2

Comments on Proposed Comprehensive Plan Amendment Package

The South Florida Water Management District (District) has completed its review of the proposed amendments from Miami-Dade County (County). The District's comments focus on Application No. 9. Under this application, White Rock Quarries, Inc. is proposing to modify the text of Future Land Use Element Open Land Subarea 1 (Snake-Biscayne Canal Basin) to allow nurseries and tree farms. Under the County's revised recommendations, "agricultural production" and "limited raising of livestock" would also be allowed. The County is proposing changes to its land development regulations to better regulate these proposed land uses subsequent to adoption of the proposed text amendments.

As currently proposed, the amendment does not address the potential for the activities to impact water quality, District canals and right of ways, and downstream water bodies including the C-9 Canal and Biscayne Bay. Activities of concern related to nurseries include stock piling material (mulch, raw manure, soil, etc.), extensive use of impervious plastic covering, soil disturbance, increased vehicle traffic and increased irrigation. Activities of concern related to raising livestock include manure management, pasture management, concentrated feed areas and erosion control.

The District offers the following recommendations, which we request be incorporated into your response to the County:

#### Stormwater:

Revise the amendment to require total on-site retention of stormwater runoff.

#### Water Quality:

 Require implementation of best management practices, pursuant to the criteria of the Florida Department of Agricultural and Consumer Services. Ray Eubanks, Administrator July 9, 2010 Page 2

 Address and ensure the compatibility and consistency of the proposed development's surface water management plan and resulting water quality with Total Maximum Daily Load (TMDL) criteria for the C-9 Canal and Biscayne Bay.

### Right Of Way:

 Prohibit any use and/or occupancy of District rights-of-way, especially along the C-9 Canal, unless the District has issued a Right Of Way Occupancy Permit authorizing the proposed activities.

The District offers its technical assistance to the County and the Department of Community Affairs in developing sound, sustainable solutions to meet the County's future water supply needs and protect the region's water resources. For assistance or additional information, please contact Rod Braun, Director, Intergovernmental Policy and Planning Division, at (561) 682-2925 or <a href="mailto:rbraun@sfwmd.gov">rbraun@sfwmd.gov</a>.

Sincerely,

Kim Shugar

Department Director

Kin Slugar

Intergovernmental Programs

South Florida Water Management District

c: Rod Braun, SFWMD
Bob Dennis, DCA
Rachel Kalin, SFRPC
Marc LaFerrier, Miami-Dade County
Jim Quinn, DEP

# STAFF ANALYSIS MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) PROPOSED AMENDMENT PACKAGE #10-2

## Application 4

Proposed Application 4 is a combination of text and map amendments. The amendments would 1) modify the "Miami Metrozoo Entertainment Area" future land use category text in the Miami-Dade County Comprehensive Development Master Plan's (CDMP) Land Use Element to establish Areas I and II; 2) add "Miami Metrozoo Entertainment Area I designation to the Adopted 2015 and 2025 Land Use Plan (LUP) map; and 3) change the land use designations a 286-acre site located on the southwest corner of SW 117th Avenue and SW 152nd Street (see Attachment 3) as follows:

- Area A From: Low Medium Density Residential To: Miami Metrozoo Entertainment Area II
- Area B From: Institutions, Utilities and Communications To: Miami Metrozoo Entertainment Area II
- Area C From: Institutions, Utilities and Communications To: Environmentally Protected Parks
- Area D From Institutions, Utilities and Communications To: Miami Metrozoo Entertainment Area II

The Dade County Zoological Park Development of Regional Impact (DRI) was originally approved in 1975. Less than half of the site has been developed as Metrozoo and the Gold Coast Railroad Museum. In 2005, Miami-Dade County, as property owner, submitted a Notice of Proposed Change (NOPC) to amend the Development Order to allow for construction of a privately operated hotel (150,000 square feet), family entertainment center (20 acres), and water theme park (23 acres), along with improvements to the existing Gold Coast Railroad Museum. On June 14, 2005, the South Florida Regional Planning Council (SFRPC) issued a letter identifying no regional issues with the NOPC. However, the DRI must be consistent with the CDMP and the existing "Parks and Recreation" land use designation does not permit such commercial activity on public park land. Submittal of the CDMP amendment was delayed by the need for a Countywide Referendum, as required by the Miami-Dade County Home Rule Charter, to allow commercial development on the Metrozoo property. The referendum was approved by Miami-Dade County voters on November 7, 2006. On September 8, 2008, the SFRPC found the amendment redesignating 170 acres of the 1,203 acre DRI site, from Parks and Recreation to Miami Metrozoo Entertainment Area generally consistent.

The proposed amendment seeks to establish Area I and Area II within the "Miami Metrozoo Entertainment Area" future land use category. Miami Metrozoo Area I would apply to the site currently designated Miami Metrozoo Entertainment Area. Miami Metrozoo Area II would apply to approximately 216 acres of the 286-acre subject property. The remaining 71 acres would be designated as Environmentally Protected Parks.

The site's surrounding uses include the University of Miami's Center for Southeastern Tropical Advanced Remote Sensing to the south; military facilities, park and vacant to the west; Residential, Office and Commercial to the north; and Office, communications, Military and Industrial to the east. The Lindgren Canal flows to the south and east of the site providing a buffer for residential neighborhoods. The amendment proposes the subject site to be developed to allow for a theme park with ride and attractions and a resort hotel with a conferencing center, restaurant and bar. The hotel would be located along the northwestern portion of the site as a buffer between residential uses.

The proposed amendment would generate additional fire alarms, water and sewer services, and bus and roadway trips. The County is working with Miami-Dade County Fire and Rescue to construct a new Fire Rescue Station as well as include two first aid stations within the proposed development. The Miami-Dade Water and Sewer Department has indicated that a private sewer pump station would be needed.

The site is already served by potable water, wastewater and solid waste services, and transit facilities that have the capacity to accommodate the amount of development that would be allowed by the proposed change. While the change in land use designation would generate more peak hour traffic trips, roadway Level of Service Standards on the surrounding roadway network would not be adversely impacted.

The proposed project could impact environmental, historic and archeological resources. The County Planning Department is working with the Department of Environmental Resource Management and the Office of Historic Preservation to ensure impacts to archeological remnants of the Richmond Naval Air Station, Environmentally Endangered Lands, and Protected Parks are mitigated and minimized. The County would need to find a relocation site and an agreement from the Coast Guard that they are wiling to relocate because a portion of the U.S. Coast Guards operations/facilities are located on the subject property.

## On May 5, 2010, the Miami-Dade County Commission voted (10-0) to adopt with changes and transmit Application 4 to the Florida Department of Community Affairs.

Staff analysis confirms that proposed Application 4 would be compatible with existing land uses; have minimal impact on natural and regional resources and generally consistent with the Goals and Policies of the Strategic Regional Policy Plan for South Florida.

### Application 5

Proposed Application 5 would amend the Adopted 2015 and 2025 Land Use Plan to include a new Community Urban Center for an area of land that is bounded by NW 57th Avenue on the East, the Moors residential development on the west, NW 167th Street on the south, and NW 183rd Street to the north (see Attachment 4), an area known to its residents as Country Club/Palm Springs North.

The intent of a Community Urban Center is to encourage transit alternatives, provide more efficient land use, and create identifiable town centers for diverse communities. The proposed designation would implement the concepts identified in the Country Club/Palm Springs North Charrette Area Plan Report. The subject area is in close proximity to NW 5th Avenue, Miami Gardens Drive, and the Palmetto Expressway, with convenient access to transit and a significant amount of vacant properties for development. The area is currently serviced by Metrobus Routes 29, 49, 75, 183, and the 286/North Pointe Circulator.

## On May 5, 2010, the Miami-Dade County Commission voted (9-0) to adopt and transmit Application 5 to the Florida Department of Community Affairs.

Staff analysis confirms that proposed Application 5 would be compatible with existing land uses; have minimal impact on natural and regional resources and generally consistent with the Goals and Policies of the Strategic Regional Policy Plan for South Florida.

#### Application 6

Proposed Application 6 would delete and replace a previously Proffered and Accepted Declaration of Restrictions for Application 7 of DCA Amendment #06-2. The Council reviewed the original application in July and November of 2006, and found it to be generally consistent with the South Florida Regional Policy Plan.

The revised Proffered and Accepted Declaration of Restrictions is associated with a 37.0 gross acre site at the southwest corner of NW 32<sup>nd</sup> Avenue and NW 79<sup>th</sup> Street (See Attachment 5). In 2006, the land use designation for the subject area was changed from Industrial and Office to Business and Office on the

Land Use Plan. The development potential for the site at that time was for 585,097 square feet of commercial or 2,014 multi-family dwelling units, but the development plan was for a big box retail operation.

The existing Declaration of Restrictions (dated October 30, 2006) restricts residential development and includes, at a minimum, a single retail use of at least 100,000 square feet. The revised proposed Declaration of Restrictions (dated January 28, 2010) would eliminate the requirement for a single retail use and the residential development restriction, and allow a maximum of 1,200 residential units or a mixture of both non-residential and residential uses on the site.

The proposed change would allow for mixed-use development that would be more supportive of public transit than a single use. The application site is in close proximity to Metrorail and Metrobus services, located in a premium transit corridor between the Northside and Tri-Rail Metrorail stations, and Tri-Rail and Amtrak stations are within a third of a mile of the site. The Northside and Tri-Rail Metrorail Stations are also designated as Community Urban Centers on the County Land Use Map.

On May 5, 2010, the Miami-Dade County Commission voted (9-0) to adopt and transmit Application 6 to the Florida Department of Community Affairs.

Staff analysis confirms that proposed Application 6 would be generally consistent with the Goals and Policies of the Strategic Regional Policy Plan for South Florida.

### Application 7

Proposed Application 7 would delete and replace a previously Proffered and Accepted Declaration of Restrictions for Application 3 of DCA amendment #08-1. The Council reviewed the original application in January and July of 2008 and found it to be generally inconsistent with the *South Florida Regional Policy Plan* due to impacts to local schools. However, the current application was not subject to review by the School Board of Miami-Dade County since the development program remains the same.

The revised Proffered and Accepted Declaration of Restrictions is associated with a 54.24-net acre site at the Northwest corner of NW 107th Avenue and NW 12th Street (See Attachment 6). In 2008, the land use designation for the subject area was changed from Industrial and Office and Business and Office to Business and Office on the Land Use Plan; designated as a Regional Activity Center (RAC); and included the expansion of the Metropolitan Urban Center designation.

The existing Declaration of Restrictions (dated April 28, 2008) restricts development to 1,050 dwelling units or 1,701,000 gross square feet Residential; 799,900 gross square feet Retail; 430 Hotel rooms or 225,000 square feet; and 225,000 square feet Office. The applicant is charged to fund a Metrobus terminal (or a Public Transportation Facility, PTF) with a 260-space parking garage within three (3) years from the date that the amendment became final, with the option to request an extension of time for funding the construction. In addition, the applicant must fund specific roadway improvements (NW 12th Street, NW 111 Avenue, NW 14th Street, and NW 107th Avenue); address workforce housing; adhere to design principles, site plan, and certificates of occupancy; and address school concurrency.

The revised proposed Declaration of Restrictions (dated May 4, 2010) does not change the development program of the subject site. The major revisions would create a phased development schedule for the PTF as outlined below. The applicant would be responsible to fund and construct the PTF.

 Phase I: 10 saw-tooth bus bays, parking area, restrooms and temporary surface parking lot for a minimum of 189 spaces no later than August 12, 2012.

- Once Phase I is completed and the applicant is issued a Certificate of Completeness, the applicant shall not be responsible for any operational expenses associated with the improvements and the property will be exempt from any transportation concurrency requirements. In addition, the applicant may seek a Certificate of Occupancy for the first 400,000 square feet of floor area for retail use and its accessory parking and seek site plan approval for such retail space prior to site plan approval for the entire property.
- Phase II: Parking garage capable of 260 spaces for transit users, a kiss-and-ride area, restroom facilities, Commercial area (no more than 10,000 square feet), transit lounge, and landscaping to be constructed within five (5) years from the effective development agreement, which shall be executed once the first zoning application on the property becomes final.

Other changes would require that deed restrictions be recorded for the workforce housing units to remain as such for a period of 30 years.

On May 5, 2010, the Miami-Dade County Commission voted (8-1) to transmit Application 7, without a recommendation, to the Florida Department of Community Affairs.

Staff analysis confirms that proposed Application 7 would be generally consistent with the Goals and Policies of the Strategic Regional Policy Plan for South Florida.

### Application 9

Proposed Application 9 would amend the Open Land Subarea 1 text in the Land Use Element to add nurseries and tree farms as allowable uses. The Open Land Subarea is approximately 7,577 acres and current uses include rural residential, limestone rock-mining and ancillary uses, seasonal agriculture, and compatible institutional uses, public facilities, utility facilities, communication facilities and recreation.

On May 5, 2010, the Miami-Dade County Commission voted (9-0) to adopt and transmit Application 9 to the Florida Department of Community Affairs.

Staff analysis confirms that proposed Application 9 would be generally consistent with the Goals and Policies of the Strategic Regional Policy Plan for South Florida.

#### Application 11

Proposed Application 11 would amend text in the Capital Improvements Element (CIE). Policy LU-2A would be revised to refer to provisions in the "Concurrency Management Program" in the CIE. Language on page IX-15 of the CIE would also be revised to reflect the level of public school facilities concurrency review for zoning actions for greater consistency with the Public School Facility Planning Interlocal Agreement.

On May 5, 2010, the Miami-Dade County Commission voted (9-0) to adopt and transmit Application 11 to the Florida Department of Community Affairs.

Staff analysis confirms that proposed Application 11 is generally consistent with the Goals and Policies of the Strategic Regional Policy Plan for South Florida.

## **Application 12**

Proposed Application 12 would amend text in the Land Use Element to clarify that the super majority vote applies to text changes in the CDMP as well as the Land Use Plan map amendments.

On May 5, 2010, the Miami-Dade County Commission voted (7-1) to adopt and transmit Application 12 to the Florida Department of Community Affairs.

Staff analysis confirms that proposed Application 12 is generally consistent with the Goals and Policies of the Strategic Regional Policy Plan for South Florida.

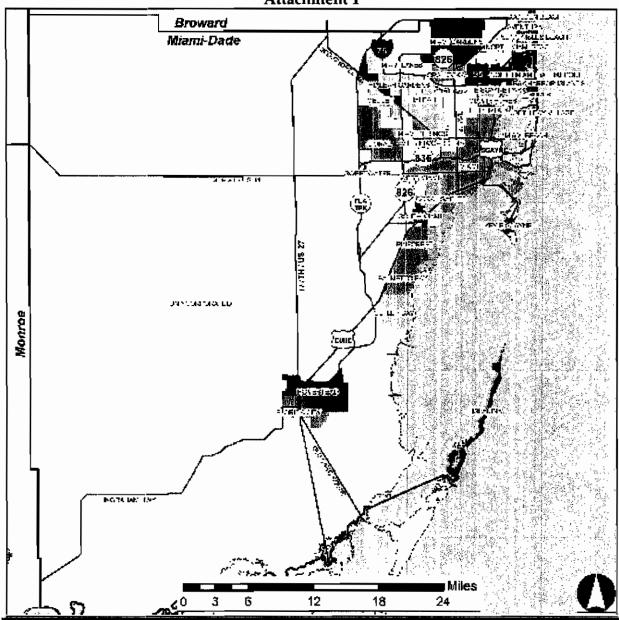
## **Impact Analysis**

Staff analysis confirms Miami-Dade County proposed amendment package #10-2 would not result in compatibility, extra-jurisdictional, or affordable housing issues; or impact significant regional resources and facilities, natural resources, transportation systems, emergency preparedness plan and local mitigation strategies.

Since a further detailed impact analysis is not applicable to the review of the proposed amendments, the related analysis sections found in the Department of Community Affairs (DCA) Amendment Review Form C-7 (Sections 9 through 18) have not been included in this staff report.

## Recommendations of Consistency with Strategic Regional Policy Plan (SRPP)

Find Miami-Dade County proposed amendment package #10-2 generally consistent with the Strategic Regional Policy Plan for South Florida.. Approve this staff report for transmittal to the Florida Department of Community Affairs.



## COMPREHENSIVE PLAN AMENDMENTS

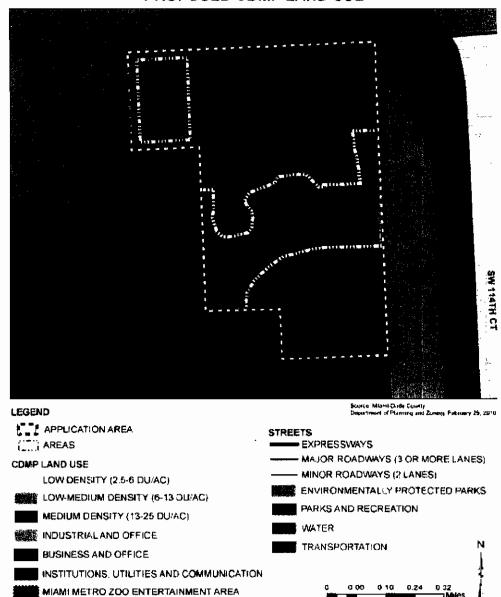
## General Location Map

Miami-Dade County Proposed Amendment Package #10-2

Sources: FDEP, SFWMD, Miami-Dade County, SFRPC.

Note: For planning purposes only. All distances are approximate.

## APPLICATION NO. 4 PROPOSED CDMP LAND USE



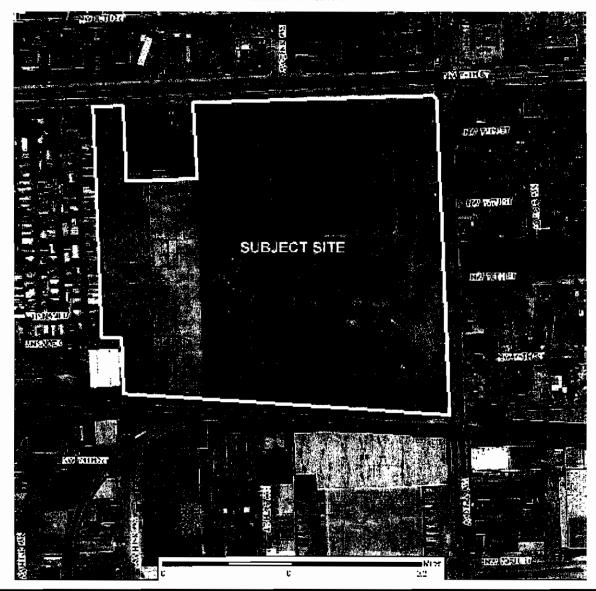
## COMPREHENSIVE PLAN AMENDMENTS

#### Aerial Map

Miami-Dade County
Proposed Amendment Package #10-2

County Amendment No. 4
Miami Metrozoo Entertainment Areas proposed designations.

Sources: Miami-Dade County proposed amendment package #10-2, County Amendment No. 4. Note: For planning purposes only. All distances are approximate.



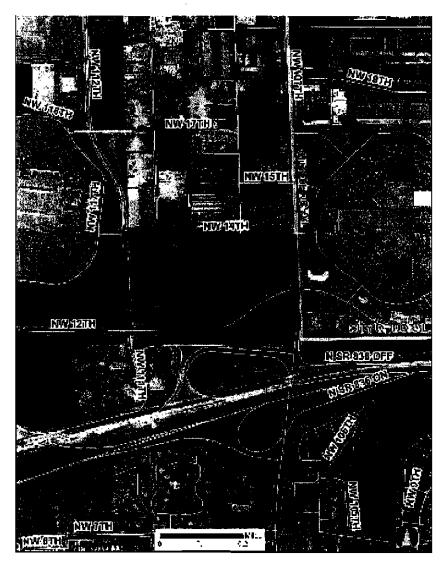
## COMPREHENSIVE PLAN AMENDMENTS

## Aerial Map

Miami-Dade County Proposed Amendment Package #10-2

County Application No. 6 Proposed revision to Declaration of Restrictions of subject site.

Sources: Miami-Dade County, SFRPC.
Note: For planning purposes only. All distances are approximate.



## COMPREHENSIVE PLAN AMENDMENTS

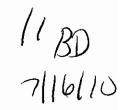
## Aerial Map

Miami-Dade County Proposed Amendment Package #10-2

County Application No. 7 Proposed revision to Declaration of Restrictions of subject site.

Sources: Miami-Dade County, SFRPC.
Note: For planning purposes only. All distances are approximate.

South Florida Regional Planning Council



## **MEMORANDUM**

**AGENDA ITEM #6c** 

DATE:

JULY 12, 2010

TO:

COUNCIL MEMBERS

FROM:

STAFF

SUBJECT:

MIAMI-DADE COUNTY PROPOSED COMPREHENSIVE PLAN AMENDMENT

DCA #10-2

## Community Profile

With a 2009 population estimated at 2,472,344, Miami-Dade County is the most populous county in Florida. The County's population grew by 9.7 percent during this decade, although it experienced a small decline of almost 5,000 between 2008 and 2009, according to estimates of the Bureau of Economic and Business Research (BEBR). The most recent BEBR projections show the County's population increasing by approximately 17,000 new residents per year through 2020, reaching a little under 2.7 million in that year. The percentage of the population that is of working age or younger is larger in Miami-Dade County than the state average.

The structure of the County's economy is heavily service and trade oriented, with approximately 57 percent of total employment in these sectors. The County has established itself as a wholesaling and financial center and major tourist destination. Miami-Dade County ranks ninth in export sales among all metropolitan areas in the country. Almost a quarter of the state's total employment in transportation is located in the county. The Port of Miami is the largest cruise ship port in the world and one of the largest container ports in the southeast. The urbanized portion of the county lies between two national parks, Everglades and Biscayne National Parks. The close relationship of tourism to the preservation of Miami-Dade County's unique native plants and wildlife has been recognized as an economic as well as an environmental issue. In order to manage growth, the County's Comprehensive Development Master Plan (CDMP) establishes an Urban Development Boundary (UDB), which distinguishes the area where urban development may occur from areas where it should not occur. The general location of the County is shown in Attachment 1

#### Amendment Review

The South Florida Regional Planning Council (SFRPC) review of proposed Comprehensive Plan amendments for consistency with the *Strategic Regional Policy Plan for South Florida (SRPP)* primarily addresses effects on regional resources or facilities identified in the *SRPP* and extra-jurisdictional impacts that would be inconsistent with the Comprehensive Plan of the affected local government (§163.3184(5), Fla. Stat.). The Council's review of amendments is conducted in two stages: (1) proposed or transmittal and (2) adoption. Council staff reviews the contents of the amendment package once the Department of Community Affairs certifies its completeness.

Objections and Comments relate to specific inconsistencies with relevant portions of the SRPP, which was adopted pursuant to Rule 29J-2.009, Fla. Administrative Code. Council staff will work with local govern-

ments to address Objections and Comments identified during the review of a proposed amendment between the transmittal and the adoption of the amendment.

The SFRPC did not prepare the amendment package and, therefore, is not precluded from commenting on the proposed Plan or Element pursuant to Section 163.3184(5), Florida Statutes (F.S.), or Rule 9J-11.0084, Florida Administrative Code (F.A.C.); or commenting on the adopted amendment pursuant to Section 163.32465(4)(b), F.S.

The Florida Department of Community Affairs (DCA) notified SFRPC that the amendment package was complete on June 10, 2010.

The amendment review must be transmitted to DCA on July 10, 2010.

Staff review of the amendment will be transmitted to DCA on July 2, 2010. The Council will take final action on the amendment, with a copy transmitted to DCA, on July 12, 2010.

### Staff Analysis

Proposed amendment package #10-2 to the Miami-Dade County Comprehensive Development Master Plan (CDMP) contains one (1) site-specific change to the Land Use Plan (LUP) map, one (1) combined LUP map and text amendment, and five (5) text amendments. Detailed locations of site-specific map amendments or amendment areas are shown in Attachments 2 through 4.

A summary table of the proposed amendments in this package is shown below. For the purposes of this review, the amendments retain their County Application numbers.

SUMMARY OF PROPOSED CDMP MAP AND TEXT AMENDMENTS								
County App. No.	Size (gross acres)	General Location	Proposed Land Use or Text Change	Attach- ment	Staff Recommendation	BCC¹ Vote		
4	286	Southwest corner of SW 152 St & SW 117 Ave to the northeast of the existing Miami Metrozoo	Land Use Element: would revise the Miami Metrozoo Entertainment Area land use designation to establish Areas I and II; designate four (4) area sites to Miami Metrozoo Entertainment Areas I and II on the adopted Land Use Plan; and change the land use designations of four (4) areas on the subject property.	2	General Consistency with the SRPP	10-0		
5	N/A	Area bounded by NW 57Ave, NW 167 St and NW 183 Street	Land Use Plan: would incorporate a new Community Urban Center land use designation.	N/A	General Consistency with the SRPP	9-0		
6	37.0	Southwest corner of NW 32 <sup>nd</sup> Avenue and NW 79 <sup>th</sup> Street	Delete and replace a previously Proffered and Accepted Declaration of Restrictions for Application 7 of DCA amendment #06-2.	3	General Consistency with the SRPP	9-0		

SUMMARY OF PROPOSED CDMP MAP AND TEXT AMENDMENTS								
County App. No.	Size (gross acres)	General Location	Proposed Land Use or Text Change	Attach- ment	Staff Recommendation	BCC¹ Vote		
7	N/A	Northwest corner of NW 107 <sup>th</sup> Avenue and NW 12 <sup>th</sup> Street	Delete and replace a previously Proffered and Accepted Declaration of Restrictions for Application 3 of DCA amendment #08-1.	4	General Consistency with the SRPP	8-1		
9	N/A	N/A	Land Use Element: would modify the Open Land Subarea 1 to allow nurseries and farms.	N/A	General Consistency with the SRPP	9-0		
11	N/A	N/A	Text amendments to the Future Land Use and Capital Improvements Element would revise the County Concurrency Management Program related to public school facility planning.	N/A	General Consistency with the SRPP	9-0		
12	N/A	N/A	Land Use Element: would amend Policies to clarify that the super majority vote applies to text and Land Use Plan map amendments.	N/A	General Consistency with the SRPP	7-1		

<sup>&</sup>lt;sup>1</sup> BCC = Board of County Commissioners; N/A = Not Applicable

The Miami-Dade County Board of County Commissioners unanimously approved the transmittal of adopted amendment package #10-2 at its May 5, 2010 meeting.

For the purposes of this review, the amendments retain their County Application numbers. A detailed analysis with recommendation of consistency with the *Strategic Regional Policy Plan for South Florida* (SRPP) of the Miami-Dade County adopted amendment package #10-2 is included in the attached staff report.



## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

July 9, 2010

Ray Eubanks, Administrator
Plan Review and Processing
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

11 BD 7/14/10

COMMUNITY PLANNING

Dear Mr. Eubanks:

Subject: Miami-Dade County, DCA #10-2

Comments on Proposed Comprehensive Plan Amendment Package

The South Florida Water Management District (District) has completed its review of the proposed amendments from Miami-Dade County (County). The District's comments focus on Application No. 9. Under this application, White Rock Quarries, Inc. is proposing to modify the text of Future Land Use Element Open Land Subarea 1 (Snake-Biscayne Canal Basin) to allow nurseries and tree farms. Under the County's revised recommendations, "agricultural production" and "limited raising of livestock" would also be allowed. The County is proposing changes to its land development regulations to better regulate these proposed land uses subsequent to adoption of the proposed text amendments.

As currently proposed, the amendment does not address the potential for the activities to impact water quality, District canals and right of ways, and downstream water bodies including the C-9 Canal and Biscayne Bay. Activities of concern related to nurseries include stock piling material (mulch, raw manure, soil, etc.), extensive use of impervious plastic covering, soil disturbance, increased vehicle traffic and increased irrigation. Activities of concern related to raising livestock include manure management, pasture management, concentrated feed areas and erosion control.

The District offers the following recommendations, which we request be incorporated into your response to the County:

#### Stormwater:

Revise the amendment to require total on-site retention of stormwater runoff.

## Water Quality:

 Require implementation of best management practices, pursuant to the criteria of the Florida Department of Agricultural and Consumer Services. Ray Eubanks, Administrator July 9, 2010 Page 2

 Address and ensure the compatibility and consistency of the proposed development's surface water management plan and resulting water quality with Total Maximum Daily Load (TMDL) criteria for the C-9 Canal and Biscayne Bay.

## Right Of Way:

 Prohibit any use and/or occupancy of District rights-of-way, especially along the C-9 Canal, unless the District has issued a Right Of Way Occupancy Permit authorizing the proposed activities.

The District offers its technical assistance to the County and the Department of Community Affairs in developing sound, sustainable solutions to meet the County's future water supply needs and protect the region's water resources. For assistance or additional information, please contact Rod Braun, Director, Intergovernmental Policy and Planning Division, at (561) 682-2925 or rbraun@sfwmd.gov.

Sincerely,

Kim Shugar

Department Director

Jin Sugar

Intergovernmental Programs

South Florida Water Management District

C: Rod Braun, SFWMD Bob Dennis, DCA Rachel Kalin, SFRPC Marc LaFerrier, Miami-Dade County

Jim Quinn, DEP



11 BD 7/14/10

## FLORIDA DEPARTMENT OF STATE

## Dawn K. Roberts

Interim Secretary of State
DIVISION OF HISTORICAL RESOURCES

July 15, 2010

Mr. Ray Eubanks
Department of Community Affairs
Bureau of State Planning
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: Historic Preservation Review of the Miami-Dade County 10-2 Comprehensive Plan Amendment

Dear Mr. Eubanks:

According to this agency's responsibilities under Section 163, *Florida Statutes*, and Chapter 9J-5, *Florida Administrative Code*, we reviewed the above document to determine if data regarding historic resources were given sufficient consideration in the request to amend the Miami-Dade County Comprehensive Plan.

We reviewed proposed text and land use amendments to the Miami-Dade County Comprehensive Plan to consider the potential effects of these actions on historic resources. We note that for Amendment Application #4, Miami Metrozoo Entertainment Area, the county preservation staff recommends that a cultural resource assessment survey be conducted prior to any construction activities. We concur with this recommendation.

Nevertheless, while our cursory review suggests that many of the proposed changes may have no adverse effects on historic resources, it is the county's responsibility to ensure that none of the proposed revisions will have an adverse effect on significant archaeological or historic resources.

If you have any questions regarding our comments, please feel free to contact Susan M. Harp of the Division's Compliance Review staff at 850.245.6333.

Sincerely,

Laura A. Kammerer, Historic Preservationist Supervisor

Laura le Kammerer

Compliance Review Section Bureau of Historic Preservation

xc: Mr. Bob Dennis

// BD



"Card, Carlton"
<Carlton.Card@dot.state.fl.us
>

07/21/2010 05:42 PM

To "DCPexternalagencycomments@dca.state.fl.us" <DCPexternalagencycomments@dca.state.fl.us>

cc "Bill.Pable@dca.state.fl.us" <Bill.Pable@dca.state.fl.us>

bcc

Subject Florida Department of Transportation District 6 Comments to the Miami-Dade County CDMP Amendments 10-2

In accordance with your request, and the provisions of Chapter 163, Florida Statutes and Chapter 9J-5, Florida Administrative Code, this office has completed a review of the Miami-Dade October 2009 Applications to Amend the Comprehensive Development Master Plan (CDMP), which was forwarded to our office on June 16, 2010. There are no impacts anticipated to the State Highway System facilities resulting from amendment applications 1 through 12. The District makes the following comments in regards to Application #7:

- The deletion and replacement of the previously accepted Declaration of Restriction for this location could potentially impact the existing and planned transit routes along the corridor of NW 107 Ave and NW 12 St.
- The deletion and replacement of the previously accepted Declaration of Restrictions will not remove the applicant's obligation of roadway improvements to NW 12<sup>th</sup> Street, NW 111<sup>th</sup> Avenue, NW 14<sup>th</sup> Street, and NW 107<sup>th</sup> Avenue.
- The applicant's desire to be granted an exemption from any transportation concurrency requirements after the issuance of a certificate of completion for the proposed Phase 1 improvements in the newly recommended draft covenant dated January 22<sup>nd</sup>, 2010 could potentially be in conflict with F.S. 163.3180.

The District has no other specific objections or recommendations at this time. Please contact Carlton Card at 305-470-5875, if you have any questions concerning our response.

Carlton S. Card Transportation Planner Florida Department of Transportation District VI 1000 NW 111th Ave Miami, FL 33172 (305) 470-5875



Miani-Dade Co.

## VIA E-MAIL AND UPS

June 21, 2010

Mike McDaniel, Chief Office of Comprehensive Planning Division of Community Planning Department of Community Affairs 2555 Shumard Oak Boulevard Tallahassee, Florida 32399

DIVISION OF

ULOS & & NUL

Re:

Application No. 7, 107th Avenue Gamma, LLC

Miami-Dade County October 2009 CDMP Amendment Cycle

Dear Mr. McDaniel:

This law firm represents 107th Avenue Gamma, LLC ("Applicant") with regard to the above-captioned application ("Application") to amend Miami-Dade County's Comprehensive Development Master Plan (CDMP). Specifically, the Application seeks to delete in its entirety the Declaration of Restrictions accepted by the Board of County Commissioners (BCC) of Miami-Dade County in connection with Application No. 3 of the April 2007 CDMP Amendment Cycle ("Covenant") and to proffer of a new Declaration of Restrictions. On May 5, 2010, the BCC moved to recommend transmittal of the Application to the Department of Community Affairs (DCA) without a recommendation. letter shall serve to provide the DCA with the background and merits of the Application.

Description of Property. The property is 54.20 net acres in size and located on the northwest corner of the intersection of NW 107th Avenue and NW 12th Street/SR 836 ramp in Section 31, Township 53, Range 40, of unincorporated Miami-Dade County ("Property"). Aerial photographs of the Property are attached as Exhibit A. The Property consists of two parcels divided by NW 12th Street. The larger parcel is situated at the northwest corner of NW 12th Street and NW 107th Avenue. The smaller parcel is irregularly shaped and situated at the southwest corner of NW 12th Street and NW 107th Avenue. The Property is currently designated as Business and Office on the CDMP's Future Land Use Plan (LUP) Map and is zoned IU-2 (Industrial, Heavy Manufacturing District), IU-C (Industrial District, Conditional) and GU (Interim District).

The Property is located between two regional shopping centers – International Mall to the east and Dolphin Mall to the west. The area north of the site is a mix of office and light industrial developments, while the area south of the Property serves as headquarters to the Florida Department of Transportation, District VI. Currently, the Property is vacant and has no existing use. There is a lake in the center of the Property that is currently being filled.

Amendment No. 3 of April 2007 CDMP Amendment Cycle. The Property was the subject of a standard CDMP amendment in the April 2007 Amendment Cycle ("Application No. 3"). Specifically, Application No. 3 sought (1) a LUP amendment to change the designation of the Property from "Industrial and Office" and "Business and Office" to "Business and Office" and (2) an amendment to the Land Use Plan Map and a text amendment to the Land Use Element of the CDMP to designate the Property as a Regional Activity Center. Moreover, during consideration of Application No. 3, the Department of Planning and Zoning (DP&Z) recommended to the BCC that the graphic symbol for the Metropolitan Urban Center (MUC) designation on the LUP map of the CDMP be relocated to the Property from Miami International Mall which is now located within the boundaries of the City of Doral. On April 24, 2008, the BCC voted to adopt Application No. 3 with acceptance of the Covenant and with DP&Z's recommendation to relocate the graphic symbol for the MUC designation on the LUP map of the CDMP to the Property.

<u>Proffered Covenant in Connection with Application No. 3.</u> The Covenant voluntarily proffered to Miami-Dade County during consideration of Application No. 3 required the Applicant to, among other things:

- Fund and construct within the development a MetroBus Terminal for multiple MetroBus routes and to reserve within the Property sufficient area for a future possible Metrorail Station (hereinafter referred to as the "Public Transportation Facility" or "PTF"). Under the Covenant, the foregoing PTF improvements are required to be constructed within three years from the date that Application No. 3 became final and nonappealable. In addition, the PTF improvements are required to receive a temporary certificate of occupancy prior to the issuance of any certificate of occupancy for any building within the Property. The PTF improvements include the following:
  - a. 10 saw-tooth busbays;
  - b. A driveway network serving the bus bays;
  - c. A parking garage with 260 parking spaces;
  - d. Landscaping;

- e. A kiss and ride area;
- f. Restroom facilities;
- g. Enclosed transit lounge; and
- h. Transit-oriented commercial uses.
- Fund and construct several roadway improvements. The foregoing roadway improvements are required to be open to traffic prior to the issuance of any certificate of occupancy for any building within the Property with the exception of those buildings that constitute the PTF.
- Submit a site plan that satisfies specific design guidelines, pedestrian accessways, building design, landscaping, and parking.
- Represent that all buildings located within the Property will be "green" buildings and certified in accordance with the standards set forth by the United States Green Building Council.
- Incorporate, where practicable, water conservation measures into the design, construction, and operation of any residential and commercial development on the Property.
- Reserve a minimum of 10% of the residential units that will be constructed within the Property for workforce housing.

See Covenant, attached as Exhibit B.

<u>Initial Modification Requests to Covenant</u>. The Applicant is requesting a deletion of the existing Covenant and is proposing to proffer a new covenant to Miami-Dade County. The current proposed modifications to the Covenant are significantly different from the proposed modifications to the Covenant when the application was initially filed. The Applicant's initial requests, as set forth in the original application, were generally described as follows:

- (1) Extension of Time to Construct the PTF Improvements -- The Applicant requested to increase the time period permitted to commence construction of the PTF to fifteen years from the date the current application becomes final and nonappealable (as opposed to three years from the date that Application No. 3 became final and nonappealable).
- (2) Initial Retail Use -- The Applicant requested the ability to obtain a certificate of occupancy for the first 400,000 square



feet of floor area for retail use within the Property without first having to obtain a temporary certificate of occupancy for the structures that will constitute the PTF. Moreover, in order to permit this initial 400,000 square feet of retail use within the Property to move forward, the Applicant requested a similar exclusion from the prohibition on obtaining a certificate of occupancy prior to the issuance of a temporary certificate of occupancy for the Dolphin Fire Station or the designation of a new fire rescue facility to service the Property.

- (3) Location of Parking Garage Associated with the PTF Improvements -- The Applicant requested the flexibility to construct the parking garage associated with the PTF Improvements either where the bus bays, the driveway network serving the bus bays, and the transit-oriented commercial uses will be located or within a maximum radius of 1,500 feet from the PTF provided that the Applicant agrees to fund and operate a shuttle service or construct a pedestrian bridge over N.W. 12th Street between the parking garage and the PTF.
- (4) Clarifications to Covenant. Finally, the Applicant requested to clarify the Covenant's language in a few instances. For example, with regard to the Applicant's obligation to fund the construction of the PTF improvements, the Applicant requested to clarify in the Covenant that if Miami-Dade County does not permit the creation of a community development district, then the Applicant will be permitted to not only identify, but also to use an alternative source of funding for the construction of the improvements.

Covenant Version No. 2. Shortly after filing the Application with DP&Z, the Applicant met with DP&Z staff and Miami-Dade Transit ("MDT") staff regarding the merits of the application. At this meeting, MDT expressed concern not only about the fifteen year extension of time to construct the PTF, but also about the Applicant's request to have the flexibility to construct the parking garage within 1,500 feet from the PTF. Instead, MDT suggested for the Applicant to consider a phased development program for construction of the PTF, and to consider withdrawing the request associated with the possible relocation the parking garage. The Applicant heeded these suggestions, and revised the

proposed covenant accordingly. This version of the proposed covenant, known as Covenant Version No. 2, was the version of the covenant used by DP&Z staff to prepare their analysis and recommendation for the Application.

<u>Current Status of Modifications to Covenant.</u> As noted in DP&Z's recommendation, DP&Z and MDT staff had several additional concerns regarding Covenant Version No. 2. These concerns included, but were not limited to, the number of parking spaces provided by the Applicant during Phase 1 of the PTF's development program, the ten-year timeframe to construct the parking garage in Phase 2, the absence of having to obtain Leadership in Energy and Environmental Design (LEED) for the PTF, and the deletion from the Covenant of language relating to certain aspects of the workforce housing program.

Following the submittal of Covenant Version No. 2, the Applicant continued (and continues) to work very closely with DP&Z and MDT staff to address their concerns. The most recent version of the proposed covenant is Covenant Version No. 7.2 See Exhibit C. This latest version of the covenant significantly bridges the differences between staff and the Applicant. To summarize, Covenant Version No. 7 now provides that the Applicant will fund and construct the PTF pursuant to the phased development schedule described below:

 Phase I -- Ten (10) saw-tooth bus bays, the driveway network, bus operator restrooms, and a temporary surface parking lot capable of accommodating a minimum of 189 parking spaces - Owner shall fund and construct the improvements that constitute Phase I of the PTF no later than August 31, 2012.3

<sup>&</sup>lt;sup>3</sup> In the event of such a challenge, the August 31, 2012 deadline shall be tolled until such time as Application No. 7 in the October 2009 CDMP Amendment Cycle or any subsequent development approvals become final and nonappealable.



<sup>&</sup>lt;sup>1</sup> The phased development schedule would permit MDT to have a fully functional PTF by August 31, 2012. In the first phase of the development schedule, the parking areas would be located on a surface parking lot. Then, as part of phase 2, the Applicant would construct a parking garage capable of accommodating 260 parking spaces. The Applicant would fund and construct phase 2 of the PTF within ten (10) years from the date that the first zoning application for the Property becomes final.

<sup>&</sup>lt;sup>2</sup> Covenant Version No. 7 is the version of the proposed covenant considered by the BCC during the transmittal hearing.

• Phase II -- Parking garage capable of accommodating 260 parking spaces designated for transit users, a restroom facility for bus operators and transit users, a kiss-and-ride area, the transit-oriented retail, transit lounge, and landscaping for this area. Owner will fund and construct the improvements that constitute Phase II of the public transportation facility within five (5) years from the effective date of a development agreement between the County and the Applicant. The development agreement, in turn, shall be executed once the first zoning application on the Property becomes final.

In addition to the foregoing modifications with regard to the PTF's phased development schedule, Covenant Version No. 7 also addresses DP&Z's other concerns by requiring the PTF to be LEED certified, by reintroducing the relevant workforce housing language, and by requiring the issuance of a certificate of completion for the Phase 1 improvements before the first 400,000 square feet of floor area for the retail use can receive a certificate of occupancy.

It is our understanding that the remaining differences between staff and the Applicant are as follows:

- Whether the County will agree that the Applicant will not be responsible for any application fees associated with the development approvals for the Phase I improvements, including, but no limited to, zoning, platting, and permitting;
- Whether the County will agree that the Applicant will not be responsible for any operational expenses associated with the Phase I improvements, including, but not limited to, property taxes for the Triangular Parcel, insurance, and maintenance costs (i.e. utilities and repairs); and
- Whether the County will agree that the issuance of a certificate of completion for Phase I of the Public Transportation Facility shall exempt the Property from any transportation concurrency requirements.

The Applicant is confident that the foregoing remaining differences will be resolved by the time the BCC considers whether to adopt the application in October 2010.

<u>Iustification for Modifications to Covenant</u>. The Covenant modifications currently proposed by the Applicant are generally categorized into the following two requests: (1) extension of time to construct the PTF improvements and (2) a



carve out to permit an initial 400,000 square feet of retail use to move forward. These modifications to the Covenant are appropriate for the following reasons:

(1) Practical Reasons. The Applicant remains committed to funding and constructing the PTF improvements. Under the proposed covenant, however, the Applicant is requesting additional time to construct the multimillion dollar parking garage in Phase 2 of the PTF's phased development schedule. The Applicant will self-finance the approximately \$4 million cost associated with construction of the improvements associated with Phase I of the PTF. The current economic crisis continues to have a severe impact on the real estate and credit markets. As noted in the economic report prepared by Miami Economic Associates, Inc., "the current economic climate as reflected in the real estate and credit markets makes it virtually impossible to finance and construct the proposed transit facilities at the present time." See Exhibit D. This difficult economic climate has made it virtually impossible to finance the construction of the parking garage at the present time.

With regard to the request for the initial retail use, several retailers and developers have expressed interest to the Applicant in connection with the potential development of the southwestern corner of the Property. As noted in the existing Covenant, no structure within the Property can obtain a certificate of occupancy until either the Dolphin Fire Station (No. 68) has received a temporary certificate of occupancy or there is a new Fire Rescue Station designated by the Fire Rescue Department that can service the project. Accordingly, in order to permit this initial 400,000 square feet of retail use within the Property to move forward, the Applicant is requesting an exclusion from the prohibition on obtaining a certificate of occupancy prior to the issuance of a temporary certificate of occupancy for the Dolphin Fire Station or the designation of a new fire rescue facility to service the Property.

The initial 400,000 square feet of retail use within the Property will provide an immediate and significant stimulant to the County's job market. Miami-Dade County's unemployment rate pushed past eleven (11) percent in July 2009 for the first time since 1983. In fact, Miami-Dade County's jobless rate Florida's highest among major urban counties. See the http://www.miamiherald.com/business/story/1197365.html. Here, a large retail development within the Property will provided a significant boost to the local employment market. As a result, the current application seeks to amend the Covenant in order to permit this initial retail use to move forward in the near future.

Moreover, the initial 400,000 square feet of retail use will be critical in order to obtain financing for the multimillion dollar parking garage that the Applicant will construct in Phase 2 of the PTF's phased development schedule. If the Property does not generate income, no lending institution will lend the funds required for construction of the parking garage. The positive cash flow generated by the initial retail use will help the Applicant secure the necessary financing for construction of the parking garage.

Finally, please note that Miami-Dade Fire Rescue ("MDFR") does not object to the Application. MDFR indicates in their recommendation that existing fire stations are able to provide fire and emergency service for the potential alarms generated by the 400,000 square feet of retail use. While the Applicant has development rights to construct nearly 3 million square feet on the Property, the Application seeks to carve-out only 400,000 square feet from the foregoing MDFR prohibition. As a result of this, and because the Applicant remains committed to funding and constructing the roadway improvements indicated in Exhibit B of the Covenant prior to the issuance of any certificate of occupancy for any building on the Property, MDFR is supportive of the application.

(2) Consistency with the CDMP. The proposed modifications to the Covenant are consistent with several objective goals and policies of the CDMP. Specifically, the approval of the Application will be consistent with the following objectives, goals, and policies within the CDMP:

## **POLICY MT-2A**

Transit system improvements shall be coordinated with, and support the staging and shaping of development as planned in the Land Use Element, through Miami-Dade County's transportation planning process.

MDT staff has indicated to the Applicant that they have service plans to implement an express bus service connecting the Airport West area to the Miami Intermodal Center (MIC) to coincide with the MIC opening currently scheduled for May 2012. Covenant Version No. 7 agrees to complete Phase 1 of the PTF by August 2012. Due to the length of time involved with securing the necessary development approvals and the time involved with constructing the facility, August 2012 is the earliest that the Applicant is able to complete Phase 1 of the PTF. As a result, MDT will have a fully functional PTF within two months of the opening of the MIC. Clearly, the Application supports the staging and shaping of Property's development through MDT's transportation planning process.

OBJECTIVE LU-7



Miami-Dade County shall require all new development and redevelopment in existing and planned transit corridors and urban centers to be planned and designed to promote transit-oriented development (TOD), and transit use, which mixes residential, retail, office, open space and public uses in a pedestrian-friendly environment that promotes the use of rapid transit services.

Because the Property will incorporate a PTF, the Property's development entitlements will permit a transit-oriented development that will mix residential, retail, office and open spaces within a pedestrian-friendly environment that will promote transit use.

## POLICY LU-10C

Miami-Dade County shall encourage energy conservation by adopting Florida Green Building Coalition, US Green Building Council Leadership in Energy and Environmental Design (LEED), or other acceptable commercial building standards for County-owned facilities.

All buildings developed on the Property, including the PTF, will be LEED certified in accordance with the standards set forth by the United States Green Building Council.

## **POLICY LU-10E**

Miami-Dade County shall investigate incentives for developers and building owners to incorporate energy efficiency and other conservation measures that meet recognized green building standards into the design, construction or rehabilitation of their buildings.

All buildings developed on the Property, including the PTF, will be LEED certified in accordance with the standards set forth by the United States Green Building Council.

(3) Consistency with the Strategic Regional Policy Plan. The Application is consistent with several goals and policies of the Strategic Regional Policy Plan. Specifically, the Application is consistent with the following goals and policies: Goal 4, Policy 4.1, Policy 4.11, Goal 8, Policy 8.4, Policy 8.5, Policy 8.8, Goal 11, Policy 11.1, Policy 11.2, and Policy 11.5. While all of the foregoing goals and policies are significant issues addressed by the Application, the most relevant to the Covenant's proposed modifications relating to the PTF are listed below:



Goal 8 – Enhance the Region's mobility, efficiency, safety, quality of life, and economic health through improvements to road, port, and public transportation infrastructure.

The proposed PTF will greatly enhance the mobility and quality of life for residents of west Miami-Dade County. The PTF similarly enhances MDT's transportation infrastructure.

Policy 8.4 - Expand use of public transportation, including buses, commuter rail, waterborne transit, and alternative transportation modes that provide services for pedestrians, bikers, and the transportation disadvantaged, and increase its role as a major component in the overall regional transportation system.

The PTF expands the use of public transportation in Miami-Dade County.

Policy 8.5 – Identify all possible existing and future funding sources at the local, state, and federal levels and from the private sector, and facilitate access to these sources in order to meet the Region's transportation needs.

The PTF will be completely funded by the Applicant, and therefore the private sector will be helping address Miami-Dade County's transportation needs.

*Policy 8.8* – Ensure the safety of the transportation system by implementing measures to reduce vehicle, pedestrian, and bicycle crashes, and increase the safety of commercial vehicle operations.

The PTF will provide a safe and convenient alternative for commuters traveling throughout various parts of County. A new PTF in west Miami-Dade County will increase the ridership of public transportation. This will help alleviate traffic congestion and ultimately lead to fewer vehicle, pedestrian, and bicycle crashes.

Conclusion. The proposed modifications to the Covenant are necessary in order to ultimately realize a model urban infill development in the County, which will provide the County's West Dade region with a needed central gathering place for its residents. The PTF's phased development schedule will enable the Applicant to meet his obligations under the Covenant, while providing the County with a fully functional PTF in the very near future. Also, please note that the County's Community Zoning Appeals Board for Area 10 and the Planning Advisory Board recommended adoption and transmittal of the



Application. For all of the foregoing reasons, we request that DCA determine the Application to be in compliance with Chapter 163, Florida Statutes and applicable law.

If you have any questions or comments in the interim with regard to the foregoing, please give me a call at (305) 377-6231.

Sincerely yours,

Michael W. Larkin

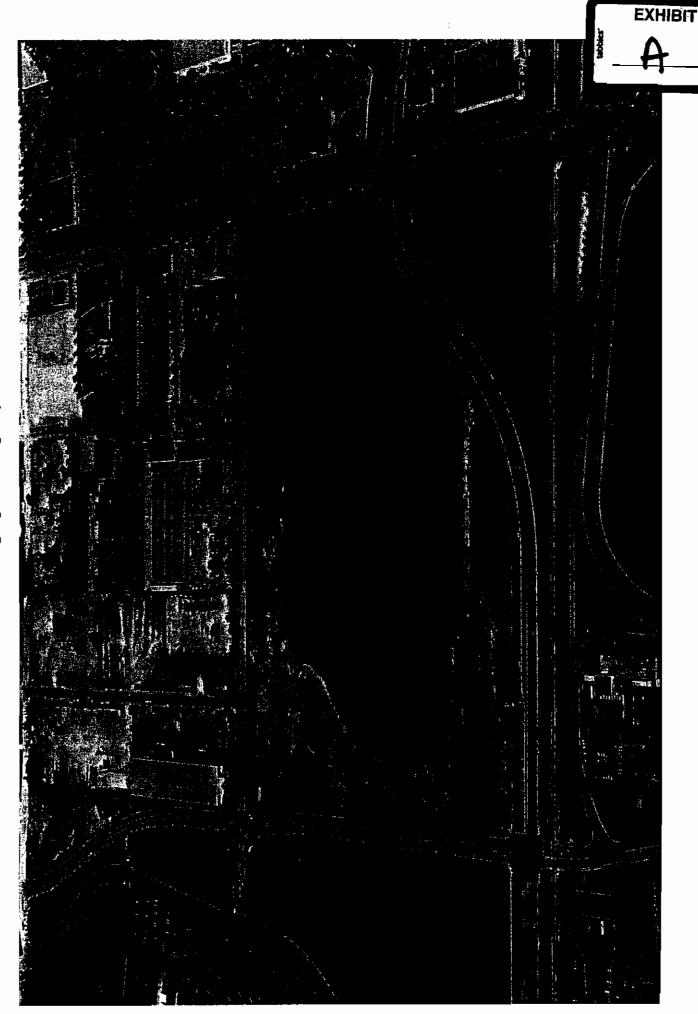
## **Enclosures**

cc: Bill Pable - DCA

Carolyn Dekle – SFRPC
Bob Cambric – SFRPC

Marc LaFerrier - MDC DP&Z

Robert Balzebre Michael A. Gil, Esq.



Aerial Photograph of Property

4000



Aerial Photograph of Property Looking Northeast

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OR Bk 26433 Pss 1 RECORDED 06/17/2008 10:12:1 HARVEY RUVIN, CLERK OF COURT MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:

Michael W. Larkin, Esq.

Address: Bercow & Radell, P.A.

200 S. Biscayne Boulevard, Suite 850

Miami, FL 33131

(Space reserved for Clerk)

## DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned Owner, 107th Avenue Gamma, LLC ("Owner") holds the fee simple title to a 54.20 net acre parcel of land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property," which is supported by the attorney's opinion; and

WHEREAS, the Property is the subject of a standard Comprehensive Development Master Plan ("CDMP") Amendment Application No. 3 of the April 2007 Amendment Cycle; and

WHEREAS, the Owner has sought a Land Use Plan amendment to change the designation of the Property from "Industrial and Office" and "Business and Office" to "Business and Office"; and

WHEREAS, the Owner has sought an amendment to the Land Use Plan Map and a text amendment to the Land Use Element of the CDMP to designate the Property as a Regional Activity Center ("RAC") in accordance with relevant Florida Statutes and provisions of the Miami-Dade County Comprehensive Development Master Plan; and

WHEREAS, the Owner desires to promote public transportation by incorporating within the Property a public transportation facility; and

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NOW THEREFORE, in order to assure Miami-Dade County (the "County") that the representations made by the Owner during consideration of Amendment Application No. 3 will be abided by the Owner, its successors and assigns, freely, voluntarily, and without duress, makes the following Declaration of Restrictions covering and running with the Property:

Maximum Development Program. The maximum development program for the Property ("MDP") shall be:

Residential	1050 dwelling units or 1,701,000 gross square feet		
Retail/Service	799,900 gross square feet		
Hotel	430 rooms or 225,000 gross square feet		
Office	225,000 gross square feet		

Notwithstanding any transportation concurrency exemption that is granted for the Property, the Owner may simultaneously increase and decrease the MDP's land use categories provided that the cumulative impacts of the reallocated land uses may not exceed (a) the PM peak hour trips established for the MDP, which equates to 2,807 net PM peak hour trips, or (b) average daily potable water demand or maximum daily potable water demand of the MDP, which equate to .361 million gallons per day and .812 million gallons per day, respectively. The square footage (or floor area) in the MDP, as the MDP may be amended in the future if the Property is designated as a Metropolitan Urban Center, is based upon the entirety of the Property, including the portion of the Property that Owner will dedicate in the future to the County as described below.

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Transit Improvements. The Owner intends to develop the Property as a project that promotes public transportation, and subject to County approval, the Owner shall incorporate within the development of the Property a MetroBus Terminal for multiple MetroBus routes. Additionally, Owner agrees to reserve within the portion of the Property that will be dedicated to the County as described below sufficient area for a future possible MetroRail Station, to be built only if and when all Federal Transit Administration requirements are met, so as not to preclude any future transit service enhancements to the Property. Such MetroRail station or MetroBus Terminal shall be referred to as the "Public Transportation Facility."

If the Public Transportation Facility is a MetroBus Terminal, the terminal shall include a maximum of ten (10) saw-tooth bus bays, the driveway network serving the bus bays, ("Parking Area"), 260 parking spaces designated for transit users, a restroom facility for bus operators and transit users, a kiss-and-ride area, transit-oriented commercial uses ("Commercial Area"), transit lounge, and landscaping for this area. The Owner agrees to construct a parking garage where the bus bays, Commercial Area, and Parking Area will be located ("Parking Structure"). The support columns and other structural and load bearing components within the Parking Structure shall be designed in a manner so that a fourth story can be added to the Parking Structure in the future.

Owner shall fund and construct the foregoing described MetroBus Terminal improvements within three (3) years from the date that Amendment Application No. 3 becomes final and nonappealable. Owner shall coordinate the design of the Parking Structure with Miami-Dade Transit. If Owner is unable for good cause to construct the foregoing improvements within three (3) years from the date that Amendment Application No. 3 becomes final and nonappealable, the Owner may request an extension of time from the Director of Miami-Dade Transit or his designee provided that a building permit for the improvements has issued prior to the end of the three

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year period. If all or a portion of the funding is provided through local, state, or federal grant or similar subsidy, this shall reduce the Owner's responsibility to fund the construction of the MetroBus Terminal improvements by a proportionate amount.

Owner's obligation to fund and construct the foregoing described transit improvements is contingent upon the creation of a community development district, as defined by Florida Statutes, for the Property by the County. The community development district's powers may include, but not be limited to, the funding and construction of any other project, facility, or service required by a development approval, interlocal agreement, zoning condition, or permit issued by a governmental authority with jurisdiction in the district. If the County permits the creation of the community development district, the Owner agrees to apply for the creation of a multipurpose special taxing district to maintain the development's infrastructure such as roadways, storm drainage, water, sewer, and landscape should the community development district be dissolved or fail to fulfill its maintenance obligations. The special taxing district shall remain dormant until such time as Miami-Dade County determines to implement it. If the County does not permit the creation of a community development district, Owner shall identify an alternative source of funding for the construction of the foregoing described improvements.

With the exception of the area of the Property on which the driveway network leading from NW 12th Street to the MetroBus Terminal Improvements will be located, Owner shall dedicate to the County on terms acceptable to the County and subject to County approval the portion of the Property on which the MetroBus Terminal Improvements will be located once the foregoing described improvements have received a certificate of occupancy from the County. For the purpose of joint use of the foregoing described driveway network by Owner and County, at time of dedication, Owner shall grant an easement to the County that will permit ingress and egress from NW 12th Street to the Public Transportation Facility for all county employees and

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patrons of the facility. The Owner shall retain the right to install signage with regard to any use within the Property on the Parking Structure. The Owner shall retain exclusive lease rights to the Commercial Area, which include, but are not limited to, the right to all rent monies.

Roadway Improvements. The Owner shall fund and construct the roadway improvements described in Exhibit B. The foregoing roadway improvements shall be open to traffic prior to the issuance of any Certificate of Occupancy for any building within the Property, except for those buildings that constitute the Public Transportation Facility. The roadway improvements described in Exhibit B shall be accepted by the County as a contribution in lieu of payment of all or a portion of the required Road Impact fees under Section 33E of the Code of Miami-Dade County.

Certificate of Occupancy Date. Owner agrees not to obtain a certificate of occupancy for any building within the Property, except for those buildings that constitute the Public Transportation Facility, until such time as either the Dolphin Fire Rescue Station (No. 68) has received a temporary certificate of occupancy or any other new Fire Rescue Station designated by the Fire Rescue Department that will service the Property. Finally, Owner agrees not to obtain a certificate of occupancy for any building within the Property until such time as all of the buildings that constitute the Public Transportation Facility have received a temporary certificate of occupancy.

Residential Uses. Owner agrees not to file a zoning application proposing a residential use on the Property until such time as Miami-Dade County has adopted a public school facilities element, entered into an Interlocal Agreement with the Miami-Dade County Public School System with regard to school concurrency, and amended its Comprehensive Development Master Plan to implement school concurrency.

<u>Fire Rescue</u>. Owner agrees to support the creation of a non ad valorem fire assessment fee.

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Project Design. The Owner represents that the Property will be developed in a manner that assures a high quality, unified development design in accordance with coordinated and cohesive design principles which reflect the general guidelines contained in Exhibit "C" ("Design Guidelines"). In that regard, with the exception of those buildings that will constitute the Public Transportation Facility, prior to any development approvals being sought for residential, retail, hotel, or office uses on the Property, the Owner agrees to seek and obtain site plan approval for the entire Property which reflects substantial conformity with the Design Guidelines or, alternatively, submit for approval to the Director of the Planning and Zoning Department (or its successor planning agency), or his/her designee, and upon receiving said approval, record an architectural code or equivalent design standards to govern development of the entire Property, which are substantially in accordance with the attached Design Guidelines.

<u>LEED Certification</u>. All buildings developed on the Property will be Leadership in Energy and Environmental Design (LEED) certified in accordance with the standards set forth by the United States Green Building Council.

Workforce Housing. Owner agrees that a minimum of 10% of the residential units on the Property shall be designated for workforce housing and shall meet the criteria of workforce housing in Miami-Dade County. Workforce housing shall be deemed to be the sale or rental of property for persons within the income range of 65% to 140% of the median family income for Miami-Dade County as published annually by the U.S. Department of Housing and Urban Development. Notwithstanding anything to the contrary in this Declaration of Restrictions, the Owner may utilize any residential density bonuses granted by Miami-Dade County, or successor municipality, for the development of workforce housing on the Property.

The Owner shall, upon site plan approval or prior to obtaining the initial building permit for a residential structure on the Property, whichever is the required

Final Covenant BCC Hearing April 24, 2008

date according to the relevant County regulation, identify those units within such structure, if any, that satisfy this workforce housing requirement. A declaration of restrictive covenants, in form acceptable to the County, shall be recorded in the public records of Miami-Dade County, Florida stating that the unit is a workforce housing unit and shall remain as such for a period of 30 years from the time of recordation of the declaration of restrictive covenants.

<u>Water Conservation Regulations.</u> The Owner shall incorporate the measures listed in Exhibit D, where practicable, into the design, construction and operation of any residential development on the Property. Similarly, the Owner shall incorporate the measures listed in Exhibit E, where practicable, into the design, construction and operation of any commercial development on the Property.

<u>Subdivision of Property.</u> In the event the Property is subdivided into multiple ownerships, responsibility for the obligations contained in this Declaration that are related to the provision of workforce housing units in the absence of a duly enacted ordinance shall be allocated on a pro-rata per acre basis. Workforce housing units on any particular subparcel of the Property shall be developed simultaneously with any market rate housing units on that subparcel.

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 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.

Final Covenant BCC Hearing April 24, 2008

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 land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of the fee simple title to the Property, provided that the same is also approved by the Board of County Commissioners of Miami-Dade County, Florida. Any such modification 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 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 that amends, modifies, or declines to adopt the provisions of Section 2-116.1 of the Miami-Dade County Code, then modifications 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 the provisions of the municipality's ordinances that apply to the adoption of district boundary changes. Should this Declaration be so modified, amended, or released, the Director of the Department of Planning and Zoning or the executive officer of a

Final Covenant BCC Hearing April 24, 2008

(Public Hearing)

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 office, shall execute a written instrument effectuating and acknowledging such modification, amendment, or release.

<u>Enforcement</u>. 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.

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 any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

<u>Election of Remedies</u>. 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.

<u>Presumption of Compliance</u>. 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.

<u>Severability</u>. 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.

Final Covenant BCC Hearing April 24, 2008

(Public Hearing)

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. 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 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 Pages Follow]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this		
day of FESAUATY, 2008.		
Signature Estate Print Name	ay: Robert P. Balzebre  Title: Manager	
Print Name		
STATE OF FLORIDA ) SS		
COUNTY OF MIAMI-DADE		
The foregoing instrument was acknowledged before me this 12 <sup>th</sup> day of the 107 <sup>th</sup> and 1100 personally known to me or has produced as identification, and acknowledged that he did execute this instrument freely and voluntarily for the purposes stated herein.		
My Commission Expires:	Notary Public, State of Fromm4.  VERNON D. MARTIN	
Notary Public State of Florida Vernon D Martin My Commission DD594817 Expires 10/04/2010	VERNON D. MARTIN Print Name	

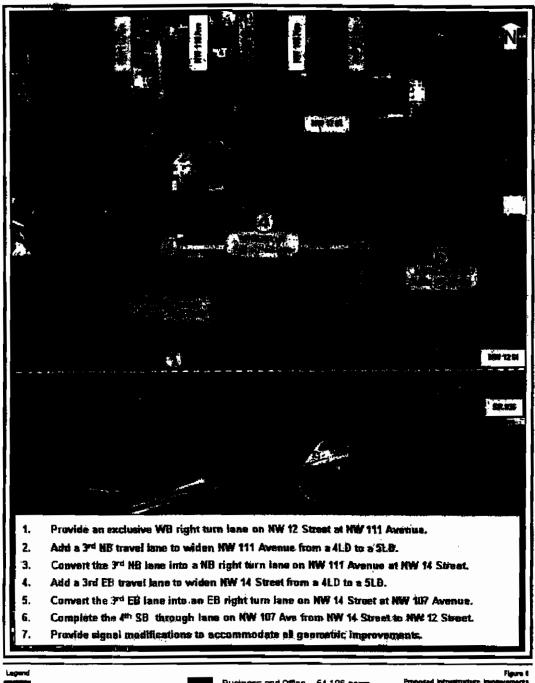
## Exhibit "A"

## Legal Description

The South 1/2 of the South 1/2 of the East 2/5 of Section 31, Township 53 South, Range 40 East of Miami-Dade County, Florida; Less existing Right of Way of Records.

## Exhibit "B"

## Roadway Improvements



Business and Office — 54.196 acres

Freposed infrastructure improvement

54.196 Acre Amendment Site

With a RAC Overtay Designation

September 20

## Exhibit "C"

#### Design Guidelines

- The plan for development of the Property shall allow for a mix of uses, which will include commercial and residential uses.
- 2. The proposed buildings shall be designed using compatible and complementary architectural styles and designs.
- Design features shall be included at appropriate locations of the buildings, in order to maintain architectural and design continuity.
- Consistent sign criteria and standards shall be established at the time of initial rezoning to encourage aesthetic compatibility within the sign program.
- Large expanses of opaque or blank building wall shall be minimized and shall have landscaped areas providing a visual barrier, to the maximum extent feasible.
- 6. Uniform street furniture and lighting standards shall be provided throughout the Property.
- 7. Pedestrian crosswalks shall be clearly delineated on any proposed private roads within the Property.
- 8. The development pattern shall incorporate elements of the Miami-Dade County Urban Design Guidelines.
- 9. The streets shall be designed for pedestrian mobility, interest, safety, and comfort as well as vehicular mobility.
- The proposed development shall contain open spaces that may include public squares, greens, and pedestrian promenades.
- 11. The buildings and their landscapes within the proposed development shall be built to the sidewalk edge to the greatest extent possible in a manner that frames the adjacent street to create a public space in the street corridor that is comfortable, interesting, as well as safe for pedestrians.
- 12. The architectural elements of the buildings at street level shall have a human scale, abundant windows and doors, and design variations at short intervals to create interest for the passing pedestrian.

13. Parking areas shall be minimized at grade between the street and main building entrances to the extent possible. Subtermanean parking between the street and main building entrances is, however, permitted.

#### Exhibit "D"

#### Water Conservation Measures for Residential Development

- Installing only High Efficiency Toilets (HET), which shall be defined as 1.2 gallons per flush, that meet the standard specifications of the Unified North America Requirements (UNAR) and display the Environmental Protection Agency's WaterSense label.
- Using only one control valve, or one set of hot and cold valves required for each High Efficiency Showerhead, which shall be defined to provide no more than 1.5 gallon per minute (gpm).
- Using Efficiency faucets which shall be defined to provide 1.0 gpm.
- Using High Efficiency (HE) Clothes Washer(s) with a water factor of 6 or less
  (Tier 3b) as identified by the Consortium for Energy Efficiency at
  http://www.ceel.org/reid/seha/rwsh.rwsh-prod.pdf, Energy Star (and WaterSense
  certified when available) for residential units equipped with clothes washer
  connections.
- Using dishwashers rated with use of 6.5 gallons/cycle or less, Energy Star and WaterSense certified.
- Installing sub-metering for all multi-unit residential development which shall
  include separate meter and monthly records kept of all major water-using
  functions such as cooling towers and individual buildings.
- Applying Florida Friendly Landscapes guidelines and principles to all landscape installations in compliance with Florida Yards & Neighborhoods criteria.
- Using gutter downspouts, roof runoff, and rain harvesting to encourage increased recharge and other non-potable uses on the property, thru the use of elements and features such as rain barrels and directing runoff to landscaped areas.
- Providing "Florida Friendly Landscapes" within all public rights-of-way.
- Using drip irrigation or micro-sprinklers when appropriate.
- Using porous surfaces (bricks, gravel, turf block, mulch, pervious concrete, etc)
   whenever possible on walkways, driveways, and patios.

- Including Florida Yards and Neighborhoods Program information on "Florida Friendly Landscapes" in the sales literature provided to homebuyers.
- Developing the landscape plan and plant palette based on site characteristics (soil, drainage, structural limitations, utilities, overhangs, lights, etc.), which shall include:
  - o Per the County's Landscaping Ordinance, existing native trees, palms and associated native understory, shall be retained and preserved along with identified undergrowth and be a focal point of the landscape.
  - o 80% of plant materials to be utilized on site shall be from the Florida-Friendly Plant List and shall have a moderate to high drought tolerance.
  - o Ali plants will be grouped in the landscape plan by similar water and maintenance requirements and shall be spaced to allow for maturation.
  - o Turf areas will be evenly shaped for ease of maintenance and will be no less than 4 feet wide and will not be placed on any berms.
  - o No more than 30% of the total area required for landscaping may be turf or grass.
  - o Soils analysis should be completed and used in the plant selection process where applicable and a copy should be provided to the home buyer.
  - Limit use of rock mulch due to heat loading; rock mulch shall not exceed 5% of total landscaped area.
  - o Use of environmentally friendly organic mulches that are applied 3 inches deep around plants and trees with two inches clear around each plant.
- Using a low volume irrigation system to irrigate all landscape beds.
- Irrigating turf by zones separate from zones for irrigation of shrubs and ground cover plantings.
- Using swing joints or flex pipe when installing sprinklers to help prevent broken pipes and sprinklers.
- Designing irrigation systems for minimum overlap.
- Installing soil moisture sensors or other water saving technologies.

#### Exhibit "E"

## Water Conservation Measures for Commercial Development

- Using waterless technologies where available.
- Maximizing use of on-site sources of water.
- Choosing equipment that is water and energy efficient.
- Installing automatic shut offs, solenoids and controllers to turn water off when not in use.
- Installing flow restrictors when possible.
- Eliminating once-through cooling.



This instrument was prepared by:

Name:

Michael W. Larkin, Esq.

Address: Bercow Radell & Fernandez, P.A.

200 S. Biscayne Boulevard, Suite 850

Miami, FL 33131

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#### **DECLARATION OF RESTRICTIONS**

WHEREAS, the undersigned Owner, 107th Avenue Gamma, LLC ("Owner") holds the fee simple title to a 54.20 net acre parcel of land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property," which is supported by the attorney's opinion; and

WHEREAS, the Property is was the subject of a standard Comprehensive Development Master Plan ("CDMP") Amendment Application No. 3 of in the April 2007 Amendment Cycle; and

WHEREAS, CDMP Amendment Application No. 3 sought (1) a Land Use Plan (LUP) amendment to change the designation of the Property from "Industrial and Office" and "Business and Office" to "Business and Office" and (2) an amendment to the Land Use Plan Map and a text amendment to the Land Use Element of the CDMP to designate the Property as a Regional Activity Center ("RAC") in accordance with relevant Florida Statutes and provisions of the Miami-Dade County Comprehensive Development Master Plan; and

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Delated: Covenant Version No. 2 January 22, 2010

Covenant Version No. 7 - May 04, 2010,

(Public Hearing)

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WHEREAS, the Owner has sought a Land Use Plan (LUP) amendment to change the designation of the Property from "Industrial and Office" and "Business and Office"; to "Business and Office"; and

MHEREAS, the Owner has also sought an amendment to the Land Use Plan
Map and a text amendment to the Land Use Element of the CDMP to designate the
Property as a Regional Activity Center ("RAC") in accordance with relevant Florida
Statutes and provisions of the Miami Dade County Comprehensive Development
Master Plan; and

WHEREAS, during consideration of CDMP Amendment Application No. 3, the Department of Planning and Zoning ("DP&Z") recommended to the Board of County Commissioners ("BCC") that the graphic symbol for the Metropolitan Urban Center (MUC) designation on the LUP map of the CDMP be relocated to the Property from Miami International Mail which is now located within the boundaries of the City of Doral; and

WHEREAS, on April 24, 2008, the BCC voted to adopt CDMP Amendment

Application No. 3 with acceptance of the proffered covenant and with DP&Z's recommendation to relocate the graphic symbol for the MUC designation on the LUP map of the CDMP to the Property; and

WHEREAS, the Owner desires to promote public transportation by incorporating within the Property a public transportation facility; and

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Covenant Version No. 7 - May 04, 2010

(Public Hearing)

NOW THEREFORE, in order to assure Miami-Dade County (the "County") that the representations made by the Owner during consideration of Amendment Application No. 3 7 in the October 2009 CDMP Amendment Cycle will be abided by the Owner, its successors and assigns, freely, voluntarily, and without duress, makes the following Declaration of Restrictions covering and running with the Property:

<u>Maximum Development Program.</u> The maximum development program for the Property ("MDP") shall be:

Residential	1050 dwelling units or 1,701,000 gross square feet
Retail/Service	799,900 gross square feet
Hotel	430 rooms or 225,000 gross square feet
Office	225,000 gross square feet

Notwithstanding the foregoing limitations any transportation concurrency exemption that is granted for the Property, the Owner may simultaneously increase and decrease the MDP's land use categories provided that the cumulative impacts of the reallocated land uses may not exceed (a) the PM peak hour trips established for the MDP, which equates to 2,807 net PM peak hour trips, or (b) average daily potable water demand or maximum daily potable water demand of the MDP, which equate to .361 million gallons per day and .812 million gallons per day, respectively. The square footage (or floor area) in the MDP, as the MDP may be amended in the future if the Property is designated as a Metropolitan Urban Center, is based upon the entirety of the Property, including the portion of the Property that Owner will dedicate in the future to the County as described below. "Retail/Service" as set forth above shall mean any proposed retail, service, or wholesale business establishment or group of

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Transit Improvements. The Owner intends to develop the Property as a project that promotes public transportation, and subject to County approval, and therefore the Owner shall incorporate within the portion of the Property legally described in Exhibit A.1 ("Triangular Parcel") a MetroBus Terminal for multiple MetroBus routes. Additionally, Owner agrees to reserve within the portion of the Property that will be dedicated to the County as described below sufficient area for a future possible MetroRail Station, to be built only if and when all Federal Transit Administration requirements are met, so as not to preclude any future transit service enhancements to the Property. Such MetroRail station or MetroBus Terminal shall be referred to as the "Public Transportation Facility," or "PTF."

If the Public Transportation Facility is a MetroBus Terminal, the terminal shall include a maximum of ten (10) saw-tooth bus bays, the driveway network serving the bus bays, ("Parking Area"), 260 parking spaces designated for transit users, a restroom facility for bus operators and transit users, a kiss-and-ride area, transit-oriented commercial uses ("Commercial Area") not to exceed a maximum of 10,000 square feet, transit lounge, and landscaping for this area. The Owner agrees to fund and construct a parking garage where the bus bays, Commercial Area, and Parking Area will be located ("Parking Structure") pursuant to the phased development schedule for the PTF set forth in this covenant. The support columns and other structural and load bearing components within the Parking Structure shall be designed in a manner so that a fourth story can be added to the Parking Structure in the future.

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(Public Hearing)

Owner shall-fund and construct—the foregoing described MetroBus Terminal improvements within three-(3) years from the date that Amendment-Application No. 3 becomes final and nonappealable.

The foregoing described MetroBus Terminal improvements shall be constructed pursuant to the phased development schedule described below:

- Phase I -- Ten (10) saw-tooth bus bays, the Parking Area, bus operator restrooms, and a temporary surface parking lot capable of accommodating a minimum of 189 parking spaces Owner shall fund and construct the improvements that constitute Phase I of the PTF no later than August 31, 2012. Notwithstanding the foregoing, this timeframe shall be tolled if Application No. 7 in the October 2009 CDMP Amendment Cycle or any of the necessary development approvals becomes challenged by a third party. In the event of such a challenge, the August 31, 2012 deadline shall be tolled until such time as Application No. 7 in the October 2009 CDMP Amendment Cycle or any subsequent development approvals become final and nonappealable. Moreover, Owner shall not be responsible for any application fees associated with the development approvals for the Phase I improvements, including, but no limited to, zoning, platting, and permitting.
- Phase II Parking garage capable of accommodating 260 parking spaces designated for transit users, a restroom facility for bus operators and transit users, a kiss-and-ride area, the Commercial Area, transit lounge, and landscaping for this area. Owner shall fund and construct the improvements that constitute Phase II of the PTF within five (5) years from the effective date of the development agreement referred to below.

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During the period of time that the improvements that constitute Phase II are being constructed, in an effort to avoid interruption of the MetroBus Terminal, if necessary, the Owner shall provide Miami-Dade Transit with a temporary staging area on a portion of the Property to assure Miami-Dade Transit the continued capability to operate up to a maximum of seven (7) bus routes and accommodate a minimum of 139 parking spaces (the "Temporary Staging Area"). Specifically, the Temporary Staging Area shall be located either within the Triangular Parcel or, if located within the southeastern corner of the Property's parent tract (the portion of the Property located on the north side NW 12th Street), the Temporary Staging Area shall be located no more than a maximum radius of 700 feet from the northern boundary of the Triangular Parcel. This Temporary Staging Area shall cease to exist once a certificate of occupancy is obtained for the improvements that constitute Phase II of the PTF. Owner-shall coordinate the design of the Parking Structure with Miami Dade Transit. If all or a portion of the funding is provided through local, state, or federal grant or similar subsidy, this shall reduce the Owner's responsibility to fund the construction of the MetroBus Terminal improvements by a proportionate amount.

If the improvements that constitute Phase I of the PTF are substantially constructed prior to August 31, 2012, the Owner may request an extension of time from the Director of Miami-Dade Transit or his designee for a maximum of one (1) additional year. Owner agrees that the decision of whether to grant the foregoing extension of time shall be at the sole discretion of the Director of Miami-Dade Transit or his designee, provided that a building permit for the improvements has issued prior to the end of the three ten year period. Similarly, if Owner is unable to obtain a certificate of occupancy for the Phase II improvements within five (5) years from the effective date of the development agreement, prior to the expiration of the five year period of time, Owner may request an extension of time from the Director of Miami-Dade Transit or his designee for a maximum of three (3) additional years.

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Deleted: With regard to Phase I of the PTF, the Owner agrees to provide an additional 50 parking spaces on the Triangular Parcel within five years after a certificate of completion is obtained for the improvements that constitute Phase I of the PTF.

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Owner's obligation to fund and construct the foregoing described transit improvements is contingent upon the creation of a community development district, as defined by Florida Statutes, for the Property by the County. The community development district's powers may include, but not be limited to, the funding and construction of any other project, facility, or service required by a development approval, interlocal agreement, zoning condition, or permit issued by a governmental authority with jurisdiction in the district. If the County permits the creation of the community development district, the Owner agrees to apply for the creation of a multipurpose special taxing district to maintain the development's infrastructure such as roadways, storm drainage, water, sewer, and landscape should the community development district be dissolved or fail to fulfill its maintenance obligations. The special taxing district shall remain dormant until such time as Miami-Dade County determines to implement it. If the County does not permit the creation of a community development district, Owner shall identify and be permitted to use an alternative source of funding for the construction of the foregoing described improvements.

With the exception of the area of the Property on which the driveway network leading from NW 12th Street to the MetroBus Terminal Improvements will be located, Owner shall dedicate to the County en-terms acceptable to the County and subject to County approval the portion of the Property on which the MetroBus Terminal Improvements will be located once the foregoing described improvements that constitute Phase II of the PTF have received a certificate of occupancy from the County. For the purpose of joint use of the foregoing described driveway network by Owner and County, at time of dedication, Owner shall grant an easement to the County that will permit ingress and egress from NW 12th Street to the Public Transportation Facility for all county employees and patrons of the facility upon the issuance of a certificate of completion for Phase I of the PTF. Once the certificate of completion issues for Phase I of the PTF, Owner shall not be responsible for any operational expenses associated of the PTF.

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Development Agreement. Owner shall enter into a development agreement with the County pursuant to Section 33G-8 of the Code of Miami-Dade County, as amended, in connection with the PTF. The development agreement will, at a minimum, address the following subjects: operation of the PTF; maintenance of the PTF; design of the PTF; the location, size, design and other related details of the Temporary Staging Area; any County or other public funding for Phase II; the dedication of land for the MetroBus Terminal; as well as dedication of land for the future possible MetroRail Station; either funding or funding and construction of Phase II of the PTF; design, construction and funding of the future possible MetroRail Station; and any other terms and conditions necessary to address the foregoing. Owner shall request approval of the development agreement at the time it processes the first zoning application for the Property, which shall not include any application for zoning approval, if necessary, plat approval, or building permit approval for Phase I of the The development agreement shall be reviewed by the County contemporaneously with the processing of such-zoning application, and shall be executed by the Owner and the County after the approval of such zoning application for the Property becomes final and non-appealable.

Roadway Improvements. The Owner shall fund and construct the roadway improvements described in Exhibit B. The foregoing roadway improvements shall be

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Certificate of Occupancy Date. Owner agrees not to obtain a certificate of occupancy for any building within the Property, except for those buildings that constitute the Public Transportation Facility, until such time as either the Dolphin Fire Rescue Station (No. 68) has received a temporary certificate of occupancy or any other new Fire Rescue Station designated by the Fire Rescue Department that will service the Property. Finally, Owner agrees not to obtain a certificate of occupancy for any other building within the Property until such time as all of the buildings that constitute the Public Transportation Facility have received a temporary certificate of occupancy. Notwithstanding the foregoing, Owner may seek a certificate of occupancy for the first 400,000 square feet of floor area for retail use within the Property and its accessory parking ("Retail Square Footage"). Owner agrees that the certificate of completion for the improvements that constitute Phase I of the PTF must issue prior to the issuance of the certificate of occupancy for the Retail Square Footage.

Residential Uses. Owner agrees not to file a zoning application proposing a residential use on the Property until such time as Miami-Dade County has adopted a public school facilities element, entered into an Interlocal Agreement with the Miami-Dade County Public School System with regard to school concurrency, and amended its Comprehensive Development Master Plan to implement school concurrency.

<u>Fire Rescue.</u> Owner agrees to support the creation of a non ad valorem fire assessment fee.

<u>Project Design.</u> The Owner represents that the Property will be developed in a manner that assures a high quality, unified development design in accordance with

Deleted: Initial Retail Use. With the exception of the readway improvements and the development agreement described in this covenant, the obligations set forth in this covenant shall not apply to the first 400,000 square feet of floor area for retail use.

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Covenant Version No. 7 - May 04, 2010

(Public Hearing)

coordinated and cohesive design principles which reflect the general guidelines contained in Exhibit "C" ("Design Guidelines"). In that regard, with the exception of those buildings that will constitute the Public Transportation Facility, prior to any development approvals being sought for residential, retail, hotel, or office uses on the Property, the Owner agrees to seek and obtain site plan approval for the entire Property which reflects substantial conformity with the Design Guidelines. Notwithstanding the foregoing, Owner may obtain site plan approval for the Retail Square Footage prior to obtaining site plan approval for the entire Property. Owner agrees that any site plan approval with regard to the Retail Square Footage will be in substantial conformity with the Design Guidelines. or, alternatively, submit for approval to the Director of the Planning and Zoning Department (or its successor planning agency), or his/her designee, and upon-receiving said approval, record an architectural code or equivalent design standards to govern development of the entire Property, which are substantially in accordance with the attached Design Guidelines.

<u>LEED Certification</u>. All buildings developed on the Property, will be Leadership in Energy and Environmental Design (LEED) certified in accordance with the standards set forth by the United States Green Building Council.

Workforce Housing. Owner agrees that a minimum of 10% of the residential units on the Property shall be designated for workforce housing and shall meet the criteria of workforce housing in Miami-Dade County. Workforce housing shall be deemed to be the sale or rental of property for persons within the income range of 65% to 140% of the median family income for Miami-Dade County as published annually by the U.S. Department of Housing and Urban Development. Notwithstanding anything to the contrary in this Declaration of Restrictions, the Owner may utilize any residential density bonuses granted by Miami-Dade County, or successor municipality, for the development of workforce housing on the Property. A declaration of restrictive covenants, in form acceptable to the County, shall be recorded in the public records of

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In the event the Owner seeks any density and intensity bonuses as provided by the Workforce Housing Development Program ("Program"), Chapter 33, Article XIIA of the Code of Miami-Dade County, then the Owner shall voluntarily comply with the provisions of the Program. If the Owner does not seek any density and intensity bonuses as provided by the Program, then the Owner is not obligated to comply with the provisions of the Program. Notwithstanding the foregoing, the Owner shall ensure that a minimum of 10% of the residential units within the Property satisfy the criteria for workforce housing.

The Owner shall, upon site plan approval or prior to obtaining the initial building permit for a residential structure on the Property, whichever is the required date according to the relevant County regulation, identify those units within such structure, if any, that satisfy this workforce housing requirement.

<u>Water Conservation Regulations.</u> The Owner shall incorporate the measures listed in Exhibit D, where practicable, into the design, construction and operation of any residential development on the Property. Similarly, the Owner shall incorporate the measures listed in Exhibit E, where practicable, into the design, construction and operation of any commercial development on the Property.

<u>Subdivision of Property.</u> In the event the Property is subdivided into multiple ownerships, responsibility for the obligations contained in this Declaration that are related to the provision of workforce housing units in the absence of a duly enacted ordinance shall be allocated on a pro-rata per acre basis <u>only for such parcels which are designated for residential uses</u>. Workforce housing units on any particular subparcel of the Property shall be developed simultaneously with any <u>market rate</u> <u>non-designated workforce</u> housing units on that subparcel.

Deleted: A declaration of restrictive covenants, in form acceptable to the County, shall be recorded in the public records of Miami-Dade County, Florida stating that the unit is a workforce housing unit and shall remain as such for a period of 30 years from the time of recordation of the declaration of restrictive covenants.

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Deleted: Covenant Version No. 2 -January 22, 2010 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 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 land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of the fee simple title to the Property, provided that the same is also approved by the Board of County Commissioners of Miami-Dade County, Florida. Any such modification or release shall be subject to the provisions governing amendments to Comprehensive Flans, 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 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

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Defeted: Covenant Version No. 2 January 22, 2010

County, or successor regulations governing modifications to the CDMP. In the event that the Property is incorporated within a new municipality that amends, modifies, or declines to adopt the provisions of Section 2-116.1 of the Miami-Dade County Code, then modifications 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 the provisions of the municipality's ordinances that apply to the adoption of district boundary changes. Should this Declaration be so modified, amended, or released, the Director of the Department of Planning and Zoning 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 office, shall execute a written instrument effectuating and acknowledging such modification, amendment, or release.

<u>Enforcement</u>. 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.

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 any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

<u>Election of Remedies</u>. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be

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<u>Presumption of Compliance</u>. 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.

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. 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 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,

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(Space reserved for Clerk)

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 Pages Follow]

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Covenant Version No. 7 - May 04, 2010.

(Public Hearing)

## Exhibit "A"

## Legal Description

The South 1/2 of the South 1/2 of the East 2/5 of Section 31, Township 63 South, Renge 40 East of Miemi-Dade County, Florida; Less existing Right of Way of Records.

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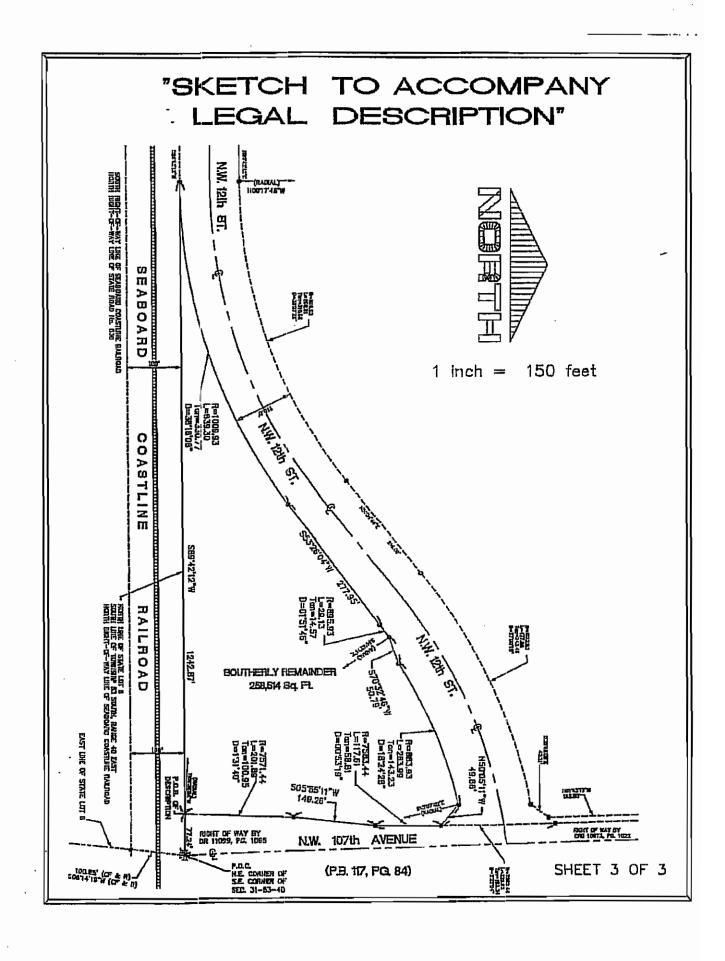
## "SKETCH TO ACCOMPANY LEGAL DESCRIPTION"

#### LEGAL DESCRIPTION:

All that portion lying Southerly of NW 12<sup>th</sup> Street right-of-way in the South ¼ of the South ¼ of the East 2/5, Section 31, Township 53 South, Range 40 East, less Official Records Book 11099, Page 1065, lying and being in Miami-Dade County, Florida; more particularly described as follows:

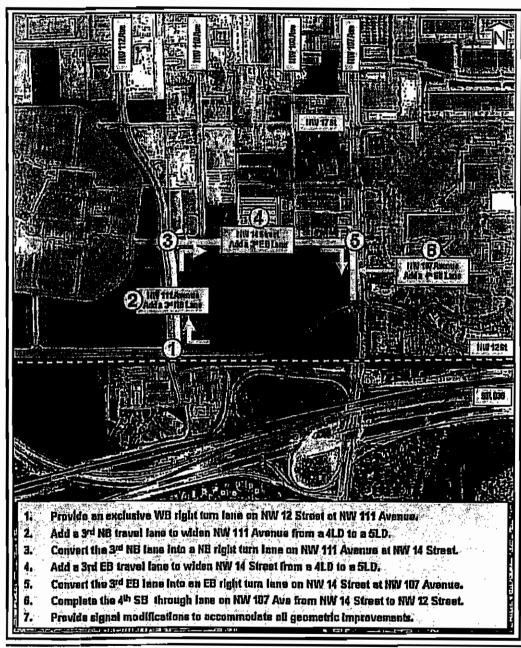
Commence at the Southeast corner of Southeast 14, Section 31, Township 53 South, Range 40 East, Thence South 89'42'12" West along the South line of sald Southeast X, Section 31, Township 53 South, Range 40 East for a distance of 77.24 feet to the Point of Beginning; thence Northerly along a circular curve concave to the West; said curve being the Westerly right-of-way line of NW 107th Avenue; said curve radius point bears North 86°36'04" West, having a radius of 7,571.44 feet, a central angle of 01"31'40" an arc distance of 201.89 feet, to a point; thence North 05"55'11" East along the Westerly right-of-way line of NW 107 Avenue for a distance of 149.26 feet to a point of commence of a circular curve concave to the West; thence Northerly along said curve and the Westerly right-of-way line of NW 107 Avenue; said curve having a radius of 7,583.44 feet, a central angle of 00°53′19" for an arc distance of 117.60 feet to a point; thence North 50'05'11" West along the Southerly right-of-way line of N.W. 12 Street for a distance of 49.66 feet to a point of commence on a non-tangent circular curve concave to the South; thence Southwesterly along said curve and the Southerly right-of-way line of N.W. 12th Street. Said curve radial point bears South 13'07'02" East having a radius of 883.93 feet, a central angle of 18°24'28", an arc distance of 283.99 feet to a point; thence South 70°32'46" West along the Southerly right-of-way line of N.W. 12th Street for a distance of 50.79 feet to a point of commence on a nontangent circular curve concave to the Southeast; thence Southwesterly along the Southerly right-of-way line of N.W. 12th Street; said curve radial point bears South 34\*42'11" East having a radius of 895.93 feet, a central angle of 01°51'46", an arc distance of 29.13 feet to a point; thence South 53°26'04" West along the Southerly right-of-way line of NW 12th Street for a distance of 277.95 feet to a point of commence of a circular curve concave to the Northwest; thence Westerly along the Southerly right-of-way line of N.W. 12th Street, said curve having a radius of 1,009.93 feet, a central angle of 36°16'08", an arc distance of 639.30 feet to a point on the South line of S.E. ¼ of Section 31, Township 53 South, Range 40 East; thence North 89'42'12" East along the South line of S.E. %, of Section 31, Township 53 South, Range 40 East for a distance of 1,242.87 feet to the Point of Beginning.

Said land containing 258,514 square feet more or less.



## Exhibit "B"

## Roadway Improvements



redence

64.196 Acre Amendment Site



Business and Office - 54.198 acres With a RAC Overlay Designation Figure 0
Proposed Infrastructure Improvements
Delphin Station
September 2007

#### Exhibit "C"

#### Design Guidelines

The plan for development of the Property shall allow for a mix of uses, including \_\_\_\_\_ Deleted: witch will include commercial and residential uses.

- The proposed buildings shall be designed using compatible and complementary architectural styles and designs.
- Design features shall be included at appropriate locations of the buildings, in order to maintain architectural and design continuity.
- Consistent sign criteria and standards shall be established at the time of initial rezoning to encourage aesthetic compatibility within the sign program.
- 5. Large expanses of opaque or blank building wall shall be minimized and/or articulated and shall have landscaped areas providing a visual barrier, to the maximum extent feasible.
- Uniform street furniture and lighting standards shall be provided throughout the
- Pedestrian crosswalks shall be clearly delineated on any proposed private roads within the Property.
- The development pattern shall respect the general concepts of the Minmi-Dade County Urban Design Guidelines to the extent practicable.

Deleted: incorporate elements

- The streets shall be designed for pedestrian mobility, interest, safety, and comfort as well as vehicular mobility.
- 10. The proposed development shall contain open spaces that may include public squares, greens, and pedestrian promenades.
- 11. The buildings and their landscapes within the proposed development shall be built to the sidewalk edge to the greatest extent possible in a manner that frames the adjacent street to create a public space in the street corridor that is comfortable, interesting, as well as safe for pedestrians.
- 12. The architectural elements of the buildings at street level shall have a human scale, abundant windows and doors, display windows, and design variations at short intervals to create interest for the passing pedestrian.

13. Parking areas shall be minimized at grade between the street and main building entrances to the extent possible. Subterranean parking between the street and main building entrances is, however, permitted.

- Including Florida Yards and Neighborhoods Program information on "Florida Friendly Landscapes" in the sales literature provided to homebuyers.
- Developing the landscape plan and plant palette based on site characteristics (soil, drainage, structural limitations, utilities, overhangs, lights, etc.), which shall include:
  - o Per the County's Landscaping Ordinance, existing native trees, palms and associated native understory, shall be retained and preserved along with identified undergrowth and be a focal point of the landscape.
  - o 80% of plant materials to be utilized on site shall be from the Florida-Friendly Plant List and shall have a moderate to high drought tolerance.
  - o All plants will be grouped in the landscape plan by similar water and maintenance requirements and shall be spaced to allow for maturation.
  - Turf areas will be evenly shaped for ease of maintenance and will be no less than 4 feet wide and will not be placed on any berms.
  - No more than 30% of the total area required for landscaping may be turf or grass.
  - Soils analysis should be completed and used in the plant selection process where applicable and a copy should be provided to the home buyer.
  - Limit use of rock mulch due to heat loading: rock mulch shall not exceed 5% of total landscaped area.
  - Use of environmentally friendly organic mulches that are applied 3 inches deep around plants and trees with two inches clear around each plant.
- Using a low volume irrigation system to irrigate all landscape beds.
- Irrigating turf by zones separate from zones for irrigation of shrubs and ground cover plantings.
- Using swing joints or flex pipe when installing sprinklers to help prevent broken pipes and sprinklers.
- Designing irrigation systems for minimum overlap.
- Installing soil moisture sensors or other water saving technologies.

## Exhibit "E"

## Water Conservation Measures for Commercial Development

- Using waterless technologies where available.
- Maximizing use of on-site sources of water.
- · Choosing equipment that is water and energy efficient.
- Installing automatic shut offs, solenoids and controllers to turn water off when not in use.
- Installing flow restrictors when possible.
- Eliminating once-through cooling.



# Miami Economic Associates, Inc.

February 10, 2010

Mr. Marc C. LaFerrier Director Department of Planning & Zoning Miami-Dade County Miami, Florida

Re: CDMP Application No. 7
October 2009 Application Cycle

Dear Mr. LaFerrier:

Miami Economic Associates, Inc. (MEAI) has performed an analysis to evaluate whether the subject application to amend the Miami-Dade County Comprehensive Development Plan (CDMP) is justified by economic considerations. The proposed application, which was filed on behalf of 107th Avenue Gamma, LLC, applies to two parcels located west of N.W. 107th Avenue, between State Road 836 on the south and N.W. 14th Street on the north. It seeks to delete in its entirety a Declaration of Restrictions accepted by the Board of County Commissioners in connection with Application No.3 of the April 7, 2007 Amendment Cycle, which also applied to the two parcels of land referenced above, and replace it with a new Declaration of Restrictions. The specific focus of MEAI's analysis related to the issue of when the Applicant would be required to fund and construct a MetroBus Terminal and associated parking.

6861 S.W. 89th Terrace Miami, Florida 33156
Tel: (305) 669-0229 Fax: (866) 496-6107 Email: meaink@bellsouth.net

The existing Restrictive Covenant requires that these facilities be constructed within 3 years of the date on which the approval of Application No.3 of the April 2007 Amendment Cycle became final and non-appealable, which occurred on September 18, 2009. The Board of County Commissioners approved that application together with its Declaration of Restrictions in April, 2008; however, due to issues relating to the adoption of a school concurrency provision into the CDMP and execution of an Inter-local Agreement between Miami-Dade County and the Miami-Dade County School Board, it did not become final and non-appealable until the date in 2009 just indicated. The current CDMP application now seeks to extend the timeframe permitted to construct the MetroBus terminal and associated parking to 15 years from the date the current application becomes final and non-appealable. It would further allow the Applicant prior to the end of the 15 year period to seek an extension of up to 5 years. Finally, it seeks to allow the applicant to construct up to 400.000 square feet of retail space prior to the issuance of a certificate of occupancy for the proposed transit facilities as long as fire services can be appropriately provided.

According to the subject application, the request to delete the existing Declaration of Restrictions and replace it with the new one outlined above with respect to the time frame in which the proposed transit improvements need to be developed results from the severe adverse impact that the current economic crisis has had on the real estate and credit market. The subject application states that in the current environment it is "virtually impossible" to finance the proposed transit improvements. The application further points out that these conditions have been previously acknowledged by the Board of County Commissioners, citing in this regard Ordinance 09-10 which provided emergency relief to the development/construction industry by permitting the extension of building permits. Finally, it points out that allowing the construction of up to 400,000 square feet of retail space prior to the time the proposed transit facilities are certified for occupancy would be economically and fiscally beneficial to the community by providing both construction and permanent job opportunities and increased ad valorem revenues for the Miami-Dade County and the Miami-Dade County Public School District that are needed to fund the levels of services that existed prior to the current economic downturn but which may now need to be severely cut.

The purpose of this letter is to provide you with the findings of the analysis performed by MEAI with respect to the subject application.

#### **Summary of Findings**

MEAI concurs with the Applicant that the current economic climate as reflected in the real estate and credit markets does make it "virtually impossible" to finance and construct the proposed transit facilities at the present time; hence extending the time frame in which their development should be required is justified from an economic prospective. We further believe that allowing a retail facility of up to 400,000 square feet to be constructed prior to occupancy of the proposed transit facilities being certified would be fiscally and economically beneficial to Miami-Dade County.

The bulleted paragraphs that follow provide the basis for MEAI's above stated conclusions:

- The United States Federal Reserve System reports on the status of economic conditions nationally and each of its 12 Districts 8 times each year in a document known as the Beige Book. Copies of the analyses provided in the Beige Book issued January 13, 2010, for the nation and for the Atlanta District, which includes the State of Florida, are contained in Appendix 1. Among the salient conclusions presented were the following:
  - Toward the end of 2009, home sales increased in most districts, especially in lower-priced homes, but residential construction remained at low levels in most districts and new home sales decreased including in the Atlanta District. The uptick in sales activity was primarily attributed to the first-time home buyer tax credit, which disproportionately benefited lower-priced homes
  - Nonresidential real estate conditions remained soft in nearly all Districts, with vacancy rates rising and rents declining. The Atlanta District reported that many new projects were put on hold as landlords focused on tenant retention, allowing tenants to negotiate lease extensions at low rents and with favorable allowances for improvements.
  - Doan demand continued to decline or remained weak in most districts perhaps because as the Atlanta District reported, credit standards remained relatively tight for most types of loans, particularly commercial real estate loans. Notwithstanding credit quality continued to deteriorate and several districts reported on-going increases in delinquency and default rates for all types of loans.
- MEAI as well as a number of other economists believe that the weakness in the nonresidential real estate markets is the result of other weaknesses in the economic climate, notably the currently high rates of unemployment and underemployment. The high rates of unemployment and underemployment together with the reduced levels of consumer credit currently available have resulted in declining levels of retail sales. In this regard, the following points are noted:
  - 5 Appendix 2 contains an article discussing the fact that the National Retail Federation projected in January 2009 that retail sales during 2009 would decline, in large part in anticipation of declining employment. A second article in the Appendix shows that the Federation's concern was well founded as sales for the year fell 6.2 percent compared with 2008 to \$4.14 trillion. The decline was the largest on record, dating back to 1992. It was also the second decline on record with the first occurring in 2008 when sales dropped 0.5 percent from the prior year.
  - Appendix 3 contains a press release issued by the Florida Agency for Workforce Innovation that shows that in November 2009 the national

unemployment rate approximated 10 percent while rate of unemployment within the State of Florida was higher, 11.5 percent, the highest level since May 1975. The construction industry has been most severely impacted in Florida; however, among the other industry sectors that also suffered during the November 2008 to November 2009 period are retail trade (49,400 fewer jobs), professional and business services (58,500 fewer jobs) and finance, insurance and real estate (25,300 fewer jobs). These industry sectors are key to the health of the nonresidential real estate market in terms of space occupancy. The unemployment rate in Miami-Dade County in November 2009 was 10.5 percent, up from 6.2 percent in November 2009.

- Appendix 4 contains data compiled by the Federal Reserve that shows that the amount of revolving consumer credit, such as that provided through credit cards outstanding has continuously declined since the 3rd quarter of 2008
- As discussed in the introductory paragraph of this letter, the subject application applies to two parcels of property located west of N.W. 107th Avenue between S.R. 836 on the south and N.W. 14th Street on the north. As also discussed, the two parcels of land were also the subject of Application No. 3 of the April 2007 Application Cycle that essentially re-designated one of the two parcels from Industrial and Office to Business and Office use, thereby providing the basis to be developed in accordance with a conceptional plan that envisaged a mixture of use being constructed that would primarily be comprised of retail space and mid-to-high rise condominium units. Office space and transient lodging were also included in the plan. At the time Application 3 of the April 2007 Application Cycle was considered, it was anticipated that the two parcels would be developed with 1,050 residential condominium units and 799,900 square feet of retail space together with 225,000 square feet of office space and 430 lodging units.

MEAI understands that there have been discussions with a prospective user for up to 400,000 square feet of retail space. That prospective user has been seeking to establish a presence in Miami-Dade County for more than 5 years and has a credit rating of sufficiently high quality to access financing even in the current market environment. However, the fact that an individual deal involving up to 400,000 square feet of retail space could potentially proceed for a highly credit-worthy tenant should not be extrapolated to conclude that an additional 399,900 square feet of retail space or the other proposed uses could also be successfully developed in the foreseeable future. In fact, even if a deal could be made with the prospective user, the Applicant would be unable to deliver the space because in the current real estate market and financing environment, it would be impossible to finance and construct the requisite transit facilities solely based on the revenues that would be generated satisfying that single user.

In this regard, the following points are noted:

#### Retail

o In April 2009, Reis, Inc., a firm well-respected for its reporting on trends in real estate markets throughout the United States, reported that vacancies in U.S. malls and shopping centers rose to their highest levels in more than 10 years. As shown in materials contained in Appendix 5, that firm estimated that at the end of the 3rd Quarter of 2009, retail vacancy rates nationally approximated 11.3 percent, a level that was also approximated in the West Miami-Dade County market where the subject property is located. MEAI believes that developers will want a market to exhibit a vacancy rate below 10 percent and positive levels of absorption before considering undertaking a new project. REIS further reported that the rental rates had declined during 2008 and continued to do so during the 3rd quarter of 2009. Finally, it reported that there was essentially no measurable net new absorption within the West Dade market area during the 2008 to 2009 period.

In the retail market just described, it is unlikely that any proposed project, unless it was to be fully occupied by highly credit-worthy tenants, would be able to obtain financing. In this regard, we direct attention to the article contained in Appendix 6 that was written by Tyler Graf for publication in the August 17, 2009 Daily Journal of Commerce (Portland, Oregon) that discussed the fact that lenders are no longer considering a project for financing solely based on its level of pre-leasing; rather, they are also taking into consideration type of tenants that are committing to space, showing reluctance to lease to high-end projects as well as those whose prospective occupants include movie theaters and a high percentage of restaurants.

Appendix 7 contains additional articles regarding the status of commercial real estate lending at the current time. In summary, the articles state the amount of new loan originations has been declining since late 2007 or early 2008. Certainly one reason for the decline has been the reluctance of developers to proceed with projects in the current economic environment; however, the articles discuss other factors as well that include the following:

- The fact that the Commercial Mortgage-backed Security (CMBS) market, which had been funding up to 25 percent of the originations nationally prior to its collapse in 2008, has effectively disappeared, thereby significantly reducing the amount of capital available
- The fact that the rate of default on commercial mortgages rose steadily from just over 1 percent in the 1st quarter of 2006 to 8.74 percent in the 3rd quarter of 2009 when it was at its highest level the 2nd quarter of 1993. In fact, the default rate has been consistently below 2 percent from the first quarter of 1999 through the 2nd quarter of 2007, a period of 34 quarters or 8.5 years. Then, in 2.5 years it went from 2 percent to the current level of 8.74 percent

- The fact that 47 banks and saving and loans have falled since late 2007, in part because unusually high commercial loan exposure and that, according to Foresight Analytics, a respected Oaklandbased banking consulting firm, as many as 700 could.
- The fact that commercial banks and savings and loans have experienced erosion of their loss coverage ratios, a trend that Sheila Bair, the Chairman of Federal Deposit Insurance Corporation, considered in 2008 to be "worrisome". MEAI believes it may be more than worrisome in 2010 when over \$35 billion of existing debt will need to rolled over into new commercial mortgages, much of it on properties that may not be worth their current loan balances due to the higher vacancy rates and lower rents levels that currently characterize the market.
- The fact that in the face of the conditions described in the 3 bulleted paragraphs immediately above the overwhelming majority of banks and savings and loans have significantly tightened their loan underwriting standards so that only very low risk loans will be originated.

The tightness of the current credit markets was recognized in testimony by Jon. D. Greenlee before the Congressional Joint Economic Committee in July 2009. In that testimony, Mr. Greenlee, who is the Associate Director of the Federal Reserve's Division of Banking Supervision and Regulation, discussed actions that the Federal Reserve was taking to revitalize the commercial real estate financing market.

#### Office

O Appendix 8 contains information compiled by Reis, Inc. with respect to the condition of the office market in the Airport West area where the subject property which subject is located. As evidenced, the vacancy rate in the area exceeded 10 percent at the end of the 3rd Quarter of 2009 — it was over 14 percent —and is expected to continue to increase for several more quarters. Rent levels are also declining. Accordingly, the prospects are poor for the development of new office space for the foreseeable future, particularly in the financing environment described above.

#### Residential Condominiums

The plight of home building in the current market, referred to in a story in Miami Herald on January 20, 2009, as the "deepest slump since the Great Depression" has been well -documented. In the story just referenced, a copy of which is contained in Appendix 9, David Crowe, the chief economist of the National Association of Home Builders, states that "the stage is set for the

consumer to return. It won't be a strong recovery but it will be a recovery." Mr. Crowe's comments and those of others quoted in the article, hardly euphoric in nature, focus on the single family home building sector. There is no evidence to believe that a rebound is in the offing with respect to the construction of kind of mid-to-high rise condominium that were envisaged on the subject parcels at the time Application No. 3 of the April 2007 Amendment Cycle was approved.

Appendix 10 contains information that shows that during the 6-month period ending January 20, 2010, 509 condominium units that were built between 2005 and 2009 were sold in the central portion of Miami-Dade County. Sales activity on the barrier islands, inclusive of Miami Beach, Key Biscayne and Fisher Island, is not included in the list of sales provided. Review of the data shows that only about 10 percent of the units, just over 50 of the 509, sold at a price per square foot that exceeded \$300 per square feet, all but a few of which are located in buildings that provide bay views. Those selling at prices above \$300 per square foot without bay views were located in Coral Gables. Less than 10 units sold for prices exceeding \$400 per square foot.

The "hard" cost to construct mid-to-high rise condominium units of the type envisaged on the subject parcels inclusive of the their requisite structured parking exceeds \$200 per square. When "soft" costs and land cost are included the total cost to develop such units will likely substantially exceed \$300 per square foot, which means that prices per square foot in excess in the range of \$400 to \$500 would be required for the developer to achieve an acceptable level of return. Based on these economics, it is unlikely that the envisaged condominium units will be constructed in the foreseeable future.

#### Lodging

- o Based on its experience, MEAI believes that it is highly unlikely that there will be any construction of transient lodging facilities on-site until demand generators in the form of office and retail space are developed on-site
- The existing Declaration of Restrictions as well as that being proposed to replace it — require 107th Avenue Gamma, LLC to construct a MetroBus terminal that would include the elements outlined below at a cost that was estimated at the time the covenant was proffered in 2007 to be nearly \$14.0 million.
  - 10 saw-tooth bus bays;
  - A driveway network to serve the bus bays;

<sup>1</sup> It should be noted that sales 350 through 353, sales 395 though 413 and sales 480 through 590 were parts of bulk sales of units. The price per square foot information shown in the Appendix is misleading because it was calculated taking the square footage of each ir dividual unit against the price for the entire package of units of which it was part. When the price per square foot is calculated correctly by taking the total square footage of the units in the package against the package price the resultant figure for the average square foot sold is below \$300 except in the case of sales 350 through 353. For those 4 units it exceeds \$300 per square foot but not \$400 per square foot.

- An enclosed transit lounge;
- o Restrooms:
- Transit-oriented commercial uses;
- Landscaping;
- o A kiss and ride area; and
- A parking garage with 260 parking spaces.

In order for 107th Avenue Gamma LLC to build the transit facility and parking just described would require that it to be able to successfully access the capital markets. Unfortunately, this will not be possible because the only revenues that will potentially be available to repay such a debt obligation in the foreseeable future would be the net proceeds that would result from the development of retail space of up to 400,000 square feet. The amount of those net proceeds would not be adequate even in easy credit environment. In the current tight credit environment, it would be, as stated in the application, "virtually impossible" to access the requisite financing.

As discussed in the subject application, allowing the construction of up to 400,000 square feet prior to the time that the proposed transit facilities are certified for occupancy will be economically and fiscally beneficial to Miami-Dade County and the Miami-Dade Public School District. In this regard, MEAI notes the following:

#### **Economic Benefits**

- The cost to developed the proposed retail facility will approximate \$65.0 million exclusive of land cost. This figure assumes that the facility is developed in the urban manner envisaged in the conceptual master plan for the site with the 1,600 structured parking spaces, which equates to the 1 space per 250 square feet required by code. Assuming the 90 percent of the funds required are initially spent in Miami-Dade County, the total economic impact on the County would equate to nearly \$100.0 million after the multiplier effect is taken into account.
- Approximately \$25.0 million of the moneys spent to construct the proposed retail facility will be expended for labor, an amount sufficient to support 400 construction workers at the average wage and salary level of construction workers in Miami-Dade County of \$62,325 per year.
- A retail facility of the size indicated for the type of retailer with whom negotiations are on-going will approximately employ equivalent of 600 fulltime workers per year, who will earn in excess \$18.0 million annually.

#### Fiscal Benefits

o The table below shows that amount of ad valorem taxes that are currently being generated from the subject parcels of land and the amount be generated by the proposed retail facility. Clearly, construction of the proposed retail facility on just a small portion of the two parcels will increase the amount

of ad valorem taxes being collected substantially. The proposed retail facility will also generate significant amounts of non-ad valorem revenues for the Miami-Dade County on annual basis in the form of franchise fees, utility taxes occupational license fees and sales taxes, with a portion of the latter being dedicated to transit.

Entity	Current	Proposed Retail
Miami-Dade County		
Countywide Fund	\$ 60,160	\$ 387,032
Debt Service Fund	\$ 3,543	\$ 22,800
UMSA Fund	\$ 24,973	\$ 160,664
Library Fund	\$ 4,762	\$ 30,576
Fire Operating Fund	\$ 27,171	\$ 174,808
Fire Debt	\$ 522	\$ 3,360
Children's Trust	\$ 6,217	\$ 40,000
Miami-Dade Public School District		
Operating Fund	\$ 95,727	\$ 615,840
Debt Service Fund	\$ 3,697	\$ 23,760

#### Closing

Based on the findings of our analysis presented above, MEAI believes that approval of the subject application to CDMP is highly justified based on economic and fiscall considerations.

Sincerely,

Miami Economic Associates, Inc.

Andrew Dolkart

President

