

STAFF REPORT

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS

VPB-16-005



To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: TDR Request
Village Center

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.15, ENTITLED TRANSFER OF DEVELOPMENT RIGHTS (TDR); TRANSFERRING 85 RESIDENTIAL UNITS FROM 17901 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT A; TO 17777 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT B; AND ACCEPTING BY THE VILLAGE, AS A CONDITION THEREOF, THE OWNERSHIP OF PARCELS OF APPROXIMATELY 40± ACRES, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT C, FOR PUBLIC FACILITIES, PARKS, AND CONSERVATION PURPOSES; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND

The specific lands subject to this particular zoning request are those located on the property commonly referred to as the "Village Center". Located along the east side of Old Cutler Road between SW 184 Street and the Palmetto Bay Public Library, it is made up of two separate properties of record. The applicant and owner of the lands is proposing to transfer the development rights of 85 residential units from the front 22± acres of land (Attachment A of the Resolution), generally those portions of the property presently zoned I, Interim District, to that portion of the property (Attachment B of the Resolution) that is zone Village Mixed Use (VMU). As part of the application, the owner has offered to transfer title to the Village the front 22± acres of land, together with other contiguous lands, totaling approximately 40± acres (Attachment C of the Resolution), for the propose of expanded parks open space, preservation of environmentally sensitive areas, and an area to locate a future fire rescue facility to serve the southeastern areas of the Village.

On January 11, 2016 the applicant requested a zoning determination letter to identify potential development rights for the front 22± acres of land adjacent to Old Cutler Road. Staff responded on January 26, 2016 identifying 85 residential units. The letter (Exhibit 1) provides a detail description of how the determination was made. It is those 85 units that the applicant is now requesting to transfer to the property zoned VMU.

PROCEDURE

This request coincides with two companion ordinances. The first ordinance is an amendment to the VMU zoning provisions and the second is an amendment to the Village's Comprehensive Plan as it relates to the VMU land use designation. The proposed amendments allow for all of the permitted residential units within the VMU district to be developed as multifamily, and provides for consistency of building heights of 85 feet. Those two items are sponsored by the Village of Palmetto Bay and their reports and ordinances provided under separate cover.

For the purpose of providing greater clarity of intent, this TDR request is being brought forward in concert with the first readings of the two proposed companion ordinances. However, it is staff's desire that Council take no action on the TDR request until the two proposed ordinances are brought back for consideration at second reading. At that time, The TDR request will be heard for final consideration followed by the two companion ordinances.

As a procedural matter, an amendment to the Comprehensive Plan on lands over 10 acres in size that modify the list of permitted uses is subject to the State of Florida's Expedited Large Scale Amendment Review procedures. The companion Comprehensive Plan amendment item involves a use modification (Senior Only Residential to Multifamily Residential that may include Senior Living). As such, the item must be transmitted to the State of Florida's Department of Economic Opportunity (DEO) for their review. Once complete, the item will return for second reading. It is staff's recommendation that the two companion ordinances only be approved pursuant to the conditions of those items therein, and only be considered after to the Council's decision to grant/deny this TDR application request.

Should the TDR request be granted, it may be necessary to plat the lands involved in order to properly execute the transfer of ownership and development rights. As such, upon enactment it shall become incumbent upon the applicant to prepare and submit surveys of the lands generally identified in Attachments A, B, and C of the Resolution, and submit for platting as may be required by Chapter 28 of Miami-Dade County's Code of Ordinances, and/or record any other legal instrument deemed necessary to ensure clear title.

GENERAL INFORMATION

Sender Lot Size:	22± net acres more or less.
Receiver Lot Size:	40± acres, more or less.
Land Dedicated Area:	40± acres, more or less.
Folio Numbers:	33-5035-013-0010 and 33-5035-013-0020

<u>PROPERTY</u>	<u>ZONING</u>	<u>LAND USE</u>
Sender Site:	I- Interim	PR – Parks and Recreation
Receiver Site:	VMU – Village Mixed Use	VMU – Village Mixed Use

Surrounding Properties

NORTH:	E-2; 5 Acre Estate SFR	Estate Density Res. (2.5 du/acre)
SOUTH:	Town of Cutler Bay	Town of Cutler Bay
EAST:	Biscayne Bay	Biscayne Bay
WEST:	E-1 – 1 Acre Estate SFR	Estate Density Res. (2.5 du/acre)

ZONING HEARING HISTORY:

The following is a review of the zoning history as it applies to the property in question. The associated resolutions are attached herein.

On **April 22, 1946**, the Board of County Commissioners, Dade County, Florida denied a **Resolution** for a boundary district change from EU-2 (Single Family Estates) to BU-2. Complete resolution not available.

On **October 15, 1969**, the Zoning Appeals Board denied **Resolution No. 4-ZAB-576-69** denying a boundary district change from RU-2 (Single Family Five Acre Estates) to EU-4 (Apartment House and Hotel).

On **April 16, 1970**, the Board of County Commissioners, Dade County heard an appeal **Z-89-70**) of **Resolution No. 4-ZAB-576-69** and reversed the previous denial. Approving a boundary district change from RU-2 (Single Family Five Acre Estates) to EU-4 (Apartment House and Hotel), and approved a special exception to allow the construction of a water use facility, a marina and boat docks.

On **July 20, 1972**, the Board of County Commissioners, Dade County, heard a "Status of Zoning Revision" that was triggered by **Resolution R-924-72**, adopted **June 20 1972**, which imposed a building moratorium on the property. The memorandum proposed to reduce the permitted number of previously approved units to be consistent with the South Bay Area Land Use Plan which permitted approximately 600 units for a parcel this size. Moratorium expired after 120 days, no rezoning occurred.

On **January 10, 1973**, the Dade County Zoning Appeals Board heard **Resolution No. 4-ZAB-48-73** and voted for denial. The request was for a district boundary change from RU-4 (Apartment Houses and Hotels) to EU-1 (single family 1 acre estates), from RU-4 to EU-M, from RU-4 to RU-3M, and RU-4 to RU-4L.

On **June 6, 1974**, the Zoning Appeals Board, Dade County, Florida heard **Resolution No. 4-ZAB-352-74**. The board denied, a special exception to allow multiple family apartment buildings, an unusual use permit to allow two entrances, a special exception to allow five buildings with varying heights between 129' and 182', an unusual use to permit a lift station, an unusual use permit to allow eight boat piers, including boat storage, a boat supply store, and the enlargement of the existing lake.

On **July 23, 1974**, the Board of County Commissioners, Dade County, Florida approved **Resolution No. Z-196-74**, (overturning the Zoning Appeals Boards denial of resolution 4-ZAB-352-74). The board approved, a special exception to allow multiple family apartment buildings, an unusual use permit to allow two entrances, a special exception to allow five

building with varying heights between 129' and 182', an unusual use to permit a lift station, an unusual use permit to allow eight boat piers, including boat storage a boat supply store, and the enlargement of the existing lake.

On **July 31, 1981**, the Board of County Commissioners, Dade County, Florida approved **Resolution No. Z-191-81** approving a boundary district change from EU-2 (Single Family Estates) and RU-4 (Apartments) to EU-M (Estate Modified), a non-use variance to allow lots #9 & #12, 75' street frontages were 120' was required, a boundary change from EU-2 to RU-4L (Limited Apartment House), a special exception to allow 60' high buildings and six stories were four were permitted, and a boundary change from EU-2 to GU (Government Use).

On **February 7, 1985**, the Board of County Commissioners, Miami-Dade County, Florida approved **Resolution No. Z-30-85**. The Board of Miami-Dade County Commissioners approved the applicant's request for a district boundary change from RU-4 to OPD, EU-M, EU-2 and RU-4 to GU and a use variance to permit a 10 unit apartment building in the GU district in conjunction with an unusual use request to permit private recreational facilities, to wit: tennis courts, basketball courts, swimming pools, and playing fields in the GU district. The applicant was also granted a special exemption request to permit night lighting on the proposed recreational facilities and the request for an unusual use to filling and enlargement of portions of the existing lake.

On **July 25, 1985**, the Metropolitan Dade County Zoning Appeals Board, approved the applicant's request to delete an agreement pursuant to **Resolution 4-ZAB-270-85** as it affects the subject property, deletion of an agreement entered into between South Cutler Bay, Inc. and Dade County as required pursuant to Resolution Z-196-74, and deletion of the Declaration of Restrictive Covenants entered into between Sun-Belt Corporation of America and Miami-Dade County.

On **April 30, 1986**, the Metropolitan Dade County Zoning Appeals Board, approved Resolution 4-ZAB-143-86, to permit the filling of a portion of an existing lake and modification of condition #2 of Resolution Z-196-74 and modification of the proffered and Restrictive Covenants of Resolution Z-30-85. The purpose of the modification of said Resolution and agreement was to permit a revised site plan and parking plan which indicated a reconfiguration of the existing lake, elimination of a proposed second lake, merging of the technical center into one building, an increase of 2,485 square feet of building and additional outdoor parking areas.

On **March 24, 1989**, the Board of County Commissioners, Miami-Dade County, Florida approved Resolution **Z-34-89**, the applicant, Palmetto Bay Village Center (PBVC), request of an unusual use to permit a parking lot in a zone more restrictive than the use it served; to wit parking of cars in a GU district to serve an Office Park District (OPD) in conjunction with the Modification of Proffered Covenants and Modification of Declaration of Restrictive Covenants via prior Resolution 4-ZAB-143-86.

On **March 13, 2006**, pursuant to **VPB Resolution 06-30**, and the requirements of section 33-257 of the Miami-Dade County Code, the applicant (PBVC) requested and received a modification to the underlying 1985 declarations of restrictive covenants to allow a

declaration of restrictions in lieu of unity of title, rather than requiring a unity of title (one ownership) of the property. This document was tied to a specific site plan. The remainder of the provisions of the declaration of restrictions would remain in effect and were not to be affected by the removal of the "unity of title" requirement. All future owners shall be bound by the provisions of the declaration of restrictions. More particularly, the provisions of section 3 of the underlying 1985 declarations as to the height, screening and other requirements which require 75% approval of all individual properties within 500 feet of the perimeter of the property remain in full force and effect.

On **March 12, 2007**, pursuant to zoning **VPB Resolution 07-31**, the Village Council pursuant to 33-303 of the Miami-Dade County Code, as adopted by the Village, changed the use of the library and park site (Ludovici Park and Library site) located at 17641 Old Cutler Road from residential to allow a governmental facility to be constructed. This change of use was found consistent with the Village's Comprehensive Plan and Future Land Use Map, which designated the site for Parks and Recreation as well as Institutional and Public Facility use. The Institutional and Public Facility designation entitles an area to be used to construct, amongst other things, a library. The application was to approve the placement of the public facility use (public library and park) on a vacant property zoned EU-2, and to use a portion of the northernmost acreage belonging to the PBVC for a parking area for the library.

On **June 21, 2007**, pursuant to Village of Palmetto Bay **Resolution 07-70**, the Mayor and Village Council of the Village of Palmetto Bay approved with conditions the applicants request to modify a set of previously approved plans under Resolution Z-34-89, to allow for the construction of a 356-space parking structure (97.5' in height) with roof top recreational amenities use where a surface parking lot presently exists along with the construction of a temporary parking lot.

On **March 3, 2008**, pursuant to Village of Palmetto Bay **Resolution 08-19**, the Mayor and Village Council of the Village of Palmetto Bay approved a perpetual easement agreement to use the parking area dedicated by the PBVC for the library.

On **June 9, 2008**, pursuant to Village of Palmetto Bay Ordinance **08-09**, the Mayor and Village Council of the Village of Palmetto Bay modified the Village's Land Development Code by creating section 30-50.20 (later numbered 30-50.19) entitled "Village Mixed-Used District (VMU)" and amending the Village's Official Zoning Map to reflect the creation of the VMU District on approximately 41.59 acres within 17777 - 18001 Old Cutler Road. The zoning ordinance incorporates by reference the underlying 1985 declaration of restrictive covenants (approved under the 1985 Office Park Development zoning resolution for the former Burger King site), providing that the more restrictive section (ordinance or declarations) would apply to the underlying property. This ordinance rezoned portions of the Palmetto Bay Village Center property from Office Park District (OPD) to the VMU District. The VMU District, as enacted, contemplates administrative site plan review of permitted uses. In other words, permitted uses within the District do not require a public hearing. Under the VMU District, fire stations or sub-stations, are permitted as an allowable, as of right, use within the District.

On **April 13, 2009**, pursuant to Village of Palmetto Bay **Resolution 09-41**, the Mayor and Village Council of the Village of Palmetto Bay modified the approved site plan and amended the declaration of restrictive covenants.

On **November 19, 2009**, pursuant to Village of Palmetto Bay **Resolution 09-96**, the Mayor and Village Council of the Village of Palmetto Bay approved new non-conforming signage to be used with the new library.

ANALYSIS

The following is a review of the request pursuant to the Village's Transfer of Development Rights criteria found at Section 30-30.15(f) of the Land Development Code. The Background Section of this report is hereby incorporated by reference into this analysis.

Criteria 1: That the property(s) subject to the transfer of development right is eligible pursuant to section 30-30.15(c).

Analysis: The sender site is zoned I, Interim district and the receiver site property is zoned VMU, Village Mixed Use district. Section 30-30.15(c) permits I zoned properties to be sender sites and VMU zoned properties to be receiver sites.

Finding: Consistent.

Criteria 2: That the transfer of development right is consistent with the goals, objectives and policies of the Village's Comprehensive Plan.

Analysis: In reviewing the Village's Comprehensive Plan, the following Goals, Objectives, and Policies (GOP) below were identified as relating to the TDR request. Each GOP is provided with a brief analysis. The finding of those analyses is provided at the end of this criterion.

GOAL 1: To guide the Village of Palmetto Bay from birth to early maturity as an outstanding and truly livable community in southeast Florida by building on, and improving, the existing land use blueprint through visionary planning and place-making, cost efficient provision of high quality facilities and services, quality neighborhood protection, and enhancement of its unique and beautiful coastal environmental resources.

Analysis: The proposed TDRs request is reflective of multiple goals, objective and policies (GOP) of the Villages Comprehensive Plan. Those GOPs aim to steer development towards areas that have available infrastructure, create opportunities to acquire park lands and preserve conservation areas. The request, if approved also makes available approximately 1.5 acres of land for a future fire rescue facility on the southeast side of the Village.

Policy 1.1.8 Discourage land use patterns indicative of urban sprawl in the FLUM and any amendment applications by dictating compact development, mixed use where appropriate, and efficient use of public facility capacity and resources, while protecting single-family neighborhoods.

Analysis: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. The request removes the potential of private development from a 22± acre parcel that presently serves as a visual barrier of the mixed use zoning on its east side, to the low residential density on its west side. That 22± acre property, together with other lands (approximately 40± acres in total) will then be voluntarily deeded to the Village for parks and open space, environmental conservation, and the siting of a much needed fire rescue facility to serve the southeastern area of the Village.

Policy 1.5.4 Protect and enhance the lush flora and fauna of the Village through strong community landscape guidelines, land development regulations, and code enforcement.

Analysis: See Background Section and Policy 1.1.8. The TDR application is offered by the applicant in tandem with their voluntary desire to deed approximately 40± acres of land to the Village for the purpose of parks and open space, environmental conservation, and the location of a much need fire rescue facility in the southeastern areas of the Village.

Policy 1.7.9 Existing mature vegetation and distinctive trees should be retained and protected in developments.

Analysis: See Background section and Policy 1.1.8., Policy 1.5.4., Policy 6.5.1., and Policy 7.1.3. In acquiring these lands as part of the TDR request, the Village will be able to work toward ensuring the existing mature vegetation and distinctive trees are retained.

Policy 2A.1.1 The Village of Palmetto Bay recognizes the Urban Development Boundary (UDB) designated by Miami-Dade County and the Urban Infill Area UIA¹ within its municipal limits. Pursuant thereto, the minimum acceptable peak-period LOS for all State and County roads within the UDB shall be the following:

1. All development applications within the Urban Infill Area Transportation Concurrency Exception Area are exempt from transportation concurrency requirements; however the following level of service thresholds are established for reviewing projects within the UIA TCEA: (1) Where no public mass transit service exists, roadways shall operate at or above Level of Service E

¹ The UIA is defined as that area east and south of the State Road 826 (the Palmetto expressway) and 77th Avenue (including those portions of theoretical SW 77 Avenue.

(100% of capacity), (2) Where mass transit service having headways of 20 minutes or less is provided within a half-mile distance, roadways shall operate at Level of Service of 120% of capacity (3) Where extraordinary transit service, such as express bus service exists, parallel roadways within a half-mile shall operate at no greater than 150% of their capacity; and

Analysis: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

Obj. 4A.1.1: The adopted level-of-service standard established by the Miami-Dade County Water and Sewer Department (WASD), for potable water service within the Village of Palmetto Bay is:

- a. Regional Treatment. System shall operate with a rated capacity that is no less than 2% above the maximum daily flow for preceding year.
- b. User LOS. Maintain capacity to produce and deliver 200 gallons, per capita, per day.
- c. Water Quality. Meet all Federal, State and County primary potable water standards.
- d. Countywide Storage. Storage capacity for finished water shall equal no less than 15% of countywide average daily demand.

Analysis: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

Policy 4B.1.1: The adopted level-of-service standard established by the Miami-Dade County Water and Sewer Department (WASD) for sanitary sewer service within the Village of Palmetto Bay is 100 gallons, per capita, per day.

Analysis: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

Policy 4B.2.1: Encourage future development into areas that are already served, or programmed to be served, by Miami-Dade County WASD sanitary sewer facilities.

Analysis: The receiver property is served by a sanitary sewer gravity line.

Policy 4C.1.1 The storm water management LOS standards for Village of Palmetto Bay are: Water Quality Standard. Stormwater facilities shall be designed to meet the design and performance standards established in Ch. 62-302.500 and 25.025, F.A.C., with treatment of first one (1) inch of rainfall runoff Water Quality Standard. Where two or more standards impact a specific development, the most restrictive standard shall apply:

- a. Post development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with a 24-hour duration.
- b. Treatment of the runoff from the first one (1) inch of rainfall onsite or the first 0.5 inch of runoff, whichever is greater.

Analysis: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

Policy 4D.1.1 The adopted level-of-service standards maintained by the Miami-Dade County Department of Solid Waste Management for solid waste services within the Village of Palmetto Bay is 9.9 pound, per capita, per day and to maintain solid waste disposal capacity sufficient to accommodate waste flows committed to the system through long-term interlocal agreements or contracts along with anticipated non-committed waste flows for a period of five (5) years in accordance with Miami-Dade County's Comprehensive Development Master Plan.

Analysis: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

Policy 5.1.1 The Village will limit the specific and cumulative impacts of development and redevelopment upon identified wetlands, water quality, water quantity, wildlife habitat, and living marine resources through the development review process.

Analysis: See Background Section, and Policy 1.1.8. The sender site (the 22± acres of land) and the adjoining areas being offered by the applicant includes lands that have pine rock-lands and wet lands. The TDR together with the transfer of ownership of said lands to the Village works to ensure the continued preservation of those environmental assets.

Goal 6 Protect and enhance the environmental resources of Palmetto Bay to ensure continued resource availability and environmental quality through prudent management, public education, appropriate regulations and

enforcement and active partnerships with governmental and environmental entities.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., and Policy 5.1.1.

Objective 6.5 Protection of Natural Resources

Conserve and protect the remaining natural systems of the Village of Palmetto Bay, in recognition of the inherent values of these areas left in their natural state.

Analysis: See Background section and Policy 1.1.8., Policy 1.5.4., Policy 6.5.1., and Policy 7.1.3. In acquiring these lands as part of the TDR request, the Village will be able to work toward ensuring the natural systems are retained.

Policy 6.5.1 Manage environmentally sensitive natural systems in the Village, including, but not limited to, water resources, wetlands, and native habitats of flora and fauna through prudent land use planning and land development regulations.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., and Policy 5.1.1. In acquiring these lands as part of the TDR application, the Village will be able to work towards the preservation of the environmental assets that exist on the newly protected lands.

Objective 6.7 Protection of Plants and Wildlife. Continue to ensure that wildlife and plant species listed as endangered threatened or of special concern that inhabit the environments in Palmetto Bay are protected and enhanced where possible.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., Policy 5.1.1 and Policy 6.5.1.

Objective 6.11 Conservation Expansion. Continually seek public acquisition of additional areas for nature preserves and passive open spaces to expand the opportunities for conservation and increase public appreciation of natural habitats within the community.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., Policy 5.1.1 and Policy 6.5.1.

Parks Element

Policy 7.1.2 Through the maintenance and expansion of existing park facilities and the acquisition and/or development of new parks and open space, achieve a Level of Service (LOS) Standard of 5.0 acres by 2025.

Analysis: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Current park lands well exceed required levels of service.

Policy 7.1.3 Maintain a balance of active parks, passive parks, and natural areas to meet the needs and expectations of Village residents, and seek future opportunities to increase the number of pocket parks and other urban open spaces distributed throughout the Village.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., Policy 5.1.1 and Policy 6.5.1. Approval of the request in tandem with acquisition of the lands in question will result in an expansion of the Village's park system.

Objective 7.4 Park Land Acquisition
Continue to explore opportunities to acquire land necessary for maintaining and enhancing the parks and recreation level-of-service (LOS) standards, strategically located in order to maximize accessibility to residents served.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., Policy 5.1.1, Policy 6.5.1., and Policy 7.1.3.

Objective 10.1 Work with Miami-Dade County Public Schools towards the Reduction of the overcrowding which currently exists in Miami-Dade County Public Schools, while striving to attain and optimum level of service pursuant to Objective 2. Provide additional solutions to overcrowding so that countywide enrollment in Miami-Dade County's public schools will meet state requirements for class size by September 1, 2010.

Analysis: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

Policy 11.1.1 The adopted level-of-service standard established by WASD for potable water service within the Village:

- a. Regional Treatment. System shall operate with rated capacity that is no less than two (2) percent above the maximum daily flow for preceding year.
- b. User LOS, Maintain capacity to produce and deliver 155 gallons/per capita/per day.

- c. Water Quality. Meet all federal, state, and county primary potable water standards.
- d. Countywide Storage. Storage capacity for finished water shall equal no less than 15 percent of countywide average daily demand.

Analysis: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

Finding: Conditionally consistent provided ownership of the lands in Attachment C of the Resolution are transferred to the Village.

Criteria 3: That the transfer of development rights preserves environmentally sensitive lands, increases available park land, facilitates appropriate redevelopment and revitalization, facilitates economic development, or results in providing for affordable housing.

Analysis: See Background section and Criteria 2. The TDR in tandem with the transfer of ownership of the lands in question will result in the expansion of park space, environmental conservation, and an area to accommodate a future fire rescue facility.

Finding: Conditionally consistent provided ownership of the lands in Attachment C of the Resolution are transferred to the Village.

Criteria 4: That for transfers of development rights from one property to another property, the request is incorporated into and accompanied by an approved site plan pursuant to 30-30.5 or as otherwise approved by the Village Council.

Analysis: The applicant has not submitted for any particular development plan. However, the application as offered by the applicant provides the Village the unique opportunity to expand its park system by approximately 40± acres, conserve environmentally sensitive lands, and provide a site for a future fire rescue facility to serve the southeastern portions of the Village.

Finding: Conditionally consistent provided ownership of the lands in Attachment C of the Resolution are transferred to the Village.

Criteria 5: That for transfers of development rights from one property to another property, the number of residential units, commercial lot coverage and/or commercial floor area does not exceed 25% of the maximum permitted at the receiving site.

Analysis: The receiving property is currently permitted to develop up to 400 residential units. The applicant proposes to transfer 85 units. The result is an increase of 21%.

Finding: Consistent.

Criteria 6: That there are no active code violations on the sender or receiver site.

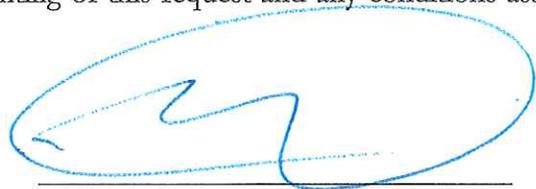
Analysis: There are no active violations on the sender or receiver site.

Finding: Consistent.

RECOMMENDATIONS

Staff recommendations approval of the proposed Transfer of Development Rights as further conditioned below:

1. Approval of the TDR request shall occur before final action is taken on the two companion ordinances.
2. The applicant shall provide sealed surveys that accurately depict the sender site, receiver, and land dedication site, prior to the transfer of the 85 residential units. Said surveys will be deemed acceptable for purposes of transferable rights and land dedication upon staff determination that they are generally reflective of the Attachments A, B and C, of the Resolution.
3. As part of the land dedication process, and prior to transfer of the 85 residential units, the lands involved shall comply with Chapter 28, Subdivisions, of the Miami-Dade County Code of Ordinances, and/or record any other legal instrument deemed necessary to ensure clear title.
4. The approved Resolution shall be recorded to the titles of all lands involved.
5. Prior to transfer of the 85 residential units The Village shall receive clear title to the dedicated lands as generally described in Attachment C of the Resolution and as further depicted in the survey submitted and accepted pursuant to condition of 2 of this recommendation.
6. All previous conditions, approvals, covenants and resolutions shall remain in effect unless otherwise altered by the granting of this request and any conditions assigned therein.



Darby Delsalle, AICP
Director of Planning and Zoning

EXHIBIT 1

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS
VPB-16-005



VILLAGE OF PALMETTO BAY

January 26, 2016

Scott Silver,
17777 Old Cutler Road, LLC
18001 Old Cutler Road, Suite 600
Palmetto Bay, Florida 33157

Re: Front 22 Acres of 17777 & 18001 Old Cutler Road.

Mr. Silver:

The following is in response to your letter dated January 11, 2016 as it pertains to your request for a "building rights" determination for the front 22 net acres of land locate at 17777 & 18001 Old Cutler Road. Based on the analysis provided below, it appears the property enjoys a potential zoning development right of 85 residential units.

The property in question is presently zoned Interim (I) with a land use designation of Parks and Recreation (PR). The I zoning category was applied to the property when the Village adopted its own land development regulations in 2009. It was previously zoned Government Use (GU) under Miami-Dade County's zoning provisions. The PR designation was applied in 2005 when the Village adopted its Comprehensive Plan and corresponding Future Land Use Map (FLUM). Chapter 163 of the Florida Statutes requires zoning to be consistent with land use. Although the I zoning category is consistent with a PR designation, it may be considered awkward in the context of the private ownership of land.

The PR land use designation is fairly restrictive with regard to permitted uses and development standards. Residential and commercial uses would not be permitted within this designation. The I zoning district (or for that matter the GU district) does not preclude them. The 2005 action establishing the PR designation appeared to anticipate an eventual park amenity; however the land was never acquired by a governmental entity, nor was the property owner required to build one. Its continued private ownership has thus allowed the question to linger of the land's ultimate permitted use. For private development to occur on the property, be it residential or commercial, the land use designation must change accordingly.

9705 East Hibiscus Street, Palmetto Bay, FL 33157
Tel: (305) 259-1234 ♦ www.palmettobay-fl.gov

The Village's I zoning category mirrors Miami-Dade County's GU category. Both districts essentially provided for the concept of "trending of development." As applied, determination of use and intensity within an I or GU district is based on the zoning of adjacent lands. If the surrounding properties vary in intensity, the "trending of development" would fall somewhere in between that permitted within the adjacent zones. Typically, a determination would be applied to the property and then be followed by a rezoning request consistent with the identified uses and intensity.

Given the above, a determination of "building rights" is reviewed under the context of the land's ownership by a private entity and its potential usage as governed by the I zoning district.

The majority of the lots west of the property are zoned One Acre Estate Single-Family District (E-1). The E-1 district permits one unit per acre. One lot is zoned Five Acre Estate Single-Family District (E-2) and two (2) other lots are zoned Estate Modified Single-Family District. The E-2 permits one (1) unit per five (5) acres and the EM district permits roughly three (3) units per acre. The overall density works out to approximately one (1) unit per acre. The lands to the north and east are zoned Village Mixed Use (VMU). The VMU zoned land is approximately 41.59 acres and is permitted to have mid-rise office uses and up to 400 residential units of varying types. Overall residential density works out to approximately the 9.61 units per acre. The resulting trend of residential development would be approximately Five (5) units per acre.

The land in question is subject to a declaration of restrictive covenant that requires the property to provide and maintain landscaping to visual obscure from Old Cutler Road, the more intense multi-family and office uses permitted within the VMU zoning district on the east side. The covenant was proffered as a clear attempt to buffer and protect the low density residential neighborhoods on the west side from the more intense office and multi-family residential uses permitted on the east side property. Given the intent, it is not unreasonable to conclude the covenant would have also resulted in a restriction of commercial development within the 22 acres. It does not appear that the covenant restricts all development on the land in question, however the landscape element in and of itself would logically result in a diminished area available for development. That form of development would most likely be low density residential. In this context, it is assumed that it would take a strip of land of approximately five (5) acres in area immediately adjacent to Old Cutler Road to accomplish the needed landscaping screen. That leaves approximately 17 of the 22 net acres that may be contemplated for potential residential development.

In applying the assumptions described herein, it appears the building right potential for the 22 net acres would be 85 homes.

If you have any additional question please contact this office at 305-259-1234.

17777 Old Cutler Road, LLC
18001 Old Cutler Rd, Suite 600
Palmetto Bay, FL 33157
O: 305-377-8802 | F: 305-377-8804

January 11, 2016

Mr. Darby DeSalle
Director
Planning & Zoning Dept.
9705 E Hibiscus St
Palmetto Bay, FL 33157

Please provide me with the determination of development rights letter as to the land parcel bounded by the VMU District on the East and Old Cutler Road on the West encompassing approximately 22 net acres.

Regards,



Scott Silver
Authorized Rep

ZONING HISTORY

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS

VPB-16-005

COPY

The following resolution was offered by Commissioner _____,
who moved its adoption; The motion was seconded by Commissioner _____,
and upon being put to a vote was duly carried:

WHERE-AS, Everett W. Martin, has heretofore filed an application with the Dade
County Zoning Department for a change of zone, from zone EU-2 to zone BU-2, upon the
following described property:

Lots 3 and 4, of Dougherty Subdivision, according to the plat thereof,
as recorded in plat book 1, page 1, of the public records of Dade
County, Florida; and

WHERE-AS, a public hearing of the Dade County Zoning Commission was advertised
by the Zoning Director, as required by Law, at which hearing all members of the said
Zoning Commission, who were present, voted against recommending any change of present
zoning within the area; and

WHERE-AS, it appears to this Board that the change of zone requested would prove
detrimental to other property owners within the area;

NOW, THEREFORE BE IT RESOLVED, by the Board of County Commissioners of Dade
County, Florida, that the application for a change of zone upon the foregoing described
property be, and the same is, hereby denied.

Denied
4/30-1946

Heard 4-22-46

RESOLUTION NO. 4-248-578-69

The following resolution was offered by Mr. H. H. Wood,
seconded by Mrs. Irene Faugno, and upon poll of members present,
the vote was as follows:

Irene Faugno	aye	Betty S. Page	abstain
William L. Flynn	aye	Roger Shaw	absent
Steven J. Green	absent	H. H. Wood	aye
Leonard Levenstein	absent	Andrew Lew	aye

WHEREAS, H. G. King, et al, have applied for the following:

A district boundary change from DU-2 (Single Family-5 Acre Estates) to
DU-4 (Apartment House and Hotel), AND

SPECIAL EXCEPTION to permit a multiple family apartment development, AND

VARIANCE of zoning regulations requiring all uses to be on public streets
and roads, to waive same and to permit the aforementioned development on
private drives, AND

UNUSUAL USE to permit an entrance feature; said feature to consist of one
gate house (enclosing pumping station) and one 8' high wall and two pillars
on each side of the access drive into the development, AND

UNUSUAL USE to permit the filling of bay bottom land out to the East line
of the SW $\frac{1}{4}$ of Section 35-55-40, AND

UNUSUAL USE to permit the excavation of a lake and canal. Applicant is
requesting the vertical bulkheading from +6.0' elevation to -5.0' elevation,
then a 12' horizontal to 2.5' vertical slope to a -9.0' elevation, then a
vertical slope to -20' elevation on the lake. Canal excavation is proposed
with a vertical bulkheading from +6.0' elevation to -5.0' elevation, then a
horizontal shelf extending into the canal for 10', then a vertical cut into
-20' elevation of water, AND

UNUSUAL USE to permit a water use facility, to wit: Boat docks in the above
lake, AND

SPECIAL EXCEPTION to permit the following apartment buildings: One with
150' height, one with 140' height, six with 125' height, one with 110' height
(100' permitted on each);

ALL OR: That portion of subject property lying SE/ly of Old Cutler
Road, AND

A district boundary change from DU-2 (Single Family-5 Acre Estates) and
DU-1 (Single Family-One Acre Estates), to DU-1 (Single Family-One Acre Estates)

OR: That portion of subject property, lying SW/ly of Old Cutler Road.

SUBJECT PROPERTY: Tracts 3 thru 9 incl., Dougherty's Sub. (1-1).
Tracts 1 thru 4 incl., S. H. Richmond Sub. (1-67) less the N. 161' of
said Tract 1. N. 195.78' of Tracts 5 and 6 of S. H. Richmond Sub.
(1-67). That portion of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, Township 35 South,
Range 40 East lying SE/ly of Old Cutler Road and less the N. 600' there

LOCATION: From Old Cutler Rd. to Hiacyne Way, between approx. theo.
ON 177 St. and approx. theo. SW 183 St., and one parcel lying SW/ly of
Old Cutler Rd. at approx. SW 180 St., Dade County, Florida, and

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

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested district boundary changes would be incompatible with the neighborhood and area concerned and would be in conflict with the principles and intent of the plan for the development of Dade County, Florida; and that the requested special exceptions and variance and unusual uses would not be compatible with the area and its development and would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board that the requested district boundary changes be and the same are hereby recommended for denial by the Board of County Commissioners of Dade County, Florida; and

BE IT FURTHER RESOLVED that the requested special exceptions and variance and unusual uses be and the same are hereby denied.

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

PASSED AND ADOPTED this 15th day of October, 1969.

Heard 6/11/69
No. 69-6-56
10/21/69
hf

October 22, 1969

H. C. King, et al
6500 S.W. 135 Terrace
Miami, Florida

RE: H. C. King, et al; request for district boundary changes, special exceptions, variance, unusual uses; Sec. 35-55-40; Hearing 69-6-56.

Enclosed herewith is a copy of Resolution No. 4-ZAB-576-69, adopted by the Metropolitan Dade County Zoning Appeals Board, denying your application concerning the above subject matter.

You are hereby advised that the Zoning Appeals Board recommendation regarding the district boundary change need not be appealed and has already been scheduled for final action by the Board of County Commissioners, as was noted in the courtesy notice.

If you are dissatisfied with the decision of the Zoning Appeals Board concerning the balance of the application, the same may be appealed, as has been provided in Chapter 33-313 of the Code of Metropolitan Dade County, Florida.

Very truly yours,

METROPOLITAN DADE COUNTY
BUILDING AND ZONING DEPARTMENT

CCC/df
Enc.

Chester C. Czebrinski
Assistant Director

cc: Mr. Richard H. Faigo

bcc: Hrg. file ✓
Mr. Bryan

METROPOLITAN DADE COUNTY ZONING APPEALS BOARD

October 15, 1969

H. C. King, et al

Hearing Number 69-6-56. Resolution 4-ZAB-576-69.

Mr. Wood: Mr. Chairman, thank you; I concur in your remarks that the Chair has made. I feel that the applicants are entitled to a decision today.

Chairman Lee: All right.

Mr. Wood: On those bases, I would like to offer a motion for denial of the entire application as presented here today, basing my motion for denial on the recommendations by both departments, in addition to the fact that the information requested by this Board has not been given by the applicant. I feel that those reasons set forth in the recommendations and the fact that the information is unavailable to use would be sufficient to deny this particular application, in its entirety.

Chairman Lee: Seconded by Mrs. Faugno. Any discussion on that motion by the Board?

Unidentified Man: Mr. Lee---

Chairman Lee: We have to get a motion on the floor. Any discussion on the motion? Anyone want to discuss the motion?

Mr. Flynn: Mr. Chairman, I feel we are penalizing Mr. King by doing it this way. I think it should be deferred if anything instead of Denied, to give him time to work this out. I know they haven't gotten, haven't had enough time yet.

Mr. Catlin: Mr. Flynn---

Chairman Lee: I think that is the way I see it now--that we should call the roll on this one.

Mrs. Page: Mr. Czebrinski, on this application I would like to know whether I should abstain at this point?

Mr. Czebrinski: The matter is whether or not you have heard the previous testimony or read it.

Mrs. Page: I abstain.

Chairman Lee: I am going to vote yes, to move it right along; otherwise there would be a tie vote. So, the motion passes three to one for denial of the application with one abstention, Mrs. Page abstaining. That concludes the hearing and the application is denied. (Mr. Flynn voting against the motion; Messrs. Green, Levenstein and Shaw being excused.) Mrs. Page's reason for abstaining was that she wasn't here and didn't read the transcript.

Walter I. Castles

Rehearing 69-9-47. Resolution 4-ZAB-577-69.

Mr. Wood: Mr. Chairman, I move approval.

Chairman Lee: Okay, motion by Mr. Wood for approval, seconded by Mr. Flynn, subject to dedications.

Mr. Czebrinski: Any other conditions?

Mr. Wood: So you have any normal conditions that would be imposed in an operation of this type?

Mr. Czebrinski: Yes, sir.

Mr. Wood: Then, impose those normal conditions.

Mr. Czebrinski: Then in your motion, you would include the usual conditions?

Mr. Wood: Yes.

Chairman Lee: Any further discussion on the motion? Those opposed signify by raising their right hand. Motion carries five to zero for approval, then. (Messrs. Green, Levenstein and Shaw being excused.) We want to thank you for coming back and waiting 30 days, and we hope we didn't inconvenience you too much.

RESOLUTION NO. Z-89-70

The following resolution was offered by Commissioner

Ben Shepard, seconded by Commissioner

Earl J. Carroll, and upon poll of members

present, the vote was as follows:

Earl J. Carroll	aye	Arthur H. Patten, Jr.	absent
Mary H. Foote	aye	Ben Shepard	aye
Alexander S. Gordon	nay	Earl M. Starnes	absent
R. Hardy Matheson	absent	Chuck Hall	aye
Thomas D. O'Malley	absent		

WHEREAS, H. C. King, et al had applied for the following:

~~A district boundary change from EU-2 (Single Family - 5-acre-estates) to RU-4 (Apartment House & Hotel);~~

Special Exception to permit a multiple family apartment development;

Variance of Zoning Regulations requiring all uses to be on public streets and roads, to waive same and to permit the aforementioned development on private drives;

UNUSUAL USE to permit an entrance feature; said feature to consist of one gatehouse (enclosing pumping station) and one 8' high wall and two pillars on each side of the access drive into the development;

UNUSUAL USE to permit the filling of bay bottom land out to the East line of the SW $\frac{1}{4}$ of Section 35, Twp. 55 South, Range 40 East;

UNUSUAL USE to permit the excavation of a lake and canals. Applicant is requesting the vertical bulkheading from plus 6.0' elevation to -5.0' elevation, then a 12' horizontal to 2.5' vertical slope to a -9.0' elevation, then a vertical slope to -20' elevation on the lake. Canal excavation is proposed with a vertical bulkheading from plus 6.0' elevation to -5.0' elevation, then a horizontal shelf extending into the canal for 10', then a vertical cut into -20' elevation of water.

UNUSUAL USE to permit a water use facility: to-wit: boat docks in the above lake;

Hotel

SPECIAL EXCEPTION to permit the following apartment buildings: One with 150' height, one with 140' height, six with 126' height, one with 110' height (100' permitted on each);

ON: That portion of subject property lying SE/ly of Old Cutler Road

A district boundary change from EU-2 and EU-1 (One Acre Estates) to EU-1;

ON: That portion of subject property lying NW/ly of Old Cutler Road

SUBJECT PROPERTY: Tracts 3 - 9 inclusive, Dougherty's Subdivision (PB 1, Page 1); Tracts 1 - 4 inclusive, S. H. Richmond Subdivision (PB 1, Page 67) less the North 161' of said Tract 1, North 196.78' of Tracts 5 and 6 of S. H. Richmond Subdivision (PB 1, Page 67); That portion of the NW $\frac{1}{4}$, SW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 35, Twp. 55 South, Range 40 East, lying SE/ly of Old Cutler Road and less the South 600' thereof;

LOCATION: From Old Cutler Road to Discayne Bay, between approximately theo. SW 177th Street and approximately theo. SW 183rd Street and one parcel lying NW/ly of Old Cutler Road at approximately SW 180th Street, Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held as required by law, and all interested parties concerned in the matter were heard, and upon due and proper consideration having been given to the matter, the requested district boundary changes were recommended for denial and the balance of the requests were denied for failure to obtain the necessary 3/4 majority favorable vote of those members present, and

WHEREAS, F. C. King, et al, had appealed the decision of the Zoning Appeals Board to this Board, pertaining to the requested Special Exceptions, Variance and Unusual Uses, and

WHEREAS, 15-day notice of the time and place of the meeting of this Board was published, as required by the Zoning Procedure Ordinance, and after reviewing the record, recommendation and decision of the Zoning Appeals Board, and after having given an opportunity for interested parties to be heard, and upon considering the record, recommendation and decision of the Zoning Appeals Board and all matters presented at the meeting, it is the opinion of this Board that the requested district boundary changes would be compatible with the neighborhood and area concerned and would not be in conflict with the principles and intent of the plan for the development of Dade County, Florida, and should be approved, and that the grounds and reasons specified for the reversal of the ruling made by the Zoning Appeals Board, pertaining to the requested special exceptions, variance and unusual uses, were sufficient to merit a reversal of the decision;

★ NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the requested district boundary change to R4-4 be and the same is hereby approved and said property is hereby zoned accordingly, and that the special exception to permit a multiple family apartment development be and the same is hereby approved, subject to the following conditions:

1. That dedication of rights-of-way as may be deemed lacking, desirable and necessary, in the opinion of the Director of Public Works and Zoning Director, shall be made, and improvement shall be made of such rights-of-way as may be required by the Director of Public Works.

- 2. That a plot use sign be submitted to and meet with the approval of the Zoning Director, said plan to include among other things but be not limited thereto, type, height and location of structures, density of occupancy for proposed apartments, offstreet parking area, type and location of signs, landscaping, drainage, ingress and egress drives, etc.
- 3. That if the approval of the plan, the same be substantially in accordance with that submitted for the hearing as prepared by William Hamilton Arthur, Architect, entitled, "Adjusted Land Use Plan, South Cutler Bay Development Assoc.", dated January 10, 1970 - Revised February 25, 1970.
- 4. That the development shall be established and maintained in accordance with the approved plan.
- 5. That an instrument suitable for recording and meeting with the approval of the Director of Building and Zoning Department be submitted to the effect that the property would be developed substantially in accordance with the plans submitted for the hearing, unless at some future date either the zoning or plan of development were modified by Public Hearing; that said agreement shall be binding on the property owners and all other parties of interest and their successors in title.
- 6. That a recordable agreement be submitted to and meet with the approval of the Zoning Director providing for permanent and safe access for pedestrian and vehicular traffic within the development and, particularly, for right of access for fire, police, health and sanitation and other public service personnel and vehicles. The agreement which shall be a covenant running with the land shall, also, include a stipulation that the streets or accessways shall be installed and maintained by the applicant including, but not limited to, sidewalks, drainage facilities, water, sewers and fire hydrants meeting with the approval of the Directors of the Public Works and Building and Zoning Departments. Such agreement shall be executed by all parties having an interest in the land and its improvements.

BE IT FURTHER RESOLVED that the requested district boundary change to EG-1 be and the same is hereby approved and said property is hereby zoned accordingly;

~~BE IT FURTHER RESOLVED~~ that the balance of the application be and the same is hereby approved.

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

PASSED AND ADOPTED this 16th day of April, 1970.

Hears 5-11-69
No. 69-6-53
VP

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

E. B. LEATHERMAN, CLERK

By *[Signature]*
Deputy Clerk

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, RICHARD P. BRINKER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-89-70, adopted by the said Board of County Commissioners at its meeting held on April 16, 19 70.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 20th day of March, A. D. 19 73.

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

By A. H. Wabike
Deputy Clerk

SEAL

Board of County Commissioners
Dade County, Florida

MEMORANDUM

Agenda Item 2(b)

To: The Honorable Mayor and Members
Board of County Commissioners

Date: July 20, 1972

From: R. Ray Goode
County Manager

Subject: South Cutler Bay, Inc.
Moratorium - Status of
Zoning Revision

The building moratorium on 80⁺ acres located between Old Cutler Road and the Bay, from S.W. 177 Street (theoretical as extended) to S.W. 183 Street (as extended) was imposed by the Commission on June 20, 1972 for a period of 120 days. Resolution R-924-72 which imposed this moratorium also directed that, "the County Manager shall report back to this Board within thirty days as to the steps he has taken toward revision of zoning district boundaries." This report is submitted in compliance with this request.

Two different approaches to revising the zoning on this single owned tract are possible. One approach would be for staff to propose a subdivision of the subject property into various zoning district classifications which will not exceed the maximum density as established in the South Bay Area Plan and, further, will provide for a transition of land uses to adjoining properties. Although this approach is common for multiple owned smaller tracts, it is less desirable for large single owned tracts where the owner has the opportunity to master plan the entire development, with assistance of staff evaluation, and then request zoning based on the site development master plan which becomes part of the zoning. This site development plan approach has obvious advantages over the other but necessitates the cooperation of the owners in formulating a site plan with deed restrictions that becomes an integral part of the zoning. Because the present owner of this subject tract expressed a willingness before the Commission on June 20 to completely revise the site plan which is a part of the existing zoning on this tract and to reduce densities, staff has been working closely these past thirty days with the owner's architects on a revised site plan.

The site plan approach to zoning necessitates that the owner initiate the request for zoning based on his site plan and accompanying voluntarily offered deed restrictions which insures the implementation of the site plan regardless of future ownerships. For this reason, the owner of South Cutler Bay, Inc., who is precluded from filing a rezoning request on the property so long as the building moratorium is in effect, has requested via public hearing that the moratorium as such be removed and in its place, serving the same effect, the owner has offered to legally bind himself from requesting or receiving any building permits on the property until the County Commission has taken final action on the question of rezoning of the property which is estimated to take at least another ninety days--depending on when the application is filed.

The existing zoning and site plan on the 80⁺ acre tract (dated September 21, 1970) shows 1,857 units with a density of 31.3 units per net acre. This approved site plan contains fifty buildings located over the entire area with off-street parking adjacent. Consequently, a major portion of the site is covered with buildings or parking, leaving little open space. These building heights vary from two-story townhouses at 35 feet to a 14-story building at 150 feet. Many are ten stories.

July 20, 1972

The revised site plan prepared by the new land owners shows a total of 1,322 units with a density of 21.3 units per net acre, which is a reduction of 535 units (approximately 28.0 percent) from the present zoning. This revised plan has only five multiple family buildings and one recreational building. In this plan all off-street parking will be incorporated in the lower levels of the buildings. This enables the preservation of a major portion of the existing trees and mangrove area (which will be deed restricted as permanent open space), and creates a deep landscaped buffer along Old Cutler Road. Two-story townhouses are proposed on the north boundary as a transition. Building heights vary from two-story townhouses at 35 feet to a 20-story building at 184 feet. The proposed coverage of land is extremely low for this type development and provides much open space which distinguishes this site plan.

The South Bay Area Study as approved by the Board of County Commissioners in February, 1970 and amended on July 21, 1970 by establishing a maximum population in the study area of 150,000 is the official planning guide for this entire 15 square mile South Bay area including the subject 80 acres. The South Bay plan was also the policy guide used for zoning the vast Saga development which was required to reduce its proposed densities considerably before their zoning was finally approved by the Commission. Based on the approved South Bay Area Land Use Plan and the maximum population policy of the Commission, the subject 80¹ acre tract is allocated a maximum of approximately 600 total units or a maximum net residential density between 9-10 units per acre.

This proposed development was approved by the Commission in 1970 and recently purchased by another party approximately two years later. The purchase price was probably based primarily on the number of units that would be permitted. An excavation permit was granted earlier this year for dredging and filling, which is currently underway. The developer has secured certain financial commitments to develop this parcel. However, a recently imposed building moratorium has temporarily stopped this development. The staff is sympathetic to the current owner and complimentary of his evidenced willingness to cooperate with the County and revise the site plan for rezoning.

The revised site plan is far superior to the existing plan in every respect. A revised plan has been submitted with a reduction in density from 1,857 units to 1,322 units or approximately 28 percent. This is commendable but, is still more than double the maximum established in the approved South Bay Area Land Use Plan for this tract. If an exception is made in this instance to this recently approved land use plan (1970) then the door is opened for numerous other "exceptions" to be made. A very dangerous precedent and one that nullifies the effectiveness of any overall plan.

Questions raised in regard to water and sewer have been investigated and reveal that this development can be served by existing and planned facilities; further no building permits will be issued on this or any other similar development if it cannot be served adequately at the time of construction.

During the morning peak hour Old Cutler Road in the vicinity of the proposed development, currently serves 639 vehicles northbound and 352 vehicles southbound. One thousand three hundred additional dwelling units would generate approximately 810 peak hour vehicular trips which if added to the existing Old Cutler Road volumes would, theoretically, increase the traffic volume by 82 percent. This is a theoretical increase because Old Cutler Road, assuming no major diversion to other existing or committed facilities, could not carry 1,127 vehicles northbound in the morning peak hour without drastic side street capacity restrictions at signalized and other controlled intersections further to the north. With some realistic intersection and signal timing modifications, Old Cutler Road could accommodate, at "Level of Service D,"⁽¹⁾ approximately 800 northbound vehicles per hour in this section.

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⁽¹⁾"Level of Service D approaches unstable flow, with tolerable operating speeds being maintained though considerably affected by changes in operating conditions. Fluctuations in volume and temporary restrictions to flow may cause substantial drops in operating speeds. Drivers have little freedom to maneuver, and comfort and convenience are low, but conditions can be tolerated for short periods of time." HIGHWAY CAPACITY MANUAL: National Research Council, National Academy of Sciences, Highway Research Board; Special Report 87, 1965; p.81.

of roadway. Using the peak hour generation and distribution of 60 percent northbound and 40 percent southbound the amount of this volume that is in excess of the existing operation translates into that which can be expected to be generated by slightly less than 600 dwelling units. This is one-third the development allowed under existing zoning, and less than half that of the recent proposal. This level of development would allow other potential development in the surrounding area to utilize committed and planned roadway improvements as they come into service.

We cannot comment on sufficiency of internal traffic circulation due to the non-specific roadway elements submitted with the site plan. We recommend that all major internal roadways be a minimum of two lanes with appropriate left turn storage features. Four lane divided roadways with median planting would, of course, provide an improved quality of internal circulation and possibly would add to the visual qualities of the development.

Conclusion and Recommendations

1. The County Commission should agree to continue to follow the guidelines contained in the approved South Bay Area Land Use Plan and the maximum population densities which were established by the Commission in 1970. This would allocate approximately 600 dwelling units as the maximum density for the South Cutler Bay, Inc. property.
2. The Commission should endorse and encourage the site plan approach, which necessitates the land owner's cooperation, as the most desirable way of revising the zoning on this property. In this regard, the new property owner should be commended for voluntarily offering to revise his site plan with lower densities as the basis for rezoning consideration. Further, the owner should be commended for formulating a highly meritorious site plan although the reduced density to 1,322 units is still more than twice the master plan allocation for this property.
3. If the owner is willing to revise his plan not to exceed approximately 600 units then the building moratorium on this site should be modified by the Commission to permit the owner to file a rezoning application with agreement that no building permits will be issued until a final zoning decision on this matter is made by the Commission through the established zoning process.
4. If the owner is unwilling to lower the densities as recommended, then staff will proceed to file an application to rezone the subject property by establishing appropriate zoning district(s) that will limit the density to approximately 600 units and provide for appropriate transition of residential building types. It is anticipated that this can be accomplished and processed through the ZAB and County Commission within the remaining ninety days by giving priority to the processing of this application.

RRG:kj

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Proposed Rezoning of the South Cutler Bay, Inc.
Property (80+ acres) located between
Old Cutler Road and the Bay,
from S.W. 177 Street (theoretical as extended)
to S.W. 183 Street (as extended)

Recommendation of the Dade County Building
and Zoning and Planning Departments

October 18, 1972

Based on the information, conclusions and recommendations contained in the memorandum from the Manager to the Commission, subject: "South Cutler Bay, Inc. Moratorium--Status of Zoning Revision", dated July 20, 1972, the following rezoning plan has been prepared by staff as an alternative approach (admittedly less desirable than the site plan approach which must be based on cooperation of the owner) to rezoning the subject property.

Reference is made to the attached map showing the proposed zoning. A one lot in-depth EU-1 zoning district (1 acre residential) is proposed on the subject property along Old Cutler Road. This is similar to existing development and zoning west of Old Cutler Road and takes full advantage of the higher elevation land which is heavily wooded. Immediately adjacent and to the east, a two lot in-depth EU-M district (one-half acre residential) is proposed for approximately half the width of the property, then widens to the lagoon to permit greater flexibility in street layout and design. This zoning district also extends along the north boundary of the property to the Bay as a transition to future proposed low density development on the adjoining property to the north. Again, much of this area is on higher elevation naturally landscaped portion of the site. The RU-3M district (two story apartments, 12.9 units per acre maximum density) is proposed west of and on the south end of the lagoon-marina area which is currently being dredged. East of the lagoon RU-4L (4-story apartments, 23 units per acre maximum density) is proposed. The mangroves located bayward of the mean high water line and the lagoon area is proposed to be zoned GU (interim district).

This proposed rezoning plan provides for a maximum of approximately 350 dwelling units on the 50+ acres of net residential land (excluding mangrove, bay and lagoon areas) which is less than the maximum 600 units allocated to this site by the South Bay Area Land Use Plan. Higher densities approaching the 600 figure could be accommodated on this property and still provide good transition and compatibility with the surrounding area if the rezoning was based on a site development plan which only the property owner can legally prepare and offer. Since this is not the approach being used under this alternative, a density less than the maximum is considered necessary to accomplish development based on good planning principals.

A statistical breakdown of the proposed rezoning follows:

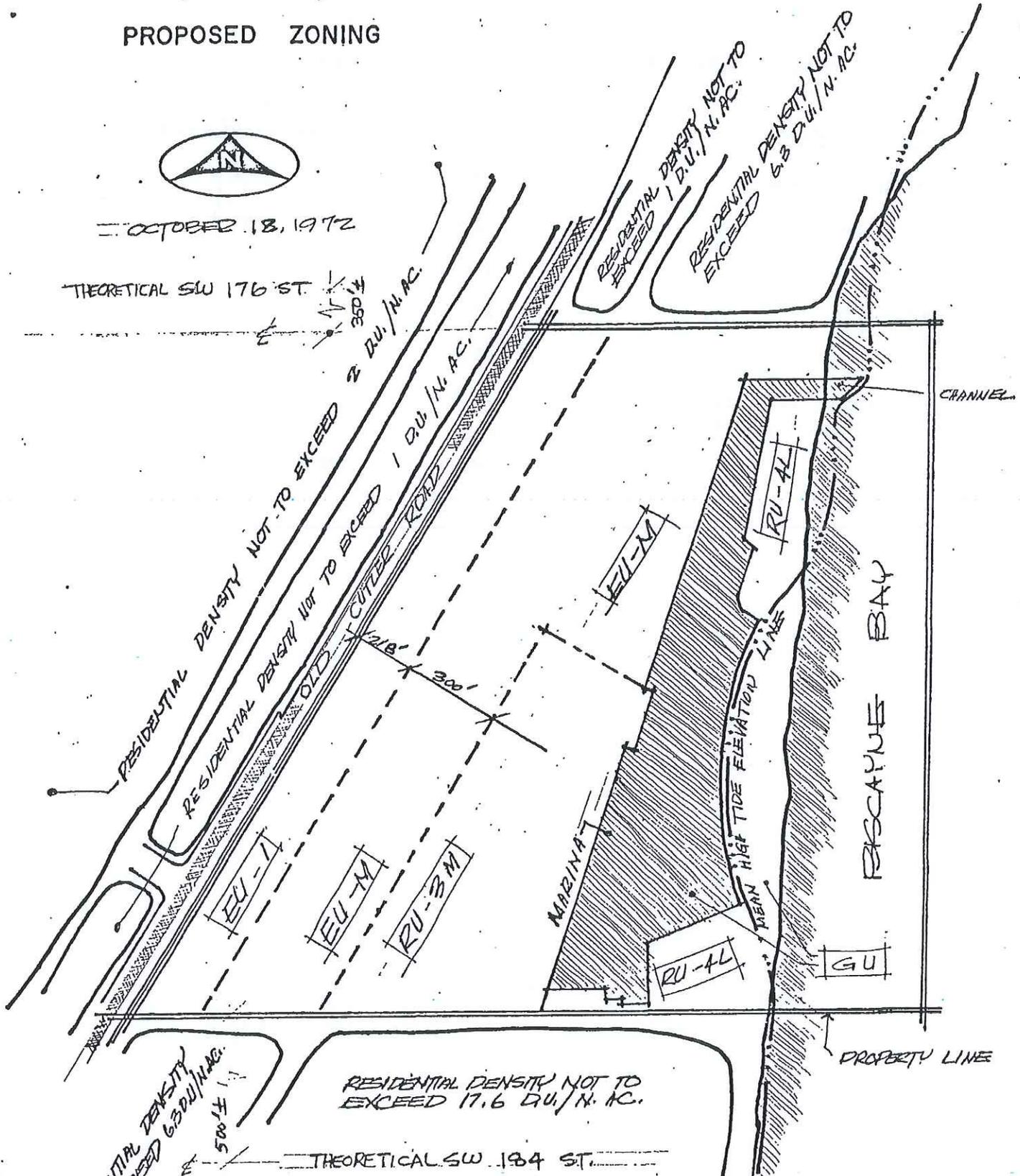
<u>Zoning District</u>	<u>Acres</u>	<u>Maximum Number of Units</u>	
RU-4L North End	2.5	58	} 104
RU-4L South End	2.0	46	
RU-3M	14.3	184	
EU-M	21.2	53	
EU-1	11.0	11	
GU (marina, area east of mean high tide elevation line)	29.0	0	
	<u>Total</u>	<u>Total</u>	
	80.0±	352	

PROPOSED ZONING



OCTOBER 18, 1972

THEORETICAL SW 176 ST.



RESIDENTIAL DENSITY NOT TO EXCEED 6.8 DU./N. AC. 500 ±

RESIDENTIAL DENSITY NOT TO EXCEED 17.6 DU./N. AC.



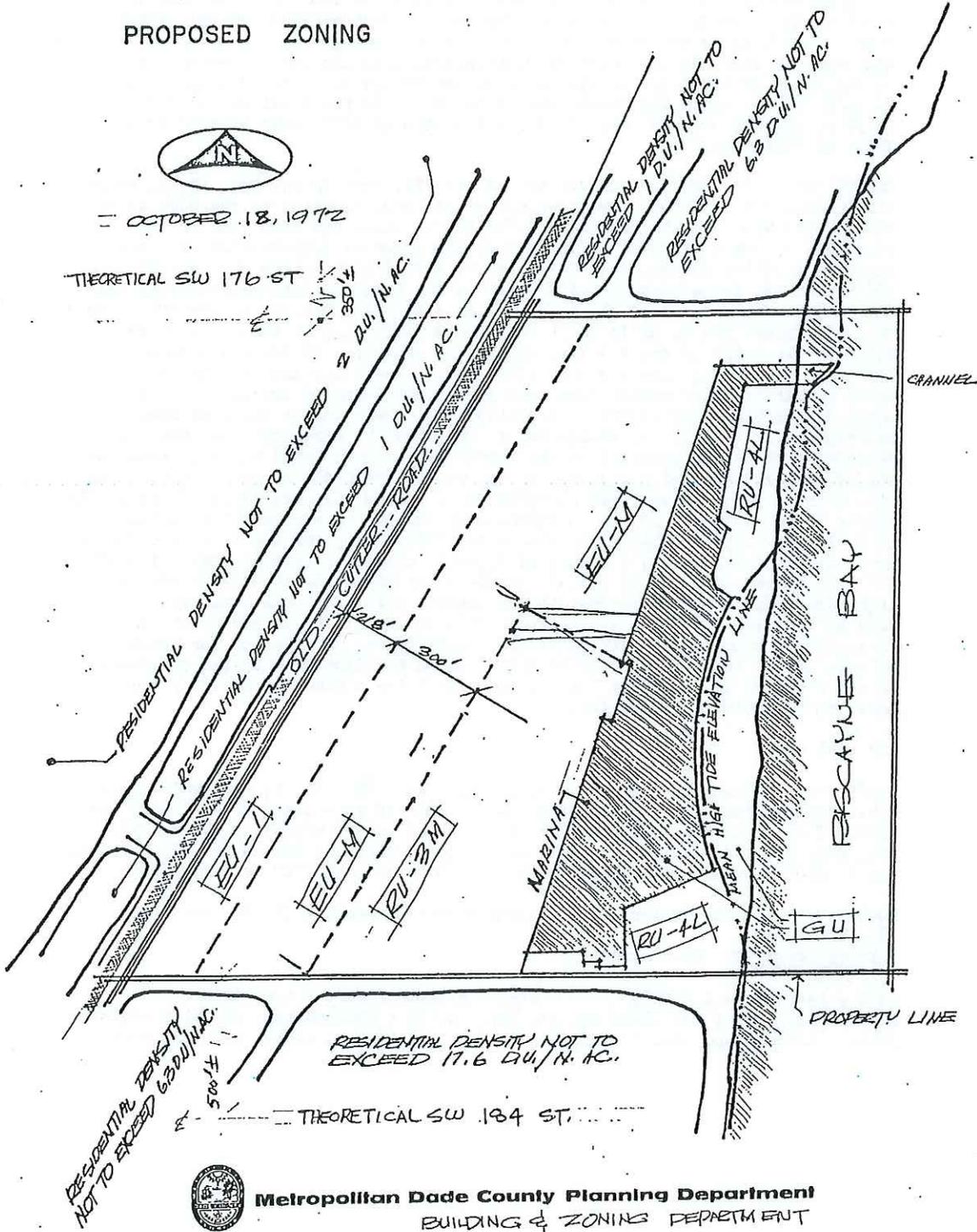
Metropolitan Dade County Planning Department
BUILDING & ZONING DEPARTMENT

PROPOSED ZONING



OCTOBER 18, 1972

THEORETICAL SW 176 ST



Metropolitan Dade County Planning Department
BUILDING & ZONING DEPARTMENT

A point, thence run N. $34^{\circ}00'00''$ E. for a distance of 215', more or less to the point of intersection with the mean high water mark of Biscayne Bay; thence meander SE/ly along the mean high water mark of Biscayne Bay for a distance of 465' 44" more or less, to the point of intersection with the South line of the N.1/2 of the S.1/2 of the S.1/2 of the S.1/2 of the SW $\frac{1}{4}$ of said Sec. 35; thence run N. $89^{\circ}24'24''$ W. along the South line of the N.1/2 of the S.1/2 of the S.1/2 of the S.1/2 of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 740', more or less to the Point of Beginning.

PARCEL "X" - All that part of the SW $\frac{1}{4}$ of Sec. 35, Twp. 55 S., Rge. 40 E., which lies within the following described parcel of land; Commence at the SW/c of the SW $\frac{1}{4}$ of said Sec. 35; thence run N. $00^{\circ}01'53''$ W. along the West line of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 248.17' to the point of intersection with the centerline of Old Cutler Rd.; thence run N. $31^{\circ}43'34''$ E. along the centerline of Old Cutler Rd. for a distance of 397.50' to the point of intersection with the South line of the N.1/2 of the S.1/2 of the S.1/2 of the SW $\frac{1}{4}$ of said Sec. 35; thence run S. $89^{\circ}14'26''$ E. along the South line of the N.1/2 of the S.1/2 of the S.1/2 of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 1293.04' to a point; thence run N. $17^{\circ}00'00''$ E. for a distance of 1690.99' to the point of intersection with a line that is 345.00' South of and parallel to the North line of Lot 3 of DOUGHERTY'S SUBDIVISION, according to the plat thereof recorded in PB 1 at Pg. 1; thence run S. $89^{\circ}20'03''$ E. along the line that is 345.00' South of and parallel to the North line of said Lot 3 for a distance of 145.89' to the Point of Beginning; thence run S. $17^{\circ}00'00''$ W. for a distance of 610.00' to a point; thence run S. $33^{\circ}00'00''$ E. for a distance of 38.07' to a point thence run S. $17^{\circ}00'00''$ W. for a distance of 202.09' to the point of curvature of a circular curve to the left; thence run SE/ly along the arc of said circular curve to the left, having a radius of 110.00', through a central angle of $106^{\circ}20'03''$, for an arc distance of 204.15' to the point of intersection with the mean high water mark of Biscayne Bay; thence meander N/ly along the mean high water mark of Biscayne Bay for a distance of 835', more or less, to the point of intersection with a line that is 345.00' South of and parallel to the North line of said Lot 3; thence run N. $89^{\circ}20'03''$ W. along the line that is 345.00' South of and parallel to the North line of said Lot 3 for a distance of 425', more or less, to the point of beginning.

(3) EU-4 to GU

PARCEL "Y" - Tracts 3-9 inclusive Dougherty's Sub. PB 1 Pg. 1; Tracts 1-4 incl. S.H. Richmond Sub. PB 1 Pg. 67, less the N. 161' of said Tract 1; N. 196.78' of Tracts 5 and 6 of S.H. Richmond Sub. PB 1 Pg. 67; that portion of the W. 1/2, SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 35, Twp. 55 S., Rge. 40 E., lying SE/ly of Old Cutler Rd., and less the 2,400' thereof; LRS Parcels "A", "B", "C", "D", and "E" as shown above.

LOCATION: From Old Cutler Rd. to Biscayne Bay; between SW 177 St. and approx. SW 183 St.

SIZE OF PARCELS: 80.1 acres

EU-4 - Apartments & Hotels

EU-1 - Estates 1 Fam. 1 Acre Cross

EU-M - Med. H. 1 Fam 15000 sq. ft. Net

EU-3M - Minimum Apt. No. 12.9 units/ac.

EU-4E - Limited Apt. No. 23 units/acre

GU - Interim - Awaiting specific zone

January 10, 1973

Joseph N. Lillard Hrg. 73-1-51

Resolution 4-ZAB-47-73

Mr. Borroto: I move that we approve the recommendations of both departments.

Mr. Salman: I second.

Chairman Berlin: Motion by Mr. Borroto, seconded by Mrs. Damewood, for approval based upon the recommendations of both departments. All opposed? Motion carries 7-0 (Mr. Coll and Mrs. Page being excused).

Directors, Dade
County Building &
Zoning and Plan-
ning Departments

Hrg. 73-1-52

Resolution 4-ZAB-48-73

Mr. Borroto: I would like to move that we deny this request, and let me state why. I happen to agree with the property owners around the area that this is definitely a very large spot zone. It is spot zoning, no question about that. There are no services in the area, etc. On the other hand, this property is already under development. I think that here is where the County Commission can exercise their energy and invite the property owner to furnish a plan or do something, but not to the amount of units. What was done was a mistake. I think that was a mistake by the previous Commission of allowing this type of zoning. So I respectfully deny the request of this application.

Mr. Salman: I second.

Chairman Berlin: Motion by Mr. Borroto, seconded by Mr. Salman, for denial--I assume that was without prejudice?

Mr. Borroto: Without prejudice.

Mr. Salman: The reason I think it should be denied, to me it doesn't make any sense. You know, this thing was rezoned April 16, 1970. It was purchased in February of 1972, as was explained by counsel, and there was valid zoning obtained through our official authorities. Later on, a building permit--whether it is for an excavation of a marina or a hole in the ground, or whatever it was--a building permit was actually gotten on April 6th of 1972.

Chairman Berlin: For excavation.

Mr. Salman: An excavation permit for marina construction, right. Later on, they started the thing and they spoke with members of the Planning and Zoning Departments and presented a revised plan that will reduce the density considerably. So, I really believe that it would be very unfair to the property owners to just roll it back without any professional planning on it.

Chairman Berlin: I agree with the motion but not for the reasons stated. I think that any land owner has the right to rely on the integrity of zoning, and here is a perfect instance where somebody started in, purchased a piece of property in reliance upon zoning, expended funds, acted in reliance thereon. Now the county steps in and tries to change it. This is not right; that is not fair. And in my personal opinion, it is something that no court now in this land would uphold. That is just my personal opinion. As far as I'm concerned, I think it is a horrible abortion of zoning and I don't think it should have been there in the first place; but it is there. Now to deprive these people of this right that they purchased and paid for and expended the money just is not right and I am sorry for the residents of the community, because it shouldn't be there. But in evaluating and weighing the rights of others, you must look at all concerned, and I agree with Mr. Borroto. Excuse me, Mrs. Damewood.

Mrs. Damewood: Mr. Berlin, you covered what I wanted to say, but if it would benefit the home owners in the area where this is, as well as the builders, we had a case very much like this come up this morning in connection with another piece of property and the same decision had to be made, where we denied the request of the Directors because of the fact that you must rely on the Zoning Appeals Board and the Metro Commissioners if they give you zoning and you go ahead and spend money for financing and excavation and building. If that is so, you cannot just deny these people this right. We were sort of forced to make such a decision today, I believe.

RESOLUTION NO. 4-ZAB-48-73

The following resolution was offered by Mr. Wilfredo Borroto, seconded by Mr. Carlos Salman, and upon poll of members present, the vote was as follows:

Wilfredo Borroto	aye	Irene Faugno	aye
Frank P. Catania	aye	Aspee Irani	aye
Edward G. Coll, Jr.	abstain	Betty S. Page	absent
Thelma Damewood	aye	Carlos Salman	aye
		Jerome C. Berlin	aye

WHEREAS, Directors, Dade County Building & Zoning and Planning Departments have applied for the following:

A district boundary change from RU-4 (Apartment Houses and Hotels) to EU-1 (Single Family-1 acre estates).

SUBJECT PROPERTY: PARCEL "A" - All that part of the SW $\frac{1}{4}$ of Sec. 35, Twp. 55 S., Rge. 40 E., which lies within the following described parcel of land: Commence at the SW/c of the SW $\frac{1}{4}$ of said Sec. 35; thence run N. 00°01'53" W. along the West line of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 248.17' to the point of intersection with the centerline of Old Cutler Rd.; thence run N. 31°43'34" E. along the centerline of Old Cutler Rd. for a distance of 397.50' to the point of intersection with the South line of the N. 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Sec. 35 and the Point of Beginning of the herein described parcel; thence run S. 89°14'26" E. along the South line of the N. 1/2 of the N. 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 312.55' to the point of intersection with a line that is 268.00' SE/ly of and parallel to the centerline of Old Cutler Rd.; thence run N. 31°43'34" E. along the line that is 268.00' SE/ly of and parallel to the centerline of Old Cutler Rd. for a distance of 1264.78' to a point; thence run N. 31°07'32" E. along a line that is 268.00' SE/ly of and parallel to the centerline of Old Cutler Rd., for a distance of 1023.59' to the point of intersection with the North line of Tract 3 of DOUGHERTY'S SUBDIVISION, according to the plat thereof recorded in PB 1 at Pg. 1 thence run N. 89°20'03" W. along the North line of said Tract 3 for a distance of 310.91' to the point of intersection with the centerline of Old Cutler Rd.; thence run S. 31°07'32" W. along the centerline of Old Cutler Rd. for a distance of 864.57' to a point; thence run S. 31°43'34" W. along the centerline of Old Cutler Rd. for distance of 1424.19' to the Point of Beginning, and

A district boundary change from RU-4 to EU-M (Estate Use Modified).

PARCEL "B" - All that part of the SW $\frac{1}{4}$ of Sec. 35, Twp. 55 S., Rge. 40 E., which lies within the following described parcel of land: Commence at the SW/c of the SW $\frac{1}{4}$ of said Sec. 35; thence run N. 00°01'53" W. along the West line of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 248.17' to the point of intersection with the centerline of Old Cutler Rd.; thence run N. 31°43'34" E. along the centerline of Old Cutler Rd. for a distance of 397.50' to the point of intersection with the South line of the N. 1/2 of the N. 1/2 of the S. 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Sec. 35; thence run S. 89°14'26" E. along the South line of the N. 1/2 of the S. 1/2 of the S. 1/2 of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 312.55' to the point of intersection with a line that is 268.00' SE/ly of and parallel to the centerline of Old Cutler Rd. and the Point of Beginning of the herein described parcel; thence continue S. 89°14'26" E. along the South line of the N. 1/2 of the N. 1/2 of the S. 1/2 of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 349.87' to the point of intersection with a line that is 568.00' SE/ly of and parallel to the centerline of Old Cutler Rd.; thence run N. 31°43'34" E. along the line that is 568.00' SE/ly of and parallel to the centerline of Old Cutler Rd. for a distance of 1142.10' to a point; thence run S. 58°16'26" E. along a line that is at right angles to the previously described course for a distance of 325.83' to a point; thence run N. 17°30'00" E. for a distance of 923.37' to a point of intersection with a line that is 270.00' South of and parallel to the North line of Lot 3 of DOUGHERTY'S SUBDIVISION, according to the plat thereof recorded in PB 1 at Pg. 1; thence run S. 89°20'03" E. along the line that is 270.00' South of and parallel to the North line of said Lot 3 for a distance of 425', more or less, to the point of intersection with the mean high water mark of Biscayne Bay; thence meander N/ly along the mean high water mark of Biscayne Bay for a distance of 285', more or less, to the point of intersection with the North line of said Lot 3; thence run N. 89°20'03" W. along the North line of said Lot 3 for a distance of 635.66' more or less to the point of intersection with a line that is 268.00' SE/ly of and parallel to the cen-

410.00' to a point; thence run S. 35°00'00" E. for a distance of 36.07' to a point thence run S. 17°00'00" W. for a distance of 202.09' to the point of curvature of a circular curve to the left; thence run Se/ly along the arc of said circular curve to the left, having a radius of 110.00', through a central angle of 106°20'03", for an arc distance of 204.15' to the point of intersection with the mean high water mark of Biscayne Bay; thence meander N/ly along the mean high water mark of Biscayne Bay for a distance of 335', more or less, to the point of intersection with a line that is 345.00' South of and parallel to the North line of said Lot 3; thence run N. 89°20'03" W. along the line that is 345.00' South of and parallel to the North line of said Lot 3 for a distance of 425', more or less, to the point of beginning, and

A district boundary change from RU-4 to GU (Interim).

PARCEL "F" - Tracts 3-9 inclusive Dougherty's Sub. PB 1 Pg. 1; Tracts 1-4 incl. S.H. Richmond Sub. PB 1 Pg. 67, less the N. 161' of said Tract 1; N. 196.73' of Tracts 5 and 6 of S.H. Richmond Sub. PB 1 Pg. 67; that portion of the W. 1/2, SW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 35, Twp. 55 S., Rge. 40 E., lying SE/ly of Old Cutler Rd. and less the S. 600' thereof; LESS Parcels "A", "B", "C", "D", and "E" as shown above.

LOCATION: From Old Cutler Rd. to Biscayne Bay; between SW 177 St. and approx. the SW 183 St., Dade County, Florida, and

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

WHEREAS, upon due and proper consideration having been given to the matter, the Zoning Appeals Board was of the opinion that the application should be denied.

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board that the requested district boundary changes be and the same are hereby recommended for denial without prejudice by the Board of County Commissioners of Dade County, Florida.

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

PASSED AND ADOPTED this 10th day of January, 1973.

Heard 1/10/73
No. 73-1-52
1/15/73
ew

RESOLUTION NO. 4-242-352-74

The following resolution was offered by Mrs. Nancy Brown,
seconded by Mr. Joe H. Moffat, and upon poll of members present,
the vote was as follows:

Nancy Brown	aye	Carl W. Rhetta	absent
Thelma Danewood	absent	Miguel Suarez	aye
Aspee Iran	absent	Albert B. Veri	absent
Robert S. Kaufman	aye	Edward G. Coll, Jr.	aye
Joe H. Moffat	aye		

WHEREAS, South Outler Bay, Inc., has applied for the following:

SPECIAL EXCEPTION to permit a Multiple Family Apartment Development.

SPECIAL EXCEPTION to Zoning Regulations requiring all uses to abut on a public street or road, to waive same to permit the aforesaid development on private drives.

UNUSUAL USE to permit two (2) entrance features located at each entry point of said development as indicated on plans submitted for the hearing; each feature to consist of an 8' x 16' gatehouse on a 10' wide island.

SPECIAL EXCEPTION to Zoning Regulations to permit the aforementioned apartment development with 5 buildings varying in height from 129'6" to 132'6" (100' permitted).

UNUSUAL USE to permit water system facilities, to wit a lift station.

UNUSUAL USE to permit a marina to include eight (8) boat piers, gasoline pumps, boat gear storage, auxiliary boat supply shop and sanitation facilities.

TO MODIFY Condition #2 of Resolution 2-89-70 passed and adopted by the Metropolitan Dade County Board of County Commissioners on the 16th day of April, 1970, and reading as follows:

FROM: That in the approval of the plan the same be substantially in accordance with that submitted for the hearing as prepared by William Hamilton Arthur, Architect, entitled "Adjusted Land-Use Plan - South Outler Bay Association," and dated January 10, 1970, revised on February 25, 1970.

TO: That in the approval of the plan the same be substantially in accordance with that submitted for the hearing entitled "South Outler Bay," as prepared by Morris Lapidus and Associates, Architects, and dated November 21, 1973.

Purpose of the request is to permit the applicant to submit revised plans showing new enlargement of the existing lake.

Plans of the proposed multiple family development may be examined and are on file in the Zoning Department entitled "South Outler Bay," as prepared by Morris Lapidus and Associates, Architects, and dated November 21, 1973.

SUBJECT PROPERTY: All that part of Tracts 3, 4, 5, 6, 7, 8, and 9, lying East of the E/W line of Ingraham Highway of DOUGHERTY'S SUBDIVISION, P.B. 1, P. 1, AND

Tract 1, (LESS the N 161' thereof, and LESS R/W of Ingraham Highway), that part of Tract 2, lying East of the E/ly R/W line of Ingraham Highway and all of Tracts 3 and 4, of S. H. RICHMOND'S SURVEY of the SW $\frac{1}{4}$ of Section 35, Township 55 South, Range 40 East, P.B. 1, P. 67, AND

The N $\frac{1}{2}$ of the N $\frac{1}{2}$ of the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the N $\frac{1}{2}$ of the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, all in Section 35, Township 55 South, Range 40 East, also known as the N $\frac{1}{2}$ of Tracts 5 and 6 of S.H. RICHMOND'S SURVEY of the SW $\frac{1}{4}$ of said Section 35, P.B. 1, P. 67, AND

That part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and that part of the N $\frac{1}{2}$ of the N $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, lying East of the E/ly R/W line of Ingraham Highway, all in Section 35, Township 55 South, Range 40 East, AND

All that part of the County Road, as shown on S.H. RICHMOND'S SURVEY of the SW $\frac{1}{4}$ of Section 35, Township 55 South, Range 40 East, P.B. 1, P. 67, included in the above described parcels, EXCEPT the portions thereof now a part of Ingraham Highway; AND FURTHER

LESS 15' R/W dedication along Old Cutler Road.

LESS 100' R/W dedication for South Bay Drive.

LOCATION: East side of Old Cutler Road between thro. SW 177th Street and thro SW 181st Street, Dade County, Florida, and

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

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested special exceptions, unusual uses and modification would not be compatible with the area and its development and would not conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board that the requested special exception to permit a multiple family apartment development be and the same is hereby denied without prejudice.

BE IT FURTHER RESOLVED that the requested special exceptions to Zoning Regulations be and the same are hereby denied without prejudice.

BE IT FURTHER RESOLVED that the requested unusual uses be and the same are hereby denied without prejudice.

BE IT FURTHER RESOLVED that the requested modification of Condition #2 of Resolution 2-89-70 be and the same is hereby denied without prejudice.

39-55-40
Item No. 74-172
Page 3

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

PASSED AND ADOPTED this 6th day of June, 1974.

Board 6/6/74
No. 74-6-31
6/7/74
ml

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, RICHARD P. BRINKER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-196-74, adopted by the said Board of County Commissioners at its meeting held on July 23, 19 74.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 7th day of August, A. D. 19 74.

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

By B. H. Khalife
Deputy Clerk

SEAL

Board of County Commissioners
Dade County, Florida

June 6, 1974

South Cutler
Bay, Inc.

Hearing No. 74-6-51

4-ZAB-352-74

Mrs. Brown: Are you ready for a motion?

Chairman Coll: Any more discussion? All right, Mrs. Brown.

Mrs. Brown: I move for denial of this application. Would you like to have this point by point in its entirety?

Chairman Coll: Mr. Gold, would you counsel use on Mrs. Brown's request as to whether or not we need to take this point by point or either approve or deny?

Mr. Gold: She has the right to move for denial on the entire application.

Chairman Coll: Thank you.

Mrs. Brown: I move for it, then, in its entirety, move denial in its entirety without prejudice for the following reasons: If you are to review our reasons for being here at the Zoning Appeals Board, we are not an advocate to any of the applicants or to any of the objectors but are supposed to be looking at the overall benefit of Dade County; and we are to place ourselves in the position of overseeing the overall benefit to Dade County. Whereas the court order did make certain instructions, I find that in looking at this recommendation from the Zoning Director, that he felt that he could not approve it even barring the court order, that he could not approve this site plan because it is contrary to good zoning. Whereas the Planning Department may be able to make all kinds of apologies for the lack of good zoning, I cannot do it. The Zoning Department could not do it and on the basis of the overall benefit to Dade County, this particular site plan is not acceptable to me. The special exceptions, the additional things created into it are not acceptable simply because they are not in the best interest and the best benefit and the best use of the people. Now, the area in question, the people who live in that area will suffer irreversible loss of their privacy, the right to their land, and the value of their land to simply give maximum economic benefit to this one property owner, and that is exactly what we are warned not to do in our own zoning handbook, in our own directions for the way we are to operate. For this reason, I move denial in its entirety. It does not contradict the court order, but it simply says that as presented here this is unacceptable to me. It is unacceptable to the Zoning Director himself.

Chairman Coll: Second?

Mr. Moffat: Second. I would like to add one point:

Chairman Coll: Motion by Mrs. Brown, seconded by Mr. Moffat that the application be denied in its entirety. Discussion on the motion?

Mr. Moffat: I would like to add one point: It will also create a safety hazard during hurricane periods.

Chairman Coll: Thank you. Mr. Kaufman, you had a comment?

Mr. Kaufman: I would like to say that this motion is completely out of order; that this motion prohibits water system facilities in this project -- absolutely ridiculous. This motion, if it passes, it prohibits two entrance features on this project which are allowed in every project.

Mrs. Brown: If the project itself is approved, but I am denying the request for special exceptions to permit this

June 6, 1974

South Cutler
Bay, Inc.
Cont.

multi-family development; in effect; I am saying deny the site plan, and without the site plan, then it is not important whether or not he has a lift station or an entrance feature. That is why I denied it in its entirety.

Mr. Kaufman: I feel that we could have gone down the line in those ones which are really not debateable. The court order says that we must give him a marina. If his motion is approved, we are prohibiting them from erecting a marina of any kind -- absolutely ridiculous. For the points that go more to the merits of some of the other items here, here the people come in and they could split this thing up and zone it for 50 units, and they could come in with 17. They could have 40 percent lot coverage and they have got 80 percent open space. They could come in with a floor area ratio of two and are willing to come in with 1.5. I don't see really what more they can do.

Mrs. Brown: We have the obligation to accept a site plan, but not necessarily this site plan. This is not an acceptable site plan.

Chairman Coll: Mr. Kaufman, I think what she is saying does have merit. I think what Mrs. Brown is saying has merit. The County Attorney also has already ruled that that is here prerogative as a member of this Board, and I think the type of motion that she has made and has been seconded, I think we ought to just call the roll, if you feel that it is in order. Call the roll, please.

Whereupon the motion was put to a vote. Motion to deny the application without prejudice carried three to two. Those voting for the motion: Mrs. Brown, Mr. Moffat and Chairman Coll. Those voting against the motion: Mr. Kaufman and Mr. Suarez. Mrs. Damewood and Mr. Rhetta were excused, and Mr. Irani and Mr. Veri were absent.

Chairman Coll: Yes, only because I am opposed to the height that was recommended. I am sympathetic with the developer since the departments have suggested this to him, but I think the height of these buildings of 182 feet in this area is totally out of character with the neighborhood as well as the eight boat piers, gasoline pumps, and the rest of the commercial activities that belong to the marina. Motion to deny the application without prejudice carries three to two.
-(Applause)-

John Crouse

Hearing No. 74-6-52

4-ZAB-353-74

Chairman Coll: ---- The Chair is ready for a motion.

Mr. Moffat: So move.

Mrs. Brown: Second.

Chairman Coll: Motion by Mr. Moffat, seconded by Mrs. Brown that the application be approved in its entirety, motion based on the recommendations of both departments and the restrictions therein, that the period for approval is five years.

All opposed? Motion carries five to zero, with Mrs. Damewood and Mr. Rhetta being excused and Mrs. Irani and Mr. Veri being absent.

RESOLUTION NO. E-128-74

The following resolution was offered by Commissioner

Harry F. Cain, seconded by CommissionerEdward T. Stephenson, and upon poll of members present,

the vote was as follows:

Harry F. Cain	aye	Beverly B. Phillips	aye
Mike Calhoun	aye	Harvey Kavin	aye
Edward C. Fogg III	aye	Edward T. Stephenson	aye
Mrs. Stanley (Joyce) Goldberg	absent	John B. Orr, Jr.	absent
Edward T. Graham	aye		

WHEREAS, South Cutler Bay, Inc., had applied for the following:

SPECIAL EXCEPTION to permit a multiple family apartment development;

SPECIAL EXCEPTION to zoning regulations requiring all uses to abut on a public street or road, to waive same to permit the aforesaid development on private drives;

UNUSUAL USE to permit two (2) entrance features located at each entry point of said development, as indicated on plans submitted for the hearing; each feature to consist of an 8' x 16' gatehouse on a 14' wide island;

SPECIAL EXCEPTION to zoning regulations to permit the aforementioned apartment development with 3 buildings varying in height from 128'6" to 162'6" (100' permitted);

UNUSUAL USE to permit water system facilities, to-wit: a lift station;

UNUSUAL USE to permit a marina to include eight (8) boat piers, gasoline pumps, boat gear storage, auxiliary boat supply shop and sanitation facilities;

TO MODIFY Condition No. 2 of Resolution E-69-70, passed and adopted by the Metropolitan Dade County Board of County Commissioners on the 11th day of April, 1970;

Purpose of the request is to permit the applicant to submit revised plans showing new enlargement of the existing lake;

Plans of the proposed multiple family apartment development may be examined and are on file in the zoning Department entitled, "South Cutler Bay" as prepared by Morris Lapidus & Associates, Architects, and dated November 21, 1973;

SUBJECT PROPERTY: All that part of Tracts 3, 4, 5, 6, 7, 8 and 9, lying East of the E/ly right-of-way line of Ingraham Highway of Deagherly's Subdivision (PB 1, Page 1);

Tract 1 (less the North 161' thereof and less right-of-way of Ingraham Highway) that part of Tract 2 lying East of the E/ly right-of-way line of Ingraham Highway and all of Tracts 3 and 4 of S. H. Richmond's Survey of the SW $\frac{1}{4}$ of Section 35, Twp. 35 South, Range 40 East (PB 1, Page 67);The North 1/2 of the North 1/2 of the South 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the North 1/2 of the North 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ all in 35-53-40, also known as the North 1/2 of Tracts 5 and 6 of S. H. Richmond's Survey of the SW $\frac{1}{4}$ of said Section 35 (PB 1, Page 67);That part of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and that part of the North 1/2 of the North 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying East of the E/ly right-of-way line of Ingraham Highway, all in 35-53-40;

All that part of the County Road, as shown on S. H. Richmond's Survey of the SW $\frac{1}{4}$ of 35-39-40 (PB 1, Page 67) included in the above-described parcels except the portions thereof now a part of Ingraham Highway - and further

Less 15' right-of-way dedication along Old Cutler Road;

Less 100' right-of-way dedication for South Bay Drive;

LOCATION: East side of Old Cutler Road, between thos. SW 177th Street and thos. SW 181st Street, Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held as required by law, and all interested parties concerned in the matter were heard, and the Zoning Appeals Board was of the opinion that the requested special exceptions, unusual uses and modification would not be compatible with the area and its development and would not conform with the requirements and intent of the Zoning Procedure Ordinance and denied the requests without prejudice, and

WHEREAS, South Cutler Bay, Inc., the applicant, had appealed the decision of the Zoning Appeals Board to this Board, and after a 15-day notice of the time and place of the meeting of this Board was published as required by the Zoning Procedure Ordinance, a hearing was held by this Board, and after reviewing the record and decision of the Zoning Appeals Board and after having given an opportunity for interested parties to be heard, and upon considering the record and decision of the Zoning Appeals Board and all matters presented at the meeting, and upon due and proper consideration having been given to the matter, it is the opinion of this Board that the grounds and reasons specified for the reversal of the ruling made by the Zoning Appeals Board were sufficient to merit a reversal of the decision;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the decision of the Zoning Appeals Board be and the same is hereby overruled and the requested Special Exception to permit a multiple family apartment development; Special Exception to Zoning Regulations requiring all uses to abut on a public street or road and the Special Exception pertaining to height of buildings and the requested modification be and the same are hereby approved, subject to the following conditions:

1. That the dedication of rights-of-way shall be made in accordance with Section 33-133 of the Code of Metropolitan Dade County, unless the Director of Public Works deems such are not

necessary or requires a lesser amount. Improvements shall be made of such rights-of-way in order to comply with and in accordance with the requirements of the Manual of Public Works Construction, as may be deemed lacking, desirable and necessary by the Director of Public Works.

2. That a plot use plan be submitted to and meet with the approval of the Zoning Director; said plan to include among other things but be not limited thereto, type, height and location of structures, density of occupancy for proposed apartments, offstreet parking areas, type and location of signs, landscaping, drainage, ingress and egress drives, etc.
3. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing as prepared by Morris Lapins & Associates, Architects, entitled, "South Cutler Bay", and dated July 23, 1974.
4. That the height of four (4) of the said buildings will exceed the 100' height limitation and vary from 129'6" to 132'6".
5. That the development shall be established and maintained in accordance with the approved plan.
6. That an instrument suitable for recording and meeting with the approval of the Director of Building and Zoning Department be submitted to the effect that the property would be developed substantially in accordance with the plans submitted for the hearing, unless at some future date either the zoning or plan of development were modified by public hearing; that said agreement shall be binding on the property owners and all other parties of interest and their successors in title.
7. That a recordable agreement be submitted to and meet with the approval of the Zoning Director providing for permanent and safe access for pedestrian and vehicular traffic within the development and, particularly, for right of access for fire, police, health and sanitation and other public service personnel and vehicles. The agreement, which shall be a covenant running with the land, shall, also, include a stipulation that the streets or accessways shall be installed and maintained by the applicant including, but not limited to, sidewalks, drainage facilities, water, sewers and fire hydrants, meeting with the approval of the Public Works and Building and Zoning Departments. Such agreement shall be executed by all parties having an interest in the land and its improvements.

BE IT FURTHER RESOLVED that the requested Unusual Use to permit two entrance features be and the same is hereby approved, subject to the following conditions:

1. That a detailed plot use plan be submitted to and meet with the approval of the Zoning Director; said plan shall include, but be not limited thereto, location of structure or structures, offstreet parking areas and driveways, walls, hedges and fences, landscaping, signs, etc.
2. That the use be established and maintained in accordance with the approved plan.
3. That the applicant work out with the Director of Building and Zoning a satisfactory plan for the future maintenance of the structures and landscaping in connection with the use.

BE IT FURTHER RESOLVED that the requested unusual use to permit a lift station be and the same is hereby approved, subject to the following conditions:

1. That a plot use plan be submitted to and meet with the approval of the Dade County Building and Zoning Department, said plan to include among other things but be not limited thereto, type and location of proposed structure, landscaping, driveways, fencing, etc.
2. That the installation be subject to the approval of the Dade County Pollution Control Department.
3. That the use be established and maintained in accordance with the approved plan and applicable conditions, and in such a manner that the same will not become objectionable to the surrounding neighborhood because of noise, vibration or odors.

BE IT FURTHER RESOLVED that the requested Unusual Use to permit a Marina, including gasoline pumps, boat gear storage, auxiliary boat supply shop and sanitation facilities, be and the same is hereby approved, subject to the following conditions:

1. That a plot use plan be submitted to and meet with the approval of the Zoning Director, said plan to include among other things but be not limited thereto, location of gas pumps, boat docks and fishing pier, type and location of signs, light standards, parking areas, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled, "Revised Marina Excavation and Bulkhead Plan - Location Only - South Cutler Bay", prepared by H. J. Ross Associates, Inc., dated Revised January 21, 1974.
3. That the use be established and maintained in accordance with the approved plan.
4. That the maximum number of pumps be limited to two (2).
5. That the use of the marina shall be restricted for the use and accommodation of the apartment owners in the project with incidental, temporary berthing by guests of said owners being permitted.
6. Emergency services and use of marina shall not be prohibited.
7. Commercial use and berthing by outsiders shall be prohibited.
8. That the use permit be automatically renewable annually by the Dade County Building and Zoning Department upon compliance with all terms and conditions, and be subject to cancellation upon violation of any of the conditions, and when in the opinion of the Metropolitan Dade County Zoning Appeals Board, after public hearing, it is determined that the use is detrimental and/or incompatible to the surrounding neighborhood.

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

PASSED AND ADOPTED this 23rd day of July, 1974.

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

Heard 6-6-74
No. 74-6-51
vp

RICHARD P. BRINKER, CLERK
EDWARD D. PHELAN

By _____

RESOLUTION NO. Z-191-81

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

Barbara M. Carey	aye	Harvey Ruvin	absent
Clara Oesterle	absent	Barry D. Schreiber	aye
William G. Oliver	aye	Ruth Shack	aye
Beverly B. Phillips	nay	Stephen P. Clark	aye
James F. Redford, Jr.	aye		

WHEREAS, CLINTON F. WONG, TRUSTEE, ET AL, had applied for the following:

- (1) A district boundary change from EU-2 (Single Family Estates - 5 acres) and RU-4 (Apartments) to EU-M (Estate Use Modified);
- (2) NON-USE VARIANCE OF LOT FRONTAGE REQUIREMENTS to permit 2 proposed lots (#9 and #12) each with a frontage of 75' (120' required) as proposed single family building sites

ON

All that part of Lots 7 & 11 of th SW1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of th County Road as shown on plat of the SW 1/4 of Section 35, Township 55 South, Range 40 East, surveyed and drawn by S. H. Richmond and filed in Plat Book 1, page 67, lying SE/ly of Ingraham Highway (Old Cutler Road); AND all that part of the north 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of the County Road, as shown on plat filed in Plat Book 1, page 67 and lying SE/ly of Ingraham Highway (Old Cutler Road); All that portion of land lying and being situate and immediately adjacent to Parcels I & II, and Old Cutler Road (hereinafter referred to as "Strip of Land"), currently being acquired from the county. AND all of Lot 8 lying S/ly and E/ly of the County Road, and that portion of Lot 11 lying west of a line running perpendicular to the south boundary of Lot 11 and running parallel to the east boundary line of Lot 11, 625' west of the east boundary line of Lot 11 of the south 1/4 of Section 35, Township 55 South, Range 40 East, Plat Book 1, page 67; and all of the south 1/2 of the north 1/2 of the SW 1/4, of the SW 1/4, of the SW 1/4, lying E/ly and S/ly of the County Road, Section 35, Township 55 South, Range 40 East and also all that part of the SE 1/4, of the SE 1/4 of the SE 1/4 of Section 34, Township 55 South, Range 40 East, lying S/ly and E/ly of the County Road; also a strip of land 25' in width lying west of said Lot 11 abovementioned and south of the S/ly line of the County Road.

- (3) A district boundary change from EU-2 to RU-4L (Limited Apartment House);
- (4) SPECIAL EXCEPTION AND NON-USE VARIANCE OF ZONING REGULATIONS as applied to height of structures and number of stories in the RU-4L zone to permit 60' in height (50' required) and 6 stories (4 stories permitted) in proposed apartment buildings.

ON

All of Lot 9 and that portion of Lot 10 lying W/ly of a line located 650' to the west and running parallel to the eastern boundary of Lot 10 together with that portion of Lot 11 lying E/ly of a line 625' to the west and parallel to the eastern boundary of Lot 11, Section 35, Township 55 South, Range 40 East, S. H. RICHMOND SURVEY, Plat Book 1, page 67.

- (5) A district boundary change from EU-2 to GU (Interim)

ON

That portion of Lot 10 lying easterly of a line located 650' to the west and running parallel to the eastern boundary of Lot 10, Section 35, Township 55 South, Range 40 East, S. H. RICHMOND SURVEY, Plat Book 1, page 67.

A conceptual site plan of the proposed rezoning, EU-M subdivision, and apartment site is on file and may be examined in the Zoning Department entitled "Illustrative Site Plan, a Planned Community for Clinton Wong" prepared by Haynes

Spencer Richards, Architects and Planners, and dated June 23, 1981.

LOCATION: The north side of S.W. 184 Street, between Old Cutler Road and Biscayne Bay, Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida, was advertised and held, as required by law, and all interested parties concerned in the matter were heard, at which time the applicant by his attorney, Robert Y. Chulock, proffered a Declaration of Restrictive Covenants concerning the development of the subject property, and upon due and proper consideration having been given to the matter and to the recommendation of the Developmental Impact Committee, it is the opinion of this Board that the requested district boundary changes would be compatible with the neighborhood and area concerned and would not be in conflict with the principles and intent of the plan for the development of Dade County, Florida, and should be approved, and that the requested non-use variances and special exception would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance and should be approved and that the proffered covenant should be accepted;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the requested district boundary changes to EU-M, RU-4L and GU be and the same are hereby approved and said property is hereby zoned accordingly;

BE IT FURTHER RESOLVED that the requested non-use variance of lot frontage requirements and the requested special exception and non-use variance of zoning regulations be and the same are hereby approved;

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

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

PASSED AND ADOPTED this 23rd day of July, 1981.

July, 1981
No. 81-7-CC-33
vp
7/27/81

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
Richard P. Brinker, Clerk

By _____
Deputy Clerk

This resolution transmitted to the Clerk of the Board of County Commissioners on
the 31st day of July, 1981.

August 3, 1981

Clinton F. Wong, Trustee, et al
2600 Douglas Road #904
Coral Gables, Florida - 33134

Re: Hearing No. 81-7-CC-33, The North side of SW 184th Street,
between Old Cutler Road and Biscayne Bay

Dear Sir:

Enclosed, herewith, is a copy of Resolution No. Z-191-81, adopted by the Board of County Commissioners, which approved your requested district boundary changes to EU-21, RU-4L and GU and your requested special exception and non-use variance on the above-described property and accepted your proffered Declaration of Restrictive Covenants.

You are, hereby, advised that the decision of the Dade County Commission may be appealed by an aggrieved party within 30 days of the date of the submittal of the resolution to the Clerk of the County Commission. You are, further, advised that in the event that an appropriate appeal is timely filed in the Circuit Court, any building permit sought or obtained shall be solely at the risk of the party obtaining said permit.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC/vp

Enclosure

23-55-40/84-672
34/35

RESOLUTION NO. Z-30-85

The following resolution was offered by Commissioner Clara Oesterle, seconded by Commissioner Barbara M. Carey, and upon poll of members present the vote was as follows:

Barbara M. Carey	aye	Barry D. Schreiber	absent
Clara Oesterle	aye	Sherman S. Winn	absent
Beverly B. Phillips	aye	Jorge (George) Valdes	absent
James F. Redford, Jr.	absent	Stephen P. Clark	aye
Harvey Ruvin	aye		

WHEREAS, SCB PROPERTIES, INC., had applied for the following:

- (1) A district boundary change from RU-4 (Apartments) to OPD (Government Property) (Parcel A).
- (2) A district boundary change from EU-M (Estate Use Modified), EU-2 (Estates, 1 Family-5 Acres Gross), and RU-4 (Apartments) to GU (Agricultural (Parcel C).
- (3) A district boundary change from RU-4L (Limited Apartment House), EU-M (Estate Use Modified), EU-2 (Estates, 1 Family-5 Acres Gross), and GU (Agriculture) to GU (Agriculture) (Parcel D).
- (4) USE VARIANCE to permit a 10 unit apartment building in the GU district.
- (5) UNUSUAL USE to permit private recreational facilities, to wit: tennis courts, basketball courts, swimming pool, and playing fields in the GU district.
- (6) SPECIAL EXCEPTION to permit night lighting on the proposed recreational facilities.
- (7) UNUSUAL USE to permit the filling and enlargement of portions of the existing lake.
- (8) MODIFICATION of Condition #2 pertaining to the approval of the marina of Resolution Z-196-74, passed and adopted by the Board of County Commissioners on July 23, 1974 as follows:

FROM: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Revised Marina Excavation and Bulkhead Plan - Location Only - South Cutler Bay', prepared by H. J. Ross Associates, Inc., dated revised January 21, 1974."

TO: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Lake Modifications', as prepared by Post, Buckley, Schuh, and Jernigan, Inc., dated 12-31-84, consisting of four pages, and plan entitled 'Burger King World Headquarters: Control Drawing - Site Plan', as prepared by Hellmuth, Obata, and Kassabaum, Planners and Architects, consisting of one sheet, dated last revised January 7, 1985."

The purpose of the request is to permit the applicant to revise the approved slopes as follows:

Section A-A: The applicant is proposing a 3 foot horizontal to 1 foot vertical slope from existing ground elevation into a minimum depth of 3' of water, thence a 5 foot wide horizontal shelf, thence a deep cut vertical slope to the existing bottom of the lake at - 20.0 elevation.

Section B-B: The applicant is proposing a deep cut vertical slope from the top of the existing bulkhead at elevation +4.0 to the bottom of the existing lake at -20.0 elevation.

Section C-C: The applicant is proposing a 3 foot horizontal to 1 foot vertical slope from top of berm at elevation +5.0 into a minimum depth of 3' of water, thence a 5' wide horizontal shelf, thence a 1 foot horizontal to 1 foot vertical slope to the existing bottom of the lake at - 20.0 elevation.

Section D-D: The applicant is proposing a deep cut vertical slope from the top of the existing bulkhead at +4.0 elevation to the bottom of the existing lake at -20.0 elevation.

- (9) NON-USE VARIANCE OF LOT FRONTAGE REGULATIONS to permit a parcel (Parcel A) with a frontage of 0' on a public street (100' required).
- (10) NON-USE VARIANCE OF ZONING AND SUBDIVISION REGULATIONS to permit access to a public street by means of private drives (Parcel A).
- (11) NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit a proposed bus/bicycle shelter setback 0' (50' required) from the west (Old Cutler Road) property line.
- (12) NON-USE VARIANCE OF PARKING REGULATIONS to permit back-out space of 14' and 22' (24' required).
- (13) NON-USE VARIANCE OF LANDSCAPED OPEN SPACE REQUIREMENTS to permit 75% of the total required landscaping to be of category 1 type landscaping (80% required).

Plans are on file and may be examined in the Zoning Department entitled "Burger King World Headquarters", as prepared by Hellmuth, Obata, & Kassabaum, Inc., Architects consisting of 21 sheets, dated revised January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13 through 17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheets 6, 7a revised, and 7b revised.

Plans of the proposed lake enlargement and slope modifications are entitled "Lake Modifications", as prepared by Post, Buckley, Schuh, & Jernigan, Inc. Consulting Engineers and Planners, consisting of 5 sheets dated 12-31-84.

SUBJECT PROPERTY: Portions of Section 34 and Section 35, Township 55 South, Range 40 East. See composite Exhibit A for complete description.

LOCATION: The east side of Old Cutler Road, between theoretical S.W. 177 Street and theoretical S.W. 184 Street, Dade County, Florida.

SIZE OF PROPERTY: 114+ Acres

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida, was advertised and held, as required by law, and all interested parties concerned in the matter were heard, at which time Mr. Rawlinson, Coordinator for the Developmental Impact Committee (D.I.C.), had announced that the applicant had submitted a revised plan which had minor modifications and which was within the scope of the advertisement for the hearing and this Board permitted the amendment of the application accordingly; and at which time the applicant proffered a Declaration of Restrictive Covenants, which among other things agreed that the property would be developed in substantial compliance with plans submitted for the hearing; that property, along the water front, would be dedicated to the National Park Service; that changes in the plans, both as to residential and office

buildings, would require waivers from adjacent property owners, and a Public Hearing; that any increase requested in square footage of the buildings within the OPD district, would require an appropriate DRI application; that owners would contribute sums of money, goods or services to Dade County Parks Department to be used for Old Cutler Hammock Park, and upon due and proper consideration having been given to the matter and to the recommendation of the Developmental Impact Committee, it is the opinion of this Board that the requested district boundary changes would be compatible with the neighborhood and area concerned and would not be in conflict with the principles and intent of the plan for the development of Dade County, Florida, and that the use variance, unusual uses, special exception, modification of Condition #2 pertaining to Resolution Z-196-74, and non-use variances, would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance and should be approved and that the proffered Declaration of Restrictions should be accepted;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the application in total, including the amended site plan, be and the same is hereby approved;

BE IT FURTHER RESOLVED that the Modification #2 of Resolution Z-196-74 pertaining to the Marina is approved as follows:

That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled, "Lake Modifications" as prepared by Post, Buckley, Schuh and Jernigan, Inc., dated last revised 1-31-85, consisting of 5 pages, and plan entitled, "Burger King World Headquarters: Site Plan", as prepared by Hellmuth, Obata and Kassabaum, Planners and Architects, consisting of one sheet (2A) dated last revised February 7, 1985".

BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled "Burger King World Headquarters", as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a

complete set of which is on file with the Dade County Building and Zoning Department.

BE IT FURTHER RESOLVED that this Board accepts and elects to enforce all assurances and representations made by and on behalf of the applicant at the Public Hearing.

BE IT FURTHER RESOLVED that the approval of the Subdivision Variances are predicated upon the following:

1. That there are special circumstances affecting the subject property and strict application of the subdivision regulations would deprive the applicant of a reasonable use of their land. These special circumstances pertain to the fact that the subject property has severe environmental and other site constraints which impact the design of an internal circulation system and make the proposed use infeasible if subdivision regulations are strictly adhered to.
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, in that, the approval of this variance would enable Burger King Corporation to construct a proper internal roadway system which adequately serves the proposed development while preserving valuable environmental resources on the site.
3. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the subject property is located because the applicant has agreed to make the necessary modifications to the area road system which will maintain adequate transportation safety and service.

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

PASSED AND ADOPTED this 7th day of February, 1985.

February, 1985
No. 85-2-CC-1
mr
2/11/85

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
Richard P. Brinker, Clerk

By _____
Deputy Clerk

This resolution transmitted to the Clerk of the Board of County Commissioners on the 11th day of February 1985.

February 27, 1985

SCB Properties, Inc.
c/o Stan Price
2401 Douglas Road
Miami, Florida - 33134

Re: Resolution Z-30-85
The East side of Old Cutler Road, between
theo. SW 177 Street and theo. SW 184 Street

Gentlemen:

Enclosed, herewith, is a corrected "Page Two" of the above resolution.

The correction was necessary because the legal description was incomplete and, therefore, we have added the words, "See composite Exhibit "A" for complete description".

Along with this corrected "Page Two", we are enclosing seven pages of legal description to be attached to the back of the resolution.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC/vp

cc: CCC
File (Misc.)
Hearing File ✓
Complete resolution distribution

February 14, 1985

SCB Properties, Inc.
c/o Stan Price
2401 Douglas Rd.
Miami, FL 33134

Re: Hearing No. 85-2-CC-1: The east side of Old Cutler Road, between
theoretical S.W. 177 Street and theoretical
S.W. 184 Street

Gentlemen:

Enclosed, herewith, is a copy of Resolution No. Z-30-85, adopted by the Board of County Commissioners, which approved your requested application on the above-described property and accepted your proffered Declaration of Restrictive Covenants.

You are, hereby, advised that the decision of the Dade County Commission may be appealed by an aggrieved party within 30 days of the date of the submittal of the resolution to the Clerk of the County Commission. You are, further, advised that in the event that an appropriate appeal is timely filed in the Circuit Court, any building permit sought or obtained shall be solely at the risk of the party obtaining said permit.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC/mr

Enclosure

RESOLUTION NO. 4-ZAB-270-85

The following resolution was offered by Mr. Murray Sisselman seconded by Mrs. Joyce Masso and upon poll of members present, the vote was as follows:

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

WHEREAS, BURGER KING CORPORATION has applied for the following:

- (1) DELETION of an Agreement only as it affects the hereinafter described subject property; said Agreement being recorded in Official Record Book 7197, at Pages 498 through 516, on the 26th day of April, 1971, and pursuant to Resolution Z-89-70, passed and adopted by the Board of County Commissioners on the 16th day of April, 1970.
- (2) DELETION of an Agreement entered into between South Cutler Bay, Inc. and Dade County; said agreement being recorded in Official Record Book 8997 at Pages 1168 through 1170 on the 22nd day of May, 1975, and required pursuant to Resolution Z-196-74, passed and adopted by the Board of County Commissioners on the 23rd day of July, 1974.
- (3) DELETION of a Declaration of Restrictive Covenants entered into between Sun-Belt Corporation of America and Dade County; said Restrictive Covenants being recorded in Official Record Book 11198 at Pages 987 through 999 on the 28th day of August, 1981.

The purpose of the above requests is to remove these agreements from the official records of Dade County, and to release the subject property from the conditions therein, leaving the property under the current restrictions of the Declaration of Restrictive Covenants filed pursuant to Resolution Z-30-85 in Official Record Book 12428 at Pages 990 through 1010.

SUBJECT PROPERTY: PARCEL 1: All of Blocks 8 and 11, lying S/ly and E/ly of the County Road, and all of Blocks 9 and 10 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67; and all of the south 1/2, of the north 1/2, of the SW 1/4, of the SW 1/4, of the SW 1/4 lying E/ly and S/ly of the County Road in Section 35, Township 55 South, Range 40 East, and also all that part of the SE 1/4, of the SE 1/4, of the SE 1/4 of Section 34, Township 55 South, Range 40 East, lying S/ly and E/ly of the County Road; also a strip of land 25' in width lying west of the said aforementioned Block 11 and south of the S/ly line of the County Road.

PARCEL 2: All that part of Lots 7 and 11 of the SW 1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of the County Road as shown on the plat of the SW 1/4 of Section 35, Township 55 South, Range 40 East, surveyed and drawn by S. H. RICHMOND and filed in Plat book 1, Page 67, and lying SE/ly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

PARCEL 3: All that part of the north 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of the County Road as shown on the plat filed in Plat book 1, Page 67, and lying SE/ly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

PARCEL 4: That portion of that certain parcel of land conveyed to Dade County by Warranty Deed from Julian S. Eaton and Ethelwynne Eaton, dated February 5, 1942 and recorded in Deed Book 2237 at Page 549, under Clerk's File Number R-22573, lying SE/ly of a line 50' SE/ly of and parallel with the following described centerline for Old Cutler Road; commence at the Southeast corner of Section 34, Township 55 South, Range 40 East; thence run N89°29'5"W along the south line of the SE 1/4 of said Section 34 for a distance of 151.64' to the Point of beginning of the herein described centerline for Old Cutler Road; thence run N31°3'37"E across the SE 1/4 of said Section 34 and across the SW 1/4 of Section 35, Township 55 South, Range 40 East, for a distance of 914.42'±, to a point on the north line of the north 1/2, of the SW 1/4, of the SW 1/4, of the SW 1/4 of said Section 35 and to the end of the herein described centerline for Old Cutler Road.

PARCEL 5: All of County Road shown on S.H. Richmond's Survey of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67, lying between those lands shown as Parcels 1 through 4 herein.

AND: All riparian and littoral rights (if any) appurtenant to all of the foregoing described property, including but not limited to, all riparian and littoral rights east of the mean high water line, and in the interest (if any) in the foregoing described property up to the centerline of an road(s) or street(s) abutting any of the foregoing described property.

AND:

All that part of Tracts 3, 4, 5, 6, 7, 8, and 9, lying east of the E/ly right-of-way line of Ingraham Highway of DOUGHTERY'S SUBDIVISION, Plat book 1, Page 1 of the Public Records of Dade County, Florida;

AND:

All that part of Tracts 1 and 2 lying east of the E/ly Right-of-Way line of Ingraham Highway, and all of Tracts 3 and 4 of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67;

AND:

The north 1/2 of the north 1/2 of the south 1/2 of the SE 1/4 of the SW 1/4 and the north 1/2 of the north 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4, all in Section 35, Township 55 South, Range 40 East, also known as the north 1/2 of Tracts 5 and 6 of S.H. RICHMOND'S SURVEY of the SW 1/4 of said Section 35, Plat book 1, Page 67;

AND:

That part of the NW 1/4 of the SW 1/4 of the SW 1/4 lying east of the E/ly right-of-way line of Ingraham Highway in Section 35, Township 55 South, Range 40 East;

AND:

All of that part of the north 1/2 of the north 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 in Section 35, Township 55 South, Range 40 East, lying east of the center line of the County Road as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67;

AND:

All that part of the County Road as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67, included in the above described parcels, EXCEPT the portions thereof now a part of Ingraham Highway;

AND:

The south 1/2 of the north 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4 (the south 1/2 of Lot 5) and the south 1/2 of the north 1/2 of the south 1/2 of the SE 1/4 of the SW 1/4 (south 1/2 of Lot 6) of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67; and all riparian and littoral rights (if any) appurtenant to all of the foregoing described property, including but not limited to, all riparian and littoral rights east of the mean high water line, as shown on the survey prepared by Jack Mueller & Associates, Inc., dated April 18, 1984, revised August 3, 1984, November 15, 1984 and December 21, 1984, and including the interest (if any) in the property up to the center line of any road(s) or street(s) abutting any of the foregoing described property.

LOCATION: The east side of Old Cutler Road between theoretical S.W. 177 Street and theoretical S.W. 184 Street, Dade County, Florida, and

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

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested deletions would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board, that the requested Deletion of an Agreement only as it affects the subject property; said Agreement being recorded in Official Record Book 7197, at Pages 498 through 516, on the 26th day of April, 1971, and pursuant to Resolution Z-89-70, Deletion of an Agreement entered into between South Cutler Bay, Inc. and Dade County; said agreement being recorded in Official Record Book 8997 at Pages 1168 through 1170 on the 22nd day of May, 1975, and required pursuant to Resolution Z-196-74 and Deletion of a Declaration of Restrictive Covenants entered into between Sun-Belt Corporation of America and Dade County; said Restrictive Covenants being recorded in Official Record Book 11198 at Pages 987 through 999 on the 28th day of August, 1981 be and the same are hereby approved.

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

PASSED AND ADOPTED this 24th day of JULY, 1985.

Heard 7/24/85
Hearing No. 85-7-32
7/25/85 aa

July 30, 1985

Burger King Corporation
c/o Stanley B. Price
2401 Douglas Road
Miami, Fl. 33145

Re: Hearing No. 85-7-32; Section 34/35-55-40
Location:

Gentlemen:

Enclosed herewith is a copy of Resolution No. 4-ZAB-270-85, adopted by the Metropolitan Dade County Zoning Appeals Board, approving your application.

You are hereby advised that the decision of the Zoning Appeals Board may be appealed by an aggrieved party (within 14 days) or by the Directors of the Dade County Building and Zoning Department and Planning Department (within 18 days), as is provided in Chapter 33-313 of the Code of Metropolitan Dade County, Florida; and that no permits can be issued until the appeal periods have expired, and only if no appeal has been filed. Application for necessary permits should be made with this Department. The deadline for an appeal by the applicant and/or an aggrieved party is Friday, August 9, 1985.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC:aa

Enclosure

RESOLUTION NO. 4-ZAB-143-86

The following resolution was offered by Mr. Jose A. Losa seconded by Mr. Levi A. Johnson and upon poll of members present, the vote was as follows:

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

WHEREAS, BURGER KING CORPORATION has applied for the following:

- (1) UNUSUAL USE to permit the filling of a portion of an existing lake.

The applicant is requesting to fill underneath the proposed building site and provide a vertical bulkhead with a slope beginning 7'9" below the bulkhead cap, thence a minimum 3' wide shelf, thence a one foot vertical to two foot horizontal slope to the bottom of the existing lake.

Plans are on file and may be examined in the Zoning Department entitled "Burger King Corporation World Headquarters Site Sea Wall", consisting of six sheets, prepared by Bliss and Nyitray, Inc. Consulting Engineers, dated 3-21-86.

- (2) MODIFICATION of Condition #2 of Resolution Z-196-74, passed and adopted by the Board of County Commissioners on July 23, 1974 and amended by Resolution Z-30-85 passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Lake Modifications', as prepared by Post, Buckley, Schuh and Jernigan, Inc., dated last revised 1-31-85, consisting of 5 pages, and plan entitled 'Burger King World Headquarters: Site Plan', as prepared by Hellmuth, Obata and Kassabaum, Planners and Architects, consisting of one sheet (2A) dated last revised February 7, 1985."

TO: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Burger King Corporation World Headquarters Site Sea Wall', consisting of six sheets, prepared by Bliss and Nyitray, Inc., consulting engineers, dated 3-21-86."

The purpose of the request is to substitute new plans for the existing lake which indicates its current proposed shape, area to be filled underneath the building, new seawalls to be constructed and proposed new slope areas.

- (3) MODIFICATION of the Proffered Covenant paragraph of Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a complete set of which is on file with the Dade County Building and Zoning Department.

TO: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World

Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

- (4) MODIFICATION of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990 - 1010, accepted pursuant to Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11, and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

The purpose of the modification of resolution and agreement is to permit a revised site plan & parking plans which indicate a reconfiguration of the existing lake, elimination of a proposed second lake, merging of the technical center into one building, an increase of 2,485 square feet of building and additional outdoor parking areas.

The aforementioned plans are on file and may be examined in the Zoning Department.

SUBJECT PROPERTY: Tract "A" and "B" of BURGER KING WORLD HEADQUARTERS, Plat book 127, Page 86.

LOCATION: The east side of Old Cutler Road, between S.W. 177 Street and S.W. 184 Street, Dade County, Florida, and

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

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

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board, that the requested Unusual Use to permit the filling of a portion of an existing lake, Modification of Condition #2 of Resolution Z-196-74, Modification of the Proffered Covenant paragraph of Resolution Z-30-85, and Modification of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990-1010, accepted pursuant to Resolution Z-30-85 be and the same are hereby approved, subject to the following conditions:

1. That the revised Emergency Access plan satisfy the requirements of the Metro-Dade County Fire Department.
2. That the applicants comply with all conditions and requirements of the Department of Environmental Resources Management.
3. Building finishes shall be dark to enhance blending with vegetation and tree canopy and the architectural treatment for the primary office building shall provide for planter boxes and landscaping along the entire length of all four stories as well as the roof top on the building's east elevation to mitigate its visual impact.
4. That the applicant submit to the Planning Department for its review and approval a landscaping plan which indicates the type of plant material and size prior to the issuance of a building permit and to be installed prior to the issuance of a certificate of use and occupancy.

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

PASSED AND ADOPTED this 30th day of APRIL, 1986.

Heard 4/30/86
Hearing No. 86-4-28
Typed 5/2/86 aa

May 12, 1986

Burger King Corp.
c/o Stanley B. Price
Fine, Jacobson, Schwartz, et al
2401 Douglas Rd.
Miami, Fl. 33145

Re: Hearing No. 86-4-28; Section 35-55-40
Location: E/s Old Cutler RD. bet. SW 177 St. & SW 184 St.

Gentlemen:

Enclosed herewith is a copy of Resolution No. 4-ZAB-143-86, adopted by the Metropolitan Dade County Zoning Appeals Board, approving your application.

Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required.

You are hereby advised that the decision of the Zoning Appeals Board may be appealed by an aggrieved party (within 14 days) or by the Directors of the Dade County Building and Zoning Department and Planning Department (within 18 days), as is provided in Chapter 33-313 of the Code of Metropolitan Dade County, Florida; and that no permits can be issued until the appeal periods have expired, and only if no appeal has been filed. Application for necessary permits should be made with this Department. The deadline for an appeal by the applicant and/or an aggrieved party is Friday, May 16, 1986.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC:aa

Enclosure

bcc: Environmental Resources Mgt.
Fire Dept.

RESOLUTION NO. Z-34-89

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

Barbara M. Carey	absent	Barry D. Schreiber	aye
Charles Dusseau	aye	Jorge (George) Valdes	aye
Joseph M. Gersten	aye	Sherman S. Winn	absent
Larry Hawkins	nay	Stephen P. Clark	absent
Harvey Ruvin	absent		

WHEREAAS, BURGER KING CORP., had applied for the following:

- (1) UNUSUAL USE to permit parking in a zone more restrictive than the use it serves; to wit: parking of cars in a GU district to serve an OPD district.

Plans are on file and may be examined in the Zoning Department entitled "Burger King Corporation World Headquarters," as prepared by Hellmuth, Obata & Kassabaum, Inc., dated 8-18-88 on sheets CL-1, CL-2, CL-3 & 2C.6-1. Plans may be modified at public hearing.

- (2) MODIFICATION of the Proffered Covenant paragraph of Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as modified by Resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986, as follows:

FROM: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88, a complete set of which is on file with the Dade County Building and Zoning Department."

- (3) MODIFICATION of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990-1010, accepted pursuant to Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, and modified by Resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986, as follows:

FROM: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site

Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88, a complete set of which is on file with the Dade County Building and Zoning Department."

The purpose of the modification of resolution and agreement is to show additional surface parking in the area north of the north office building on the official development plans.

SUBJECT PROPERTY: Tract "A" of BURGER KING WORLD HEADQUARTERS, Plat book 127, Page 86.

LOCATION: 17777 Old Cutler Road, Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida, was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested unusual use and Modifications of Covenants would be compatible with the area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance and should be approved, subject to conditions;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the application be approved, subject to the following conditions:

1. That an amended covenant be submitted in recordable form within 90 days of the public hearing approval of this application, and to submit the proposed amended Declaration of Restrictions for approval prior to recording.
2. That the applicant submit to the Planning Department for its review and approval a landscaping plan which indicates the type of plant material and size prior to the issuance of a building permit and to be installed prior to the issuance of a certificate of use and occupancy.

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

PASSED AND ADOPTED this 23rd day of February, 1989.

January, 1989
No. 89-1-CC-20
3/14/89
mr

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By Richard P. Brinker, Clerk
Deputy Clerk

This resolution transmitted to the Clerk of the Board of County Commissioners on the 24th day of MARCH, 1989.

METROPOLITAN DADE COUNTY, FLORIDA



METRO-DADE CENTER

BUILDING & ZONING DEPARTMENT
SUITE 1010
111 N.W. 1st STREET
MIAMI, FLORIDA 33128-1974
(305) 375-2500

March 24, 1989

Burger King Corp.
c/o Stanley B. Price, Esq.
One CenTrust Financial Center
100 S.E. 2nd Street
Miami, FL 33131

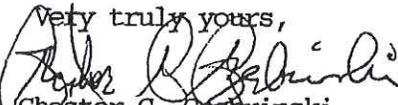
Re: Hearing No. 89-1-CC-20; 17777 Old Cutler Road

Gentlemen:

Enclosed, herewith, is a copy of Resolution No. Z-34-89, adopted by the Board of County Commissioners, which approved, subject to conditions, your application on the above-described property. Please note the conditions under which said approval was granted, inasmuch as strict compliance, therewith, will be required.

Please note that you are requested to submit the proposed amended Declaration of Restrictions for approval prior to recording.

You are, hereby, advised that the decision of the Dade County Commission may be appealed by an aggrieved party within 30 days of the date of the submittal of the resolution to the Clerk of the County Commission. You are, further, advised that in the event that an appropriate appeal is timely filed in the Circuit Court, any building permit sought or obtained shall be solely at the risk of the party obtaining said permit.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC/mr
Enclosure

- 1 2. The property is encumbered by a Declaration of Restrictive Covenants,
2 which covenants regulate certain uses of the property. These declarations
3 are attached and incorporated by reference as exhibit 1.
- 4 3. Clause #8 of page four of the attached declaration of restrictive covenants
5 (exhibit 1) requires that a "Unity of Title" agreement be in place for the
6 property. This requirement requires that the entire property be under the
7 ownership of one person (natural person or entity).
- 8 4. The current property owner intends to turn the existing units into
9 condominiums, thus providing for a master condominium association and
10 individual owners of the units. To proceed with the condominium action the
11 property owner shall require the replacement of the "unity of title"
12 requirement with a declaration of restrictions, requiring master association
13 and individual unit owners to comply with all the underlying declarations
14 of restrictions on the property.
- 15 5. Section 33-257 of the Miami-Dade County Code, which code section was
16 adopted by the village council on May 5, 2003, provides a mechanism for
17 replacing the "unity of title" requirement with a declaration of restrictive
18 covenants. The covenant would effectively be used in lieu of the unity of
19 title document. The covenant would ensure that the master association,
20 and all individual owners comply with the underlying restriction in the
21 attached declaration of restrictions.
- 22 6. Section 33-257 provides for a unified, coordinated site plan for the property
23 and provides the village with control over the development and the
24 continuation of coordinated development theme, even with multiple owners
25 within the property.
- 26 7. The remainder of the provisions of exhibit 1 would remain in effect and
27 would not be affected by the removal of the "unity of title" requirement.

28
29 Section 3. Conclusions of law.

30 Pursuant to Section 33-257 of the Miami-Dade County Code the applicant's
31 request to replace the unity of title (required under Clause 8 of page 4 of the
32 attached declaration of restrictions) with a declaration of restrictions in lieu of
33 unity of title is hereby granted. The declaration of restrictions in lieu of unity of
34 title is attached as exhibit 2 to this resolution and incorporated by reference into
35 this resolution.

36
37
38 Section 4. Order.

Additional conditions.

- 1
2
3 1. The Property will be developed in substantial compliance with the site plan
4 entitled, "Burger King World Headquarters", prepared by Hellmuth, Obata and
5 Kassabaum, P.A., Planners and Architects, dated January 7, 1985, on sheets 1, 3,
6 4, 5, 7, 7A, 7B, 8, 9, 10, 11 and 13-17, dated revised January 10, 1985 on cover
7 sheet and sheet 2; and dated revised January 30, 1985 on sheets 7A revised 7B
8 revised. No modification shall be effected in said site plan without the written
9 consent of the then owner(s) of the Property, and the submittal of an application to
10 modify the plan or covenant at public hearing before the Village Council of
11 Palmetto Bay, Florida.
- 12 2. If the Property is developed in phases, each phase will be developed in substantial
13 accordance with the site plan.
- 14 3. In the event of multiple ownership subsequent to said site plan approval, each of
15 the subsequent owners, mortgagees and other parties in interest shall be bound by
16 the terms, provisions and conditions of this instrument. Owner further agrees that
17 it will not convey portions of the Property to such other parties unless and until the
18 Owner and such other party or parties shall have executed and mutually delivered
19 in recordable form, and instrument to be known as an "Easement and Operating
20 Agreement" which shall contain, among other things:
- 21 (i) easements in the common area of each parcel for ingress to and egress from
22 other parcels;
- 23 (ii) easements in the common area of each parcel for the passage and parking of
24 vehicles;
- 25 (iii) easements in the common area of each parcel for the passage and
26 accommodation of pedestrians;
- 27 (iv) easements for access roads across the common area of each parcel to
28 private roadways;
- 29 (v) easements for the installation, use, operation, maintenance, repair,
30 replacement, relocation and removal of utility facilities in appropriate areas
31 in each such parcel;
- 32 (vi) easements on each such parcel for construction of buildings and
33 improvements in favor of each such other parcel;

- 1 (vii) easements upon each such parcel in favor of each adjoining parcel for the
2 installation, use, maintenance, repair, replacement and removal of common
3 construction improvements such as footings, supports and foundations;
- 4 (viii) easements on each parcel for attachment of buildings;
- 5 (ix) easements on each such parcel for building overhangs, other overhangs and
6 projections encroaching upon such parcel from adjoining parcel such as, by
7 way of example, marquees, canopies, lights, lighting devices, awnings,
8 wing walls and the like;
- 9 (x) appropriate reservation of rights to grant easements to utility companies;
- 10 (xi) easements in favor of each such parcel for pedestrian and vehicular traffic
11 over dedicated private ring roads and access roads; and
- 12 (xii) appropriate agreements between the owners of the several parcels as to the
13 obligation to maintain and repair all private roadways, parking facilities,
14 common areas and the like.

15 The easement provisions or portions thereof may be waived by the Village Attorney of
16 the Village of Palmetto Bay, if they are not applicable to the subject application. When
17 executed, the Easement and Operating Agreement shall not be amended without the prior
18 written approval of the Office of the Village Attorney of Palmetto Bay. Such Easement
19 and Operating Agreement may contain such other provisions with respect to the
20 operation, maintenance and development of the Property as to which the parties thereto
21 may agree, all to the end that although the property may have several owners, it will be
22 constructed, conveyed, maintained and operated in accordance with the approved site
23 plan.

24
25 4. The provisions of the declaration of restrictions in lieu of unity of title with all
26 associated conditions as reflected in this resolution shall become effective upon
27 their recordation in the public records of Miami-Dade County, Florida, and shall
28 continue in effect for a period of thirty (30) years after the date of such
29 recordation, after which time they shall be extended automatically for successive
30 periods of ten (10) years each, unless released in writing by the then owners of the
31 Property and the Village Attorney, acting for and on behalf of the Village of
32 Palmetto Bay, Florida, upon the demonstration and affirmative finding that the
33 same is no longer necessary to preserve and protect the property for the purposes
34 herein intended.

- 1 5. The provisions of the attached exhibit 2, declaration of restrictions in lieu of unity
2 of title, may be amended or modified by a written instrument executed by the then
3 Owner or Owners of the Property, with joinders by all mortgagees, if any. Should
4 the Declaration of Restrictive Covenants in lieu of unity of title be so amended, or
5 modified, the Village Attorney, or his successor, shall forthwith execute a written
6 instrument effectuating and acknowledging such amendment or modification. The
7 provisions of this instrument may be released by a written instrument executed by
8 the then Owner or Owners of the Property, with joinders by all mortgagees, if any,
9 after public hearing. Should the attached exhibit 2, Declaration of Restrictive
10 Covenants, be so released, after public hearing and approval of the Village
11 Council of the Village of Palmetto Bay, the Village Attorney, or his successor,
12 shall forthwith execute a written instrument effectuating and acknowledging such
13 release. .
- 14 6. Enforcement shall be by action against any parties or persons violating or
15 attempting to violate any covenants. The prevailing party to any action or suit
16 pertaining to or arising out of this Declaration shall be entitled to recover, in
17 addition to costs and disbursements, allowed by law, such sum as the Court may
18 adjudge to be reasonable for the services of his attorney. This enforcement
19 provision shall be in addition to any other remedies available at law, in equity or
20 both.
- 21 7. Invalidation of any of these covenants by judgment of Court shall not affect any of
22 the other provisions, which shall remain in full force and effect.
- 23 8. All rights, remedies and privileges granted herein shall be deemed to be
24 cumulative and the exercise of any one or more shall neither be deemed to
25 constitute an election of remedies, nor shall it preclude the party exercising the
26 same from exercising such other additional rights, remedies or privileges.
- 27 9. In the event of a violation of this resolution and the attached exhibit 2, the
28 declaration of restrictive covenants in lieu of unity of title, in addition to any other
29 remedies available, the Village of Palmetto Bay shall be authorized to withhold
30 any future permits, and refuse to make any inspections or grant any approval, until
31 such time as there is compliance.
- 32 10. The declaration of restrictions in lieu of unity of title shall be recorded in the
33 public records of Miami-Dade County at the Owner's expense.
- 34 11. The declaration of restrictions in lieu of unity of title shall specifically incorporate
35 the Declaration of Restrictive Covenants and the First Amendment to the

1 Declaration of Restrictive Covenants recorded May 1, 1989 at Official Records
2 Book 14089 at Pages 2349-52 and Official Records Book 12428 at Pages 923-
3 1010, of the Public Records of Miami-Dade County, Florida, with the exception of
4 the unity of title requirement, any inconsistencies between this Declaration and the
5 prior documents, the Declaration of Restrictive Covenants and the First
6 Amendment to the Declaration of Restrictive Covenants found at Official Records
7 Book 14089 at Pages 2349-52 and Official Records Book 12428 at Pages 923-
8 1010, of the Public Records of Miami-Dade County, Florida, shall control.

9 This is a final order.

10
11 Section 5. Record.

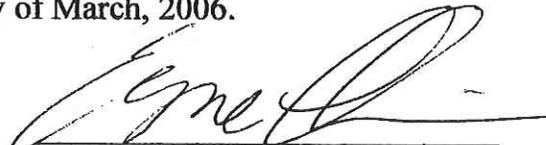
12 The record shall consist of the notice of hearing, the applications, documents
13 submitted by the applicant and the applicant's representatives to the Miami-Dade County
14 Department of Planning and Zoning in connection with the applications, the county
15 recommendation and attached cover sheet and documents, the testimony of sworn
16 witnesses and documents presented at the quasi-judicial hearing, and the tape and
17 minutes of the hearing. The record shall be maintained by the village clerk.
18

19 Section 6. This resolution shall take effect immediately upon approval.

20 PASSED and ADOPTED this 13th day of March, 2006.

21
22 Attest:

23 
24 Meighan Pier
25 Village Clerk

26 
27 Eugene P. Flinn, Jr.
28 Mayor

29
30 APPROVED AS TO FORM:

31 
32 Eve A. Boutsis, office of
33 Village Attorney
34 Nagin Gallop & Figueredo, P.A.
35

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FINAL VOTE AT ADOPTION:

- Council Member Ed Feller YES
- Council Member Paul Neidhart YES
- Council Member John Breder YES
- Vice-Mayor Linda Robinson YES
- Mayor Eugene P. Flinn, Jr. NO

Exhibit 1

OFF. REC: 14089M2349

FIRST AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS

This First Amendment of Restrictive Covenants running with the land is made and entered into this 5th day of April, 1989, by the BURGER KING CORPORATION, a Florida corporation (the "OWNER") in favor of Dade County, Florida, a political subdivision of the State of Florida.

WHEREAS, the Owner is the fee simple owner of real property described in Exhibit "A".

WHEREAS, the Owner has filed for a public hearing bearing Public Hearing No. 88-684 seeking a modification of a previously approved site plan.

MODIFICATION of the Proffered Covenant paragraph of Resolution 2-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as modified by resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986 as follows:

FROM: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics computations last dated Feb. 26, 1986; sheets 7A & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade county Building and Zoning Department."

TO: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985; on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled

PREPARED BY
STANLEY B. PRICE
FIRE JACOBSON SCHWARTZ
RASH BLOCK & ERDMAN
ONE CENTINIST FINANCIAL CENTER
100 S.E. 2 STREET
MIAMI, FLORIDA 33131

19.50

Ref: 1408902350

'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986 Sheet 17 dated Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88; a complete set of which is on file with the Dade County Building and Zoning Department."

NOW, THEREFORE, THE OWNER hereby agrees and covenants, that in furtherance of its request to modify a previously approved site plan, that the Declaration of Restrictive Covenants is modified, as follows:

(1) MODIFICATION of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990-1010, accepted pursuant to resolution 2-30-85, passed and adopted by the Board of County commissioners on the 7th day of February, 1985, and modified by Resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986, as follows:

FROM: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, a complete set which is on file with the Dade County Building and Zoning Department."

TO: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/ Office' and dated Feb. 14, 1986, Sheet 17 dated

REF: 1408902351

Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88, a complete set of which is on file with the Dade County Building and Zoning Department."

(2) In all other respects, the original Declaration of Restrictions shall remain in full force and effect.

IN WITNESS, the Owner has hereunto set its respective hand and seals on the day and year first above written.

Burger King Corporation,
a Florida Corporation.

By: Eugene Teola
Vice President

Mark O. Civeri
Attest
Assistant Secretary

STATE OF FLORIDA)
) SS
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this 5th day of April, 1989, by Eugene Teola as Vice President, on behalf of the corporation.

Sara Lopez
Notary Public
State of Florida at

My Commission Expires:
NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES: OCT. 12, 1992.
NOTES: THIS NOTARY PUBLIC SEAL IS VOID



OFF. REC. 1408912352

EXHIBIT "A"
LEGAL DESCRIPTION

Tract A and Tract B of the Plat of Burger King World Headquarters, as recorded in Plat Book 127, at Page 06, of the Public Records of Dade County, Florida

RECORDED IN OFFICE OF CLERK OF
OF DADE COUNTY, FLORIDA
SECOND VESTING
RICHARD P. BRUYER
CLERK, CIRCUIT COURT

RL:153RL0266D

1985 FF o. AN 8 41

85R059002

35-55-40

UNITY OF TITLE

REC. 12428PG 973

WHEREAS, the undersigned is the owner of that property described as

See Exhibit A annexed hereto and made a part hereof

also known as theoretical S.W. 176th Street to 182nd Street and Old Cutler Road Dade County, Florida, and

The undersigned recognizes and acknowledges that for the public health, welfare, safety or morals, the herein described property should not be divided into separate parcels owned by several owners so long as the same is put to the hereinafter use, and

In consideration of the issuance of a permit for a zoning change pursuant to the Office Park District.

and for other good and valuable considerations, the undersigned hereby agrees to restrict the use of the subject property in the following manner:

1. That said property shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised or assigned separately, except in its entirety as one plot or parcel of land.
2. The undersigned further agrees that this condition, restriction and limitation shall be deemed a covenant running with the land and shall remain in full force and effect and be binding upon the undersigned, their heirs and assigns until such time as the same may be released in writing by the Director of the Dade County Building and Zoning Department or the executive officer of the successor of such Department, or in the absence of such director or executive officer, by his assistant in charge of the office in his absence.

provided, however, that a release will be executed when the premises are made to conform with applicable zoning regulations or the use or structure is removed from the premises and there is no further reason to maintain the Unity of Title on the public records.

Signed, sealed, executed and acknowledged on this 1st day of October 1984

(CORP)
(SEAL.)

ATTEST

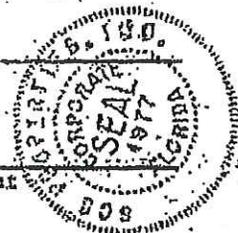
By

Secretary

SCB Properties, Inc.
Corporate Name

By

President/Vice President



STATE OF FLORIDA)

COUNTY OF DADE)

Prepared By:
Stanley B. Price, Esq.
2401 Douglas Rd.
Miami, Florida 33143

I HEREBY certify that on this day before me, a Notary Public duly authorized in the state and county named above to take acknowledgements, personally appeared James Carr and Arthur Paul, to me known to be the persons described as President and Secretary of SCB Properties, Inc.

who executed the foregoing instrument, and acknowledged before me that such persons executed the said instrument in the name of and for the corporation adding the corporate seal of that corporation.

U.F. Corporation

OFF. REC. 12428 PG 974

Page Iv

as such corporate officers such persons are duly authorized by that corporation to do so; and that the foregoing instrument is the act of that corporation.

WITNESSE my hand and official seal in the county and state named above this 1st day of October A.D. 1984

Grace M. Kroger

Notary Public in and for the State of Florida at Large



My Commission expires:

REF. 12428PG 975

Exhibit "A"

LEGAL DESCRIPTION

PARCEL "A"

A portion of DOUGHERTY'S SUBDIVISION as recorded in Plat Book 1 at Page 1 and S.H. Richmond's Survey of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, as recorded in Plat Book 1 at Page 67, both the Public Records of Dade County, Florida being more particularly described as follows:

Commence at the intersection of the Easterly Right of Way line of Ingraham Highway with the Northerly line of Tract 3, said DOUGHERTY'S SUBDIVISION; thence run $S25^{\circ}06'20''W$, along said Easterly Right of Way line of Ingraham Highway, for a distance of 377.28 feet to a point; thence run $S61^{\circ}53'40''E$ for a distance of 102.97 feet to the POINT OF BEGINNING; thence run $S13^{\circ}57'55''W$ for a distance of 1050.00 feet to a point; thence run $S76^{\circ}02'05''E$ for a distance of 141.00 feet to a point; thence run $S50^{\circ}17'05''E$ for a distance of 675.00 feet to a point; thence run $N58^{\circ}12'55''E$ for a distance of 350.00 to a point of curvature of a circular curve to the left, having for its elements a central angle of $82^{\circ}45'00''$ and a radius of 180.00 feet; thence run Northeasterly and Northerly along the arc of said curve for a distance of 259.97 feet to a point of reverse curvature of a circular curve of the right, having for its elements a central angle of $38^{\circ}30'00''$ and a radius of 300.00 feet; thence run Northerly along the arc of said curve for a distance of 201.59 feet to the Point of Tangency; thence run $N13^{\circ}57'55''E$ for a distance of 145.00 feet to the Point of Curvature of a circular curve to the left, having for its elements a central angle of $49^{\circ}00'00''$ and a radius of 350.00 feet; thence run Northerly and Northwesterly along the arc of said curve for a distance of 299.32 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $62^{\circ}00'00''$ and a radius of 180.00 feet; thence run Northwesterly and Northerly along the arc of said curve for a distance of 194.78 feet to a point of reverse curvature of a circular curve to the left, having for its elements a central angle of $17^{\circ}20'06''$ and a radius of 275.00 feet; thence run Northerly along the arc of said curve for a distance of 83.20 feet to a point; thence run $N76^{\circ}02'05''W$ for a distance of 768.50 feet to the POINT OF BEGINNING.

Containing 24.94 Acres more or less

Subject to any reservations, dedications or easements of record.

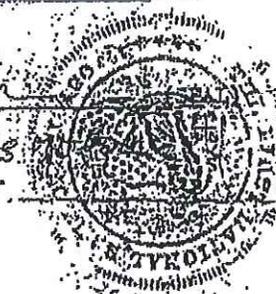
The undersigned, The First National Bank of Chicago
 National Banking Association
 a Florida Corporation, Mortgagee, under that certain mortgage from
SCB Properties, Inc. dated the 14th day of August,
1984, and recorded in Official Records Book 12237, Page 143A, of the
 Public Records of Dade County, Florida, in the original amount of
\$ 3,881,250.00 covering all/or a portion of the property described
 in the foregoing agreement, do hereby acknowledge that the terms of this
 agreement are and shall be binding upon the undersigned and its successors
 in title.

IN WITNESS WHEREOF, these presents have been executed this 30th
 day of August, 1984.

The First National Bank of Chicago
 Name of Corporation

By: [Signature]
 Vice President

Attest: [Signature]
 Secretary
 Commercial Banking



STATE OF ILLINOIS
 COUNTY OF COOK

BEFORE ME, the undersigned authority, this day appeared Donald H. Erkes
 and Barbara A. Schorr, both being to me well known and known by
 me to be the Vice President and Com'l. Banking Officer of First National
Bank of Chicago, under the laws of the United States,
 and which said Corporation is known by me to be the persons described in and
 which executed the foregoing instrument, the said officers of the said Corpora-
 tion being likewise known by me to be the officers thereof who, in their
 official capacities as such officers of said Corporation executed, signed
 and delivered the said instrument as the act and deed of said Corporation,
 and the said officers of said Corporation then and there severally acknowledged
 to and before me that they executed the said instrument, acting in their said
 official capacities, for and as to the act and deed of said Corporation and in
 its name, and impressed thereon its Corporate Seal, for the uses and purposes
 therein mentioned, and after being duly authorized and directed.

WITNESS my hand and official Seal at Chicago In the County and
 State aforesaid, on this, the 30th day of August, A.D., 1984

My Commission Expires:
My Commission Expires 4/2/88

[Signature]
 Notary Public, State of Illinois
 At Large

01/07/2004

11:00

SILVER, GARVETT, HENKEL, P.A. → 3053512250

198 6.3 AM 9 42

85R0590C

REC. 12428PG 990

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS running with the land is made and entered into this 14th day of January, 1985, by SCB PROPERTIES, INC. ("SCB"), a Florida corporation and SUN-BELT CORPORATION OF AMERICA ("SUN-BELT"), a Florida corporation (the "OWNERS") in favor in Dade County, Florida, a political subdivision of the State of Florida.

WHEREAS, SCB is the fee simple owner of certain real property located in Dade County, Florida, and more particularly described in Exhibit "A", attached hereto and hereinafter referred to in this Covenant as Tract A; and

WHEREAS, Tract A is comprised of two separate tracts referred to as Tracts I and II as legally described as Exhibits "I" and "II," attached hereto; and

WHEREAS, SUN-BELT is the fee simple owner of certain real property located in Dade County, Florida and more particularly described in Exhibit "B," attached hereto and hereinafter referred to in this Covenant as Tract B; and

WHEREAS, the OWNERS have filed an application with Dade County for various district boundary changes, under Public Hearing Number DIC 84-672; and

WHEREAS, the OWNERS have separately entered into Contracts for sale with the BURGER KING CORPORATION for the intended purpose of the BURGER KING CORPORATION constructing its World Headquarters on Tracts A and B; and

WHEREAS, Tract A is subject to a Final Order on Summary Judgment dated November 12, 1983 and entered by the Hon. Jack M. Turner, Circuit Court Judge of the Eleventh Judicial Circuit wherein 1325 multiple family units have been approved; and

WHEREAS, Tract B is presently approved for 140 units and is presently zoned RU-4L, EU-M and GU; and

Prepared by:

STANLEY B. FRICE
Fine Jacobson Schwartz
Nash Block & England
2401 Douglas Road
Coral Gables, Florida 33179

0900

REC. 12428PG 991

WHEREAS, the BURGER KING CORPORATION, in conjunction with the proposed development is desirous of donating, subject to certain reservations and restrictions, to the United States Department of the Interior, National Park Service certain bayfront property herein described in Exhibit "C"; and

WHEREAS, the OWNERS are desirous of voluntarily pledging to Dade County that the zoning application, if approved, will inure to the benefit of the citizens of Dade County.

NOW, THEREFORE, the OWNERS hereby agree and covenant, in the event that their zoning application is granted, as follows:

1. That the Development will be built in substantial compliance with the plans entitled "Burger King World Headquarters" prepared by Hellmuth, Obata and Kassabaum, P.A., Planners and Architects, dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7A, 7B, 8, 9, 10, 11 and 13-17, dated revised January 10, 1985 on cover sheet and sheet 2, and dated revised January 15, 1985 on sheet 6 and dated last revised January 30, 1985 on sheets 7A revised and 7B revised, a complete set which is on file with the Dade County Building and Zoning Department.
2. That the property described in Exhibit "C" will be donated, subject to certain agreed to reservations and restrictions, to the United States Department of the Interior, National Park Service within 180 days after the acquisition of Tracts A and B by the BURGER KING CORPORATION.
3. That the portion of real property described as Tracts II and B (which will be designated GU and RU-4) shall only be developed in substantial compliance with the plans described in Paragraph 1.
 - A. No application for rezoning for Tracts II and B for the express purpose of the construction of additional residential units or the construction of additional square footage for commercial or office buildings shall be filed with Dade County unless and until written approval is obtained from the

REC. 12428PG 992

owners of more than seventy-five (75) percent of all individual properties within five hundred (500) feet from the perimeter of the subject property. This subsection may be released upon written authorization from the owners of more than seventy-five (75) percent of all individual properties within five hundred (500) feet from the perimeter of the subject property.

B. Nothing contained herein shall require such consent in connection with the filing of a zoning application for permission to construct ancillary facilities (eg. security, recreational, maintenance or utility facilities) on Tracts II and/or B.

4. That in the event that in the future the OWNERS desire to increase the square footage of the buildings within the OVD district as described in Exhibit "I," the OWNERS shall, as a condition precedent, file an appropriate application for development approval pursuant to the provisions of Chapter 380, Florida Statutes, unless the proposed addition shall not exceed the then existing thresholds which from time to time may be amended, by statute or formal rule.
5. That the OWNERS will voluntarily contribute Fifty Thousand Dollars (\$50,000) in cash, goods or services to The Dade County Parks Department to be used for the Old Cutler Hammock Park located at 17535 S.W. 79th Avenue in conformance with plans to be submitted by the Dade County Parks Department to the Burger King Corporation.
6. That the OWNERS will not request nor will they support any vehicular or pedestrian bridging of S.W. 77th Avenue in the proximity to the proposed development.

REF. 12428 PG 993

7. The OWNERS will continue to maintain native vegetation on the portion of their property located adjacent to Old Cutler Road and the north and south boundaries with the intent to obscure any visibility of the office building from Old Cutler Road. All landscaping plans will be submitted to Dade County for approval prior to implementation.
8. That the OWNERS will execute a unity of title on Tracts A and B, less Tract C (to be conveyed pursuant to the provisions of Paragraph 2) so that the individual Tracts or parts thereof cannot be disposed of separately at a later date.
9. This Declaration shall be a covenant running with the land and shall be binding upon all of the OWNERS' successors in title and assigns.
10. This Declaration shall be in effect for a period of thirty (30) years from the date this document is recorded in the Public Records of Dade County, Florida, after which time it shall be renewed automatically for successive periods of ten (10) years unless released, modified, or amended as provided herein.
11. With the exception of the provisions of Paragraph 3.A., this Declaration may be released, modified or amended as to all or any portion of the property by written instrument executed by a majority of the then owners of the fee simple title to Tracts A and B, providing same is approved after a public hearing by resolution of the Board of County Commissioners of Dade County, Florida.
12. Invalidation of any one of these covenants by judgment of court in no way shall affect any of

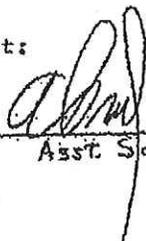
REC-12428PG 994

the other provisions which shall remain in full force and effect.

- 13. Enforcement of this Declaration shall be by action at law or in equity with costs and reasonable attorneys fees to the prevailing party.

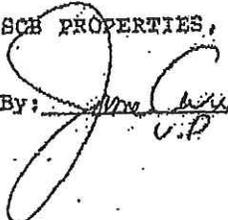
IN WITNESS WHEREOF, the OWNERS have hereunto set their respective hand and seals on the day and year first above written.

Attest:



 Asst. Secretary

SOB PROPERTIES, INC.

By:  V.P.



STATE OF FLORIDA)
) ss.1
 COUNTY OF DADE)

The foregoing instrument was acknowledged before me this 17th day of January, 1985 by James Cole and Antonia Brats as Vice President and Assistant Secretary, on behalf of the corporation.



 Notary Public
 State of Florida at Large
 My Commission Expires: _____



NOTARY PUBLIC STATE OF FLORIDA
 MY COMMISSION EXPIRES OCT 28 1987

OFF. REC. 12428 PG 995

SUN-BELT CORPORATION OF AMERICA

Attest:

By: *Clinton F. Wong* (Seal)
President

STATE OF TEXAS)
) ss.:
COUNTY OF HARRIS)



The foregoing instrument was acknowledged before me
this 14th day of January, 1985 by Clinton F. Wong
and _____ as President
and _____ on behalf of the corporation.

Laurin W. Dodo (Seal)
Notary Public
in and for Harris County, Texas
My Commission Expires:



LAURIN W. DODO
Notary Public, State of Texas
My Commission Expires October 31, 1988

2004

11:08

SILVER, GARUETT, HENKEL, P.A. → 3053512250

REC. 1242876 996

SUN-BELT CORPORATION OF AMERICA

Attest:

Robert J. Chulock
Secretary

By: _____ (Seal)

STATE OF INDIANA)
COUNTY OF MARION) ss.:

The foregoing instrument was acknowledged before me
this 31st day of January, 1985 by _____
and Robert Chulock as _____
and Secretary, on behalf of the corporation.

Julia N. Foss
Notary Public
State of Indiana at Large
My Commission Expires 12/31/86



REF 12428 PG 998

RECORDERS NOTE:
The liability of signing, typing or opening unsealed
papers in this document when received.

Exhibit A

Tract A

All that part of Tracts 3, 4, 5, 6, 7, 8 and 9, lying east of the Easterly Right-of-Way line of Ingraham Highway of DOUGHERTY'S SUBDIVISION, according to the plat thereof recorded in Plat Book 1, Page 1 of the Public Records of Dade County, Florida;

AND

All that part of Tracts 1 and 2 lying East of the Easterly Right-of-Way line of Ingraham Highway, and all of Tracts 3 and 4, of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, Page 67 of the Public Records of Dade County, Florida;

AND

The North 1/2 of the North 1/2 of the South 1/2 of the SE 1/4 of the SW 1/4 and the North 1/2 of the North 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4, all in Section 35, Township 55 South, Range 40 East, also known as the North 1/2 of Tracts 3 and 6 of S.H. RICHMOND'S SURVEY of the SW 1/4 of said Section 35, according to the plat thereof recorded in Plat Book 1, Page 67 of the Public Records of Dade County, Florida;

AND

That part of the NW 1/4 of the SW 1/4 of the SW 1/4 lying East of the Easterly Right-of-Way line of Ingraham Highway in Section 35, Township 55 South, Range 40 East;

AND

All that part of the North 1/2 of the North 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4, in Section 35, Township 55 South, Range 40 East, lying East of the center line of the County Road, as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, at Page 67, of the Public Records of Dade County, Florida;

AND

All that part of the County Road as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, Page 67 of the Public Records of Dade County, Florida, included in the above described parcels, EXCEPT the portions thereof now a part of Ingraham Highway.

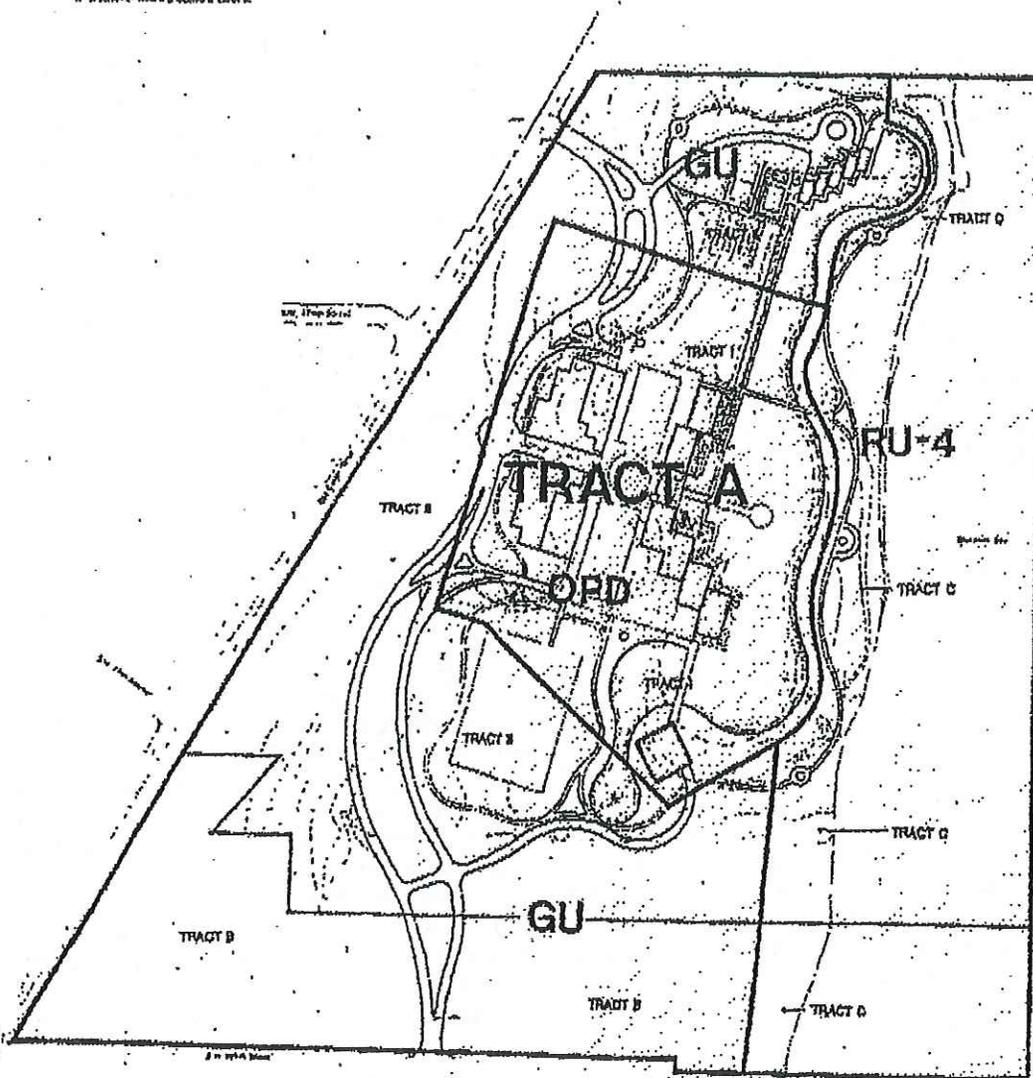
AND

The South 1/2 of the North 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4 (South 1/2 of Lot 5) and the South 1/2 of the North 1/2 of the South 1/2 of the SE 1/4 of the SW 1/4 (South 1/2 of Lot 6) of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, at Page 67 of the Public Records of Dade County, Florida;

REF. 12428 PG 997 TFC

NOTES

- 1. Shaded areas are shown in blue.
- 2. A color or hatched areas in tract.



Illustration

PROPOSED ZONING

BURGER KING WORLD HEADQUARTERS

SILVER AND COMPANY, INC. 1400 N. W. 10TH AVENUE, SUITE 1000, MIAMI, FLORIDA 33136

This plan is based on the information provided by the applicant and is not a guarantee of accuracy. The applicant is responsible for the accuracy of the information provided. The plan is subject to the approval of the local government.

SCALE: 1" = 100'

DATE: 01/07/2004

DRAWN BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

PLAT 12428 PG 998 - A

Tract B

All of Blocks 8 and 11, lying southerly and easterly of the County Road, and all of Blocks 9 and 10 of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East according to Plat Book 1, Page 67, of the Public Records of Dade County, Florida; and all of the S 1/2, N 1/2, S.W. 1/4, S.W. 1/4, S.W. 1/4 lying easterly and southerly of the County Road in Section 35, Township 55 South, Range 40 East; and also all that part of the S.E. 1/4, S.E. 1/4, S.E. 1/4 of Section 34, Township 55 South, Range 40 East, lying southerly and easterly of the County Road being in Dade County, Florida; also a strip of land 25 feet in width lying west of said Block 11 above mentioned and south of the southerly line of the County Road.

AND

All that part of Blocks 7 and 11 of the S.W. 1/4 of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, lying northwesterly of the County Road as shown on Plat of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, surveyed and drawn by S.H. Richmond and filed in Plat Book 1, Page 67, and lying southeasterly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

AND

All that part of the N 1/2 of the S.W. 1/4 of the S.W. 1/4 of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, lying northwesterly of the County Road as shown on plat filed in Plat Book 1, Page 67, of the Public Records of Dade County, Florida, and lying southeasterly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

AND

That portion of that certain parcel of land conveyed to Dade County by Warranty Deed from Julian S. Eaton and Ethelwynne Eaton, dated February 5, 1942 and recorded in Deed Book 2237 at Page 549, under Clerk's File Number R-22573 of the Public Records of Dade County, Florida, lying southeasterly of a line 50.00 feet southeasterly of and parallel with the following described centerline for Old Cutler Road; Commence at the Southeast corner of Section 34, Township 55 South, Range 40 East, Dade County, Florida; thence run N89°29'05" W along the South line of the S.E. 1/4 of said Section 34 for a distance of 151.64 feet to the point of beginning of the herein described centerline for Old Cutler Road; thence run N31°03'37" E across the S.E. 1/4 of said Section 34 and across the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, Dade County, Florida, for a distance of 914.42 feet, more or less, to a point on the North line of the North 1/2 of the S.W. 1/4 of the S.W. 1/4 of the S.W. 1/4 of said Section 35 and to the end of the herein described centerline for Old Cutler Road.

AND

That portion of the westerly 1/2 of the County Road shown on S.H. Richmond's Survey, of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East Dade County, Florida, according to the Plat thereof as recorded in Plat Book 1, at Page 67 of the Public Records of Dade County, Florida, lying easterly of Block 7 of said S.H. Richmond's Survey, easterly of that portion of Block 11 of said S.H. Richmond's Survey lying northwesterly of said County Road and within the N 1/2 of the S.W. 1/4 of the S.W. 1/4 of the S.W. 1/4 of said Section 35, less that portion thereof lying within the 10.00 feet

Tract C REC. 12428 PG 1003

A portion of DOUGHERTY'S SUBDIVISION, as recorded in Plat Book 1 at Page 1, Dade County Records, and a portion of S.H. RICHMOND'S SURVEY, as recorded in Plat Book 1 at Page 67, Dade County Records, lying in the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, Dade County, Florida being more particularly described as follows:

Commence at the S.W. corner of said Section 35; thence run N87°47'58"E, along the south line of said Section 35 for a distance of 1850.00 feet to the Point of Beginning; thence run N04°57'08"E for a distance of 596.45 feet to a point; thence run N87°46'46"E for a distance of 39.81 feet to a point; thence run N04°57'08"E for a distance of 403.39 feet to a point; thence run N07°29'23"E for a distance of 9.00 feet to a point; thence run N11°52'22"E for a distance of 61.43 feet to a point; thence run N07°18'50"E for a distance of 101.63 feet to a point; thence run N06°07'49"E for a distance of 89.69 feet to a point; thence run N05°26'17"E for a distance of 105.41 feet to a point; thence run N06°01'47"E for a distance of 105.14 feet to a point; thence run N15°57'29"W for a distance of 21.24 feet to a point; thence run N04°57'08"E for a distance of 689.98 feet to a point; thence run S85°02'52"E for a distance of 7.82 feet to a Point of Curvature of a circular curve concave to the West, having for its elements, a central angle of 180°00'00" and a radius of 84.32 feet; thence run Easterly, Northerly and Westerly along the arc of said curve for a distance of 264.90 feet to a Point of Tangency; thence run N85°02'52"W for a distance of 58.27 feet to a point; thence run N04°57'08"E for a distance of 225.23 feet to a point of intersection with the North line of Tract 3, said DOUGHERTY'S SUBDIVISION; thence run N87°39'08"E along said North line for a distance of 177.06 feet to a point on the Mean High Water line of Biscayne Bay, as determined by Jack Mueller & Associates and approved by the Department of Natural Resources, State of Florida; thence run Southerly, along said Mean High Water line for the next twenty seven (27) courses; 57°054'06"E, 17.22 feet; 501°06'22"E, 58.91 feet; 510°03'13"E, 54.68 feet; 514°09'36"E, 82.10 feet; 520°06'36"E, 59.25 feet; 500°31'24"W, 23.48 feet; 565°11'24"W, 15.63 feet; 580°11'13"W, 31.22 feet; 519°38'31"W, 107.85 feet; 510°08'17"W, 102.42 feet; 516°44'23"W, 105.82 feet; 510°42'37"W, 102.65 feet; 514°22'28"W, 104.41 feet; 501°06'18"W, 100.18 feet; 502°19'22"E, 100.00 feet; 501°08'34"E, 100.02 feet; 503°59'02"E, 100.04 feet; 509°44'50"E, 100.84 feet; 507°38'10"W, 101.54 feet; 509°13'42"W, 102.08 feet; 510°18'46"W, 102.49 feet; 522°20'49"W, 110.07 feet; 509°52'32"W, 102.32 feet; 500°41'05"E, 100.04 feet; 500°54'28"E, 100.03 feet; 501°33'41"W, 100.23 feet; 507°58'50"E, 66.77 feet to its intersection with the North line of the aforesaid Tract 10 of S.H. RICHMOND'S SURVEY; thence departing the said Mean High Water Line run N87°46'46"E along the said North line of Tract 10 of S.H. RICHMOND'S SURVEY for 543.96 feet to the Northeast corner of said Tract 10 of S.H. RICHMOND'S SURVEY; thence S03°00'45"E along the East line of said Tract 10 of S.H. RICHMOND'S SURVEY for 193.68 feet to the Southeast corner of said Tract 10 of S.H. RICHMOND'S SURVEY, said point also being the Southeast corner of the SW 1/4 of said Section 35; thence S87°47'58"W along the South line of the SW 1/4 of said Section 35 for 790.08 feet to the Point of Beginning.

REF: 12428PC 1004

JOINDER BY CONTRACT VENDEE

The undersigned Burger King Corporation, a Florida corporation, Contract Vendee under that certain contract from Sun-Belt Corporation of America

dated the 2nd day of November, 1984, a memo of which is recorded in Official Records Book 12317 at Page 926, of the Public Records of Dade County, Florida,

covering all/or a portion of the property described in the foregoing agreement, do hereby acknowledge that the terms of this agreement are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed this 31st day of January, A.D., 1985.

Burger King Corporation
Name of Corporation

By Eugene Feola
Vice President

Attest Robert H. Sorenson
Secretary



STATE OF FLORIDA
COUNTY OF DADE

BEFORE ME, the undersigned authority, this day appeared Eugene Feola and Robert H. Sorenson both being to me well known and known by me to be the Vice President and Secretary of Burger King Corporation under the laws of the State of Florida, and which said Corporation is known by me to be the persons described in and which executed the foregoing instrument, the said officers of the said Corporation being likewise known by me to be the officers thereof who, in their official capacities as such officers of said Corporation executed, signed and delivered the said instrument as the act and deed of said Corporation, and the said officers of said Corporation then and there severally acknowledged to and before me that they executed the said instrument, acting in their said official capacities, for and as to the act and deed of said Corporation and in its name, and impressed thereon its Corporate Seal for the uses and purposes therein mentioned, and after being duly authorized and directed:

WITNESS my hand and official Seal at Miami in the County and State aforesaid, on this, the 31st day of January, A.D., 1985

Notary Public, State of Florida at Large
My Commission Expires October 19, 1988
Bonded thru Mynard Banking Agency
My Commission Expires:

Sara Lopez
Notary Public in and for the State of Florida at Large

The undersigned Paul E. Shipe, Jr.
~~Florida corporation, Mortgagee,~~ under that certain mortgage from
Sun-Belt Corporation of America

dated the 13th day of March, 1981, and recorded in
Official Records Book 11650 at Page 880 of the Public
Records of Dade County, Florida, in the original amount of
\$ 276,840.85 covering all/or a portion of the property
described in the foregoing agreement, do hereby acknowledge that
the terms of this agreement are and shall be binding upon the
undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed
this 11 day of January, A.D., 1985.

Paul E. Shipe, Jr.
Paul E. Shipe, Jr.

STATE OF Florida
COUNTY OF Dade

BEFORE ME, the undersigned authority, this day appeared Paul E. Shipe, Jr.
and Paul E. Shipe, Jr.
both being to me well known and known by me to be the
and et
appear the laws of the
State of Florida, and which said Corporation is known
by me to be the persons described in and who executed the foregoing
instrument, the said officers of the said Corporation being likewise
known by me to be the officers thereof and, in their official
capacity as such officers of said Corporation executed, signed
and delivered the said instrument as the act and deed of said
Corporation, and the said officers of said Corporation then and
there severally acknowledged to and before me that they executed
the said instrument, acting in their said official capacities, for
and as to the act and deed of said Corporation and in its name, and
impressed thereon its Corporate Seal for the uses and purposes therein
mentioned, and after being duly authorized and directed.

WITNESS my hand and official Seal at Coral Gables in the
County of Dade and State aforesaid, on this, the 11th day of January,
1985.



Smiley Ray Harris
Notary Public in and for the State
of Florida at Large

My Commission Expires:

RE. 124287 1006

JOINER BY 106 1006

The undersigned Ruth S. Monk
~~Florida corporation, Mortgagee, under that certain mortgage from~~
Sun-Belt Corporation of America

dated the 13th day of March, 1981, and recorded in
Official Records Book 11050 at Page 880, of the Public
Records of Dade County, Florida, in the original amount of
\$ 276,840.85 covering all/or a portion of the property
described in the foregoing agreement, do hereby acknowledge that
the terms of this agreement are and shall be binding upon the
undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed
this 11 day of January, A.D., 1985.

Ruth S. Monk
RUTH S. MONK

STATE OF Delaware
COUNTY OF New Castle

BEFORE ME, the undersigned authority, this day appeared
Ruth S. Monk and
both being to me well known and known by me to be the
and of

~~under the laws of the~~
~~State of~~ and which said Corporation is known
by me to be the person described in and who executed the foregoing
instrument, the said officers of the said Corporation being likewise
known by me to be the officers thereof who, in their official
capacities as such officers of said Corporation executed, signed
and delivered the said instrument to the set and deed of said
Corporation, and the said officers of said Corporation then and
there severally acknowledged to and before me that they executed
the said instrument, acting in their said official capacities, for
and as to the set and deed of said Corporation and in its name, and
impressed thereon the Corporate Seal for the uses and purposes therein
mentioned, and after being duly authorized and directed.

WITNESS my hand and official Seal at Wilmington, Delaware in the
County and State aforesaid, on this 11th day of January
A.D., 1985



My Commission Expires:

NOTARY PUBLIC

My Commission Expires August 12, 1985

James E. Freese
Public in and for the State
of Florida at Large

JOINER BY MORTGAGEE

The undersigned Old Cutler Manor, a
Florida Partnership Mortgagee, under that certain mortgage from
Sun - Belt Corporation of America to Old Cutler Manor

dated the 13th day of March, 1981, and recorded in
Official Records Book 11167 at Page 167, of the Public
Records of Dade County, Florida, in the original amount of
\$ _____ covering all/or a portion of the property
described in the foregoing agreement, do hereby acknowledge that
the terms of this agreement are and shall be binding upon the
undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed
this 14th day of January, A.D., 1985.

Old Cutler Manor
Name of Corporation

By [Signature]
General Partner

Attest _____ (Seal)
Secretary

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, this day appeared Clinton Wong
Wong being to me well known and known by me to be the General Partner
Partner and and of Old Cutler Manor, a partnership under the laws of the
Manor, a partnership under the laws of the State of Florida and which said Partnership is known
by me to be the person described in and which executed the foregoing instrument, the said partner of the said Corporation being likewise
known by me to be the partner thereof who, in his official capacities as such partner of said partnership executed, signed
and delivered the said instrument as the act and deed of said Partnership and the said partner of said Partnership then and
there severally acknowledged to and before me that he executed the said instrument, acting in his capacity for
and as to the act and deed of said Partnership and in its name, impressed thereon its Corporate Seal for the uses and purposes therein
mentioned, and after being duly authorized and directed.

WITNESS my hand and official Seal at 7800 San Felipe in the
County and State aforesaid, on this, the 14th day of January
1985.



Laura W. Dado
Notary Public in and for
Harris County, Texas

REC. 12428 PG 1009
JOINDER BY MORTGAGEE

The undersigned M. Ronald Krongold, as Trustee (s),
and Mortgagee, under that certain mortgage from Sun-Belt Corporation
of America dated the 4th day of October, 1985
and recorded in Official Records Book 11581 Page 1059 of the
Public Records of Dade County, Florida, in the original amount of \$50,000.00
covering all/or a portion of the property
described in the foregoing instrument, do hereby acknowledge that the terms of
this agreement are and shall be binding upon the undersigned and its successors
in title.

IN WITNESS WHEREOF, these presents have been executed this 29th day of
January A.D., 19 85.

WITNESSES:

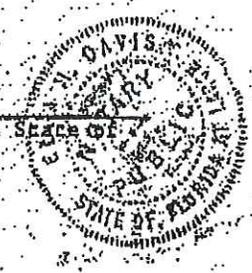
[Signature]
[Signature]
Trustee

STATE OF FLORIDA)
COUNTY OF DADE)

I, an officer authorized to take acknowledgements according to the law and
duly qualified, and so acting, do hereby certify that on this date personally
appeared before me M. Ronald Krongold
who is to me personally known and who acknowledged the foregoing instrument for
the purposes therein contained, and had acknowledged that he was authorized
under the trust to execute said instrument on behalf of the beneficiaries of the
trust.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Miami, Dade
County, Florida, this 29th day of January A.D.
1985.

[Signature]
Notary Public in and for the State of
Florida at Large



My Commission expires:

1/1/87

Trustee

JOINDER BY MORTGAGE

The undersigned Paul H. Bass as Trustee (s),
and Mortgagee, under that certain mortgage from Sun-Belt Corporation
of America dated the 4th day of October, 1982
and recorded in Official Records Book 11501 Page 1058 of the
Public Records of Dade County, Florida, in the original amount of \$50,000.00

covering all/or a portion of the property
described in the foregoing instrument, do hereby acknowledge that the terms of
this agreement are and shall be binding upon the undersigned and its successors
in title.

IN WITNESS WHEREOF, these presents have been executed this 29th day of
January A.D., 1985.

WITNESSES:

[Signature]

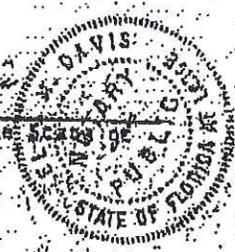
[Signature]
Trustee

STATE OF FLORIDA)
COUNTY OF DADE)

I, an officer authorized to take acknowledgements according to the law and
duly qualified, and so acting, do hereby certify that on this date personally
appeared before me Paul H. Bass
who is to me personally known and who acknowledged the foregoing instrument for
the purposes therein contained, and had acknowledged that he was authorized
under the trust to execute said instrument on behalf of the beneficiaries of the
trust.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Miami, Dade
County, Florida, this 29th day of January A.D.
1985

[Signature]
Notary Public in and for the State of
Florida at Large



My Commission expires:

12/1/87

RECORDED IN OFFICIAL RECORDS BOOK
OF DADE COUNTY, FLORIDA
RECORDS MAINTAINED
RICHARD P. BRUNKEE
CLERK CIRCUIT COURT

RESOLUTION NO. Z-30-85

The following resolution was offered by Commissioner Clara Oesterle, seconded by Commissioner Barbara M. Carey, and upon poll of members present the vote was as follows:

Barbara M. Carey	aye	Barry D. Schreiber	absent
Clara Oesterle	aye	Sherman S. Winn	absent
Beverly B. Phillips	aye	Jorge (George) Valdes	absent
James F. Redford, Jr.	absent	Stephen P. Clark	aye
Harvey Ruvlin	aye		

WHEREAS, SCB PROPERTIES, INC., had applied for the following:

- (1) A district boundary change from RU-4 (Apartments) to OPD (Government Property) (Parcel A).
- (2) A district boundary change from EU-M (Estate Use Modified), EU-2 (Estates, 1 Family-5 Acres Gross), and RU-4 (Apartments) to GU (Agricultural) (Parcel C).
- (3) A district boundary change from RU-4L (Limited Apartment House), EU-M (Estate Use Modified), EU-2 (Estates, 1 Family-5 Acres Gross), and GU (Agriculture) to GU (Agriculture) (Parcel D).
- (4) USE VARIANCE to permit a 10-unit apartment building in the GU district.
- (5) UNUSUAL USE to permit private recreational facilities, to wit: tennis courts, basketball courts, swimming pool, and playing fields in the GU district.
- (6) SPECIAL EXCEPTION to permit night lighting on the proposed recreational facilities.
- (7) UNUSUAL USE to permit the filling and enlargement of portions of the existing lake.
- (8) MODIFICATION of Condition #2 pertaining to the approval of the marina of Resolution Z-196-74, passed and adopted by the Board of County Commissioners on July 23, 1974 as follows:

FROM: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Revised Marina Excavation and Bulkhead Plan - Location Only - South Cutler Bay', prepared by H. J. Ross Associates, Inc., dated revised January 21, 1974."

TO: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Lake Modifications', as prepared by Post, Buckley, Schuh, and Jernigan, Inc., dated 12-31-84, consisting of four pages, and plan entitled 'Burger King World Headquarters: Control Drawing - Site Plan', as prepared by Hellmuth, Obata, and Kassabaum, Planners and Architects, consisting of one sheet, dated last revised January 7, 1985."

The purpose of the request is to permit the applicant to revise the approved slopes as follows:

Section A-A: The applicant is proposing a 3 foot horizontal to 1 foot vertical slope from existing ground elevation into a minimum depth of 3' of water, thence a 5 foot wide horizontal shelf, thence a deep cut vertical slope to the existing bottom of the lake at - 20.0 elevation.

Section B-B: The applicant is proposing a deep cut vertical slope from the top of the existing bulkhead at elevation +4.0 to the bottom of the existing lake at -20.0 elevation.

Section C-C: The applicant is proposing a 3 foot horizontal to 1 foot vertical slope from top of berm at elevation +5.0 into a minimum depth of 3' of water, thence a 5' wide horizontal shelf, thence a 1 foot horizontal to 1 foot vertical slope to the existing bottom of the lake at -20.0 elevation.

Section D-D: The applicant is proposing a deep cut vertical slope from the top of the existing bulkhead at +4.0 elevation to the bottom of the existing lake at -20.0 elevation.

- (9) NON-USE VARIANCE OF LOT FRONTAGE REGULATIONS to permit a parcel (Parcel A) with a frontage of 0' on a public street (100' required).
- (10) NON-USE VARIANCE OF ZONING AND SUBDIVISION REGULATIONS to permit access to a public street by means of private drives (Parcel A).
- (11) NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit a proposed bus/bicycle shelter setback 0' (50' required) from the west (Old Cutler Road) property line.
- (12) NON-USE VARIANCE OF PARKING REGULATIONS to permit back-out space of 14' and 22' (24' required).
- (13) NON-USE VARIANCE OF LANDSCAPED OPEN SPACE REQUIREMENTS to permit 75% of the total required landscaping to be of category 1 type landscaping (80% required).

Plans are on file and may be examined in the Zoning Department entitled "Burger King World Headquarters", as prepared by Hellmuth, Obata, & Kassabaum, Inc., Architects consisting of 21 sheets, dated revised January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13 through 17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheets 6, 7a revised, and 7b revised.

Plans of the proposed lake enlargement and slope modifications are entitled "Lake Modifications", as prepared by Post, Buckley, Schuh, & Jernigan, Inc. Consulting Engineers and Planners, consisting of 5 sheets dated 12-31-84.

SUBJECT PROPERTY: Portions of Section 34 and Section 35, Township 55 South, Range 40 East. See composite Exhibit A for complete description.

LOCATION: The east side of Old Cutler Road, between theoretical S.W. 177 Street and theoretical S.W. 184 Street, Dade County, Florida.

SIZE OF PROPERTY: 114+ Acres

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida, was advertised and held, as required by law, and all interested parties concerned in the matter were heard, at which time Mr. Rawlinson, Coordinator for the Developmental Impact Committee (D.I.C.), had announced that the applicant had submitted a revised plan which had minor modifications and which was within the scope of the advertisement for the hearing and this Board permitted the amendment of the application accordingly; and at which time the applicant proffered a Declaration of Restrictive Covenants, which among other things agreed that the property would be developed in substantial compliance with plans submitted for the hearing; that property, along the water front, would be dedicated to the National Park Service; that changes in the plans, both as to residential and office

buildings, would require waivers from adjacent property owners, and a Public Hearing; that any increase requested in square footage of the buildings within the OPD district, would require an appropriate DRI application; that owners would contribute sums of money, goods or services to Dade County Parks Department to be used for Old Cutler Hammock Park, and upon due and proper consideration having been given to the matter and to the recommendation of the Developmental Impact Committee, it is the opinion of this Board that the requested district boundary changes would be compatible with the neighborhood and area concerned and would not be in conflict with the principles and intent of the plan for the development of Dade County, Florida, and that the use variance, unusual uses, special exception, modification of Condition #2 pertaining to Resolution 2-196-74, and non-use variances, would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance and should be approved and that the proffered Declaration of Restrictions should be accepted;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the application in total, including the amended site plan, be and the same is hereby approved;

BE IT FURTHER RESOLVED that the Modification #2 of Resolution 2-196-74 pertaining to the Marina is approved as follows:

That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled, "Lake Modifications" as prepared by Post, Buckley, Schuh and Jernigan, Inc., dated last revised 1-31-85, consisting of 5 pages, and plan entitled, "Burger King World Headquarters: Site Plan", as prepared by Hellmuth, Obata and Kassabaum, Planners and Architects, consisting of one sheet (2A) dated last revised February 7, 1985".

BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled "Burger King World Headquarters", as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a

complete set of which is on file with the Dade County Building and Zoning Department.

BE IT FURTHER RESOLVED that this Board accepts and elects to enforce all assurances and representations made by and on behalf of the applicant at the Public Hearing.

BE IT FURTHER RESOLVED that the approval of the Subdivision Variances are predicated upon the following:

1. That there are special circumstances affecting the subject property and strict application of the subdivision regulations would deprive the applicant of a reasonable use of their land. These special circumstances pertain to the fact that the subject property has severe environmental and other site constraints which impact the design of an internal circulation system and make the proposed use infeasible if subdivision regulations are strictly adhered to.
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, in that, the approval of this variance would enable Burger King Corporation to construct a proper internal roadway system which adequately serves the proposed development while preserving valuable environmental resources on the site.
3. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the subject property is located because the applicant has agreed to make the necessary modifications to the area road system which will maintain adequate transportation safety and service.

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

PASSED AND ADOPTED this 7th day of February, 1985.

February, 1985
No. 85-2-CC-1
mr
2/11/85

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
Richard P. Brinker, Clerk

By RAYMOND REED
Deputy Clerk

This resolution transmitted to the Clerk of the Board of County Commissioners on the 11th day of February 1985.

LEGAL DESCRIPTION

PARCEL "A"

A portion of DOUGHERTY'S SUBDIVISION as recorded in Plat Book 1 at Page 1 and S.H. Richmond's Survey of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, as recorded in Plat Book 1 at Page 67, both the Public Records of Dade County, Florida being more particularly described as follows:

Commence at the intersection of the Easterly Right of Way line of Ingraham Highway with the Northerly line of Tract 3, said DOUGHERTY'S SUBDIVISION thence run $S28^{\circ}06'20''W$; along said Easterly Right of Way line of Ingraham Highway, for a distance of 377.28 feet to a point; thence run $S61^{\circ}53'40''E$ for a distance of 102.97 feet to the POINT OF BEGINNING; thence run $S13^{\circ}57'55''E$ for a distance of 1050.00 feet to a point; thence run $S76^{\circ}02'05''E$ for a distance of 141.00 feet to a point; thence run $S50^{\circ}17'05''E$ for a distance of 675.00 feet to a point; thence run $N58^{\circ}12'55''E$ for a distance of 350.00 to a point of curvature of a circular curve to the left, having for its elements a central angle of $82^{\circ}45'00''$ and a radius of 180.00 feet; thence run Northeasterly and Northerly along the arc of said curve for a distance of 259.97 feet to a point of reverse curvature of a circular curve of the right, having for its elements a central angle of $36^{\circ}30'00''$ and a radius of 500.00 feet; thence run Northerly along the arc of said curve for a distance of 201.59 feet to the Point of Tangency; thence run $N13^{\circ}57'55''E$ for a distance of 145.00 feet to the Point of Curvature of a circular curve to the left, having for its elements a central angle of $45^{\circ}00'00''$ and a radius of 350.00 feet; thence run Northerly and Northwesterly along the arc of said curve for a distance of 299.32 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $62^{\circ}00'00''$ and a radius of 130.00 feet; thence run Northwesterly and Northerly along the arc of said curve for a distance of 194.78 feet to a point of reverse curvature of a circular curve to the left, having for its elements a central angle of $17^{\circ}20'06''$ and a radius of 275.00 feet; thence run Northerly along the arc of said curve for a distance of 33.20 feet to a point; thence run $N76^{\circ}02'05''W$ for a distance of 768.50 feet to the POINT OF BEGINNING.

Containing 24.94 Acres more or less

Subject to any reservations, dedications or easements of record.

A portion of DOUGHERTY'S SUBDIVISION as recorded in Plat Book 1 at Page 1 and S.H. RICHMOND'S SURVEY of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, as recorded in Plat Book 1 at Page 67, both of the Public Records of Dade County, Florida being more particularly described as follows:

Commence at the intersection of the Easterly Right of Way line of Ingraham Highway with the Northerly line of Tract 3, said DOUGHERTY'S SUBDIVISION; thence run $N87^{\circ}39'08''E$ along the North line of said Tract 3 for a distance of 819.58 feet to the POINT OF BEGINNING; thence continue $N87^{\circ}39'08''E$ for a distance of 119.57 feet to a point on the "Mean High Water Line Elevation +1.50 NGVD" as established by JACK MUELLER & ASSOCIATES, INC. and approved by the State of Florida, Department of Natural Resources on May 9, 1984; thence run Southerly along said "Mean High Water Line Elevation +1.50 NGVD" for the next twenty-seven (27) courses; thence run $S70^{\circ}54'06''E$ for a distance of 17.22 feet to a point; thence run $S01^{\circ}06'22''E$ for a distance of 58.91 feet to a point; thence run $S10^{\circ}03'13''E$ for a distance of 54.68 feet to a point; thence run $S14^{\circ}09'36''E$ for a distance of 82.10 feet to a point; thence run $S20^{\circ}06'36''E$ for a distance of 59.25 feet to a point; thence run $S00^{\circ}31'24''W$ for a distance of 23.48 feet to a point; thence run $S65^{\circ}11'24''W$ for a distance of 15.63 feet to a point; thence run $S60^{\circ}11'13''W$ for a distance of 31.22 feet to a point; thence run $S19^{\circ}38'31''W$ for a distance of 107.85 feet to a point; thence run $S10^{\circ}08'17''W$ for a distance of 102.42 feet to a point; thence run $S18^{\circ}44'23''W$ for a distance of 105.82 feet to a point; thence run $S10^{\circ}42'37''W$ for a distance of 102.65 feet to a point; thence run $S14^{\circ}22'28''W$ for a distance of 104.15 feet to a point; thence run $S01^{\circ}06'13''W$ for a distance of 100.18 feet to a point; thence run $S02^{\circ}19'22''E$ for a distance of 100.00 feet to a point; thence run $S01^{\circ}03'54''E$ for a distance of 100.02 feet to a point; thence run $S03^{\circ}39'02''E$ for a distance of 100.04 feet to a point; thence run $S09^{\circ}44'50''E$ for a distance of 100.54 feet to a point; thence run $S07^{\circ}38'10''W$ for a distance of 101.54 feet to a point; thence run $S09^{\circ}13'42''W$ for a distance of 102.08 feet to a point; thence run $S10^{\circ}18'46''W$ for a distance of 102.49 feet to a point; thence run $S22^{\circ}20'49''W$ for a distance of 110.07 feet to a point; thence run $S09^{\circ}52'32''W$ for a distance of 102.32 feet to a point; thence run $S00^{\circ}41'05''E$ for a distance of 100.04 feet to a point; thence run $S00^{\circ}54'28''E$ for a distance of 100.03 feet to a point; thence run $S01^{\circ}33'41''W$ for a distance of 100.23 feet to a point; thence run $S07^{\circ}58'50''E$ for a distance of 66.77 feet to a point; thence, departing said "Mean High Water Line Elevation +1.50 NGVD", run $S87^{\circ}46'46''W$ along the South line of the North 1/2 of the South 1/2 of the South 1/2 of said Section 35, for a distance of 125.00 feet to a point; thence run $N03^{\circ}16'00''W$ for a distance of 461.00 feet to a point on a circular curve concave to the Northwest, a radial to said point bears $S31^{\circ}47'05''E$; thence run Northeasterly and Northerly along the arc of said curve, through a central angle of $82^{\circ}45'00''$ and a radius of 150.00 feet, for a distance of 259.97 feet to a point of reverse curvature of a circular curve concave to the East, having for its elements a central angle of $38^{\circ}30'00''$ and a radius of 300.00 feet; thence run Northerly along the arc of said curve for a distance of 201.59 feet to a point of tangency; thence run $N13^{\circ}57'55''E$ for a distance of 145.00 feet to a point of curvature of a circular curve to the left, having for its elements a central angle of $45^{\circ}00'00''$ and a radius of 350.00 feet; thence run Northerly and Northwesterly along the arc of said curve for a distance of 299.32 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $62^{\circ}00'00''$ and a radius of 180.00 feet; thence run Northwesterly and Northerly along the arc of said curve for a distance of 194.78 feet to a point of reverse curvature of a circular curve to the left, having for its elements a central angle of $37^{\circ}00'00''$ and a radius of 275.00 feet; thence run Northerly along the arc of said curve for a distance of 177.59 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $105^{\circ}00'00''$ and a radius of 120.00 feet; thence run Northerly and Northeasterly along the arc of said curve for a distance of 219.91 feet to a point of reverse curvature of a circular curve to the left having for its elements a central angle of $100^{\circ}00'00''$ and a radius of 120.00 feet; thence run Northeasterly, Northerly and Northwesterly along the arc of said curve for a distance of 376.99 feet to a point; thence run $N04^{\circ}57'55''E$, radial to the last described curve, for a distance of 127.34 feet to the POINT OF BEGINNING.

Containing 7.92 Acres More or Less

LEGAL DESCRIPTION
REMAINDER PART

PARCEL "C"

All that part of Tracts 3, 4, 5, 6, 7, 8 and 9, lying east of the Easterly Right-of-Way line of Ingraham Highway of DOUGHERTY'S SUBDIVISION, according to the plat thereof recorded in Plat Book 1, Page 1 of the Public Records of Dade County, Florida;

AND

All that part of Tracts 1 and 2 lying East of the Easterly Right-of-Way line of Ingraham Highway, and all of Tracts 3 and 4, of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, Page 67 of the Public Records of Dade County, Florida;

AND

The North 1/2 of the North 1/2 of the South 1/2 of the SE 1/4 of the SW 1/4 and the North 1/2 of the North 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4, all in Section 35, Township 55 South, Range 40 East, also known as the North 1/2 of Tracts 5 and 6 of S.H. RICHMOND'S SURVEY of the SW 1/4 of said Section 35, according to the plat thereof recorded in Plat Book 1, Page 67 of the Public Records of Dade County, Florida;

AND

That part of the NW 1/4 of the SW 1/4 of the SW 1/4 lying East of the Easterly Right-of-Way line of Ingraham Highway in Section 35, Township 55 South, Range 40 East;

AND

All that part of the North 1/2 of the North 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4, in Section 35, Township 55 South, Range 40 East, lying East of the center line of the County Road, as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, at Page 67, of the Public Records of Dade County, Florida;

AND

The South 1/2 of the North 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4 (South 1/2 of Lot 5) and the South 1/2 of the North 1/2 of the South 1/2 of the SE 1/4 of the SW 1/4 (South 1/2 of Lot 6) of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, at Page 67 of the Public Records of Dade County, Florida;

A portion of DOUGHERTY'S SUBDIVISION as recorded in Plat Book 1 at Page 1 and S.H. Richmond's Survey of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, as recorded in Plat Book 1 at Page 67, both the Public Records of Dade County, Florida being more particularly described as follows:

Commence at the intersection of the Easterly Right of Way line of Ingraham Highway with the Northerly line of Tract 3, said DOUGHERTY'S SUBDIVISION; thence run S28°06'20"W, along said Easterly Right of Way line of Ingraham Highway, for a distance of 377.28 feet to a point; thence run S61°53'40"E for a distance of 102.97 feet to the POINT OF BEGINNING; thence run S13°57'55"W for a distance of 1050.00 feet to a point; thence run S76°02'05"E for a distance of 141.00 feet to a point; thence run S50°17'05"E for a distance of 675.00 feet to a point; thence run N58°12'55"E for a distance of 350.00 to a point of curvature of a circular curve to the left, having for its elements a central angle of 82°45'00" and a radius of 180.00 feet; thence run Northeasterly and Northerly along the arc of said curve for a distance of 259.97 feet to a point of reverse curvature of a circular curve of the right, having for its elements a central angle of 38°30'00" and a radius of 300.00 feet; thence run Northerly along the arc of said curve for a distance of 201.59 feet to the Point of Tangency; thence run N13°57'55"E for a distance of 145.00 feet to the Point of Curvature of a circular curve to the left, having for its elements a central angle of 49°00'00" and a radius of 350.00 feet; thence run Northerly and Northwesterly along the arc of said curve for a distance of 299.32 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of 62°00'00" and a radius of 190.00 feet; thence run Northwesterly and Northerly along the arc of said curve for a distance of 194.78 feet to a point of reverse curvature of a circular curve to the left, having for its elements a central angle of 17°20'06" and a radius of 275.00 feet; thence run Northerly along the arc of said curve for a distance of 83.20 feet to a point; thence run N76°02'05"W for a distance of 768.50 feet to the POINT OF BEGINNING.

AND LESS

A portion of DOUGHERTY'S SUBDIVISION as recorded in Plat Book 1 at Page 1 and S.H. RICHMOND'S SURVEY of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, as recorded in Plat Book 1 at Page 67, both of the Public Records of Dade County, Florida being more particularly described as follows:

Commence at the intersection of the Easterly Right of Way line of Ingraham Highway with the Northerly line of Tract 3, said DOUGHERTY'S SUBDIVISION; thence run N87°39'08"E along the North line of said Tract 3 for a distance of 819.58 feet to the POINT OF BEGINNING; thence continue N87°39'08"E for a distance of 119.57 feet to a point on the "Mean High Water Line Elevation +1.50 NGVD" as established by JACK MUELLER & ASSOCIATES, INC. and approved by the State of Florida, Department of Natural Resources on May 9, 1984; thence run Southerly along said "Mean High Water Line Elevation +1.50 NGVD" for the next twenty-seven (27) courses; thence run S70°54'06"E for a distance of 17.22 feet to a point; thence run S01°06'22"E for a distance of 58.91 feet to a point; thence run S10°03'13"E for a distance of 54.68 feet to a point; thence run S14°09'36"E for a distance of 82.10 feet to a point; thence run S20°06'36"E for a distance of 59.25 feet to a point; thence run S00°31'24"W for a distance of 23.48 feet to a point; thence run S65°11'24"W for a distance of 15.63 feet to a point; thence run S60°11'13"W for a distance of 31.22 feet to a point; thence run S19°38'31"W for a distance of 107.85 feet to a point; thence run S10°08'17"W for a distance of 102.42 feet to a point; thence run S16°44'23"W for a distance of 105.82 feet to a point; thence run S10°42'37"W

for a distance of 102.65 feet to a point; thence run $S14^{\circ}22'28''W$ for a distance of 104.15 feet to a point; thence run $S01^{\circ}06'18''W$ for a distance of 100.18 feet to a point; thence run $S02^{\circ}19'22''E$ for a distance of 100.00 feet to a point; thence run $S01^{\circ}08'34''E$ for a distance of 100.02 feet to a point; thence run $S03^{\circ}59'02''E$ for a distance of 100.04 feet to a point; thence run $S09^{\circ}44'50''E$ for a distance of 100.84 feet to a point; thence run $S07^{\circ}38'10''W$ for a distance of 101.54 feet to a point; thence run $S09^{\circ}13'42''W$ for a distance of 102.08 feet to a point; thence run $S10^{\circ}18'46''W$ for a distance of 102.49 feet to a point; thence run $S22^{\circ}20'49''W$ for a distance of 110.07 feet to a point; thence run $S09^{\circ}52'32''W$ for a distance of 102.32 feet to a point; thence run $S00^{\circ}41'05''E$ for a distance of 100.04 feet to a point; thence run $S00^{\circ}54'28''E$ for a distance of 100.03 feet to a point; thence run $S01^{\circ}33'41''W$ for a distance of 100.23 feet to a point; thence run $S07^{\circ}58'50''E$ for a distance of 66.77 feet to a point; thence, departing said "Mean High Water Line Elevation +1.50 NGVD", run $S87^{\circ}46'46''W$, along the South line of the North 1/2 of the South 1/2 of the South 1/2 of the South 1/2 of said Section 35, for a distance of 125.00 feet to a point; thence run $N03^{\circ}16'00''W$ for a distance of 461.00 feet to a point on a circular curve concave to the Northwest, a radial to said point bears $S31^{\circ}47'05''E$; thence run Northeasterly and Northerly along the arc of said curve, through a central angle of $82^{\circ}45'00''$ and a radius of 190.00 feet, for a distance of 259.97 feet to a point of reverse curvature of a circular curve concave to the East, having for its elements a central angle of $38^{\circ}30'00''$ and a radius of 300.00 feet; thence run Northerly along the arc of said curve for a distance of 201.59 feet to a Point of Tangency; thence run $N13^{\circ}57'55''E$ for a distance of 145.00 feet to a Point of Curvature of a circular curve to the left, having for its elements a central angle of $43^{\circ}00'00''$ and a radius of 350.00 feet; thence run Northerly and Northwesterly along the arc of said curve for a distance of 299.32 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $52^{\circ}00'00''$ and a radius of 160.00 feet; thence run Northwesterly and Northerly along the arc of said curve for a distance of 194.78 feet to a point of reverse curvature of a circular curve to the left, having for its elements a central angle of $37^{\circ}00'00''$ and a radius of 275.00 feet; thence run Northerly along the arc of said curve for a distance of 177.59 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $105^{\circ}00'00''$ and a radius of 120.00 feet; thence run Northerly and Northeasterly along the arc of said curve for a distance of 219.91 feet to a point of reverse curvature of a circular curve to the left having for its elements a central angle of $130^{\circ}00'00''$ and a radius of 120.00 feet; thence run Northeasterly, Northerly and Northwesterly along the arc of said curve for a distance of 376.99 feet to a point; thence run $N04^{\circ}57'55''E$, radial to the last described curve, for a distance of 127.34 feet to the POINT OF BEGINNING.

Containing 36.08 Acres More or Less.

Subject to any reservations, dedications or easements of record.

PARCEL "D"

LEGAL DESCRIPTION THIS PROPERTY:

All of Blocks 8 and 11, lying Southerly and Easterly of the County Road, also all of Blocks 9 and 10 of the SW 1/4 of said Section 35, according to Plat Book 1, at Page 87, of the Public Records of Dade County, Florida; and all of the S 1/2 of the N 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 lying Easterly and Southerly of the County Road in said Section 35; and also all that part of the SE 1/4 of the SE 1/4 of the SE 1/4 of said Section 34, lying Southerly and Easterly of the County Road being in Dade County, Florida; also a strip of land 25 feet in width lying West of said Block 11 above mentioned and South of the Southerly line of the County Road;

AND

All that part of Blocks 7 and 11 of the SW 1/4 of the SW 1/4 of said Section 35, lying Northwesterly of the County Road as shown on the Plat of the SW 1/4 of said Section 35, surveyed and drawn by S.H. Richmond and filed in Plat Book 1 at Page 87, and lying Southeasterly of Ingraham Highway (Old Cutler Road) as same is currently laid out;

AND

All that part of the N 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of said Section 35, lying Northwesterly of the County Road as shown on the Plat filed in Plat Book 1, at Page 87, of the Public Records of Dade County, Florida, and lying Southeasterly of Ingraham Highway (Old Cutler Road) as same is currently laid out;

AND

That portion of the Easterly 1/2 of the County Road shown on said S RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range East, lying Westerly of Blocks 8 and 11 of said S.H. RICHMOND'S SURVEY and lying within the S 1/2 of the N 1/2 of the SW 1/4 of the SW 1/4 of said Section 35, LESS that portion thereof lying within the West 40 feet of the SW 1/4 of said Section 35.

AND

That portion of that certain parcel of land conveyed to Dade County by Warranty Deed from Julian S. Eaton and Ethelwynne Eaton, dated February 5, 1942 and recorded in Deed Book 2237 at Page 549, under Clerk's File No. R-22573, of the Public Records of Dade County, Florida, lying Southeasterly of a line 50 feet Southeasterly of and parallel with the following described centerline for Old Cutler Road; Commence at the Southeast corner of said Section 34; thence run N 89° 29' 05" W, along the South line of the SE 1/4 of said Section 34, for a distance of 151.46 feet to the Point of Beginning of the herein described centerline for Old Cutler Road; thence run N 31° 03' 37" E across the SE 1/4 of said Section 34 and across the SW 1/4 of said Section 35, for a distance of 914.42 feet, more or less, to a point on the North line of the N 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of said Section 35 and to the END of the herein described centerline for Old Cutler Road;

AND

That portion of the Westerly 1/2 of the County Road shown on said S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying Easterly of Block 7 of said S.H. RICHMOND'S SURVEY, Easterly of that portion of Block 11 of said S.H. RICHMOND'S SURVEY, lying Northwesterly of said County Road and within the N 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of said Section 35, LESS that portion thereof lying within the West 40 feet of the SW 1/4 of said Section 35;

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, RICHARD P. BRINKER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. 2-30-85, adopted by the said Board of County Commissioners at its meeting held on February 7, 1985.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 12th day of February, A. D. 19 85.

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

By *R. Brinker*
Deputy Clerk

SEAL



Board of County Commissioners
Dade County, Florida

RESOLUTION NO. 4-ZAB-270-85

The following resolution was offered by Mr. Murray Sisselman seconded by Mrs. Joyce Masso and upon poll of members present, the vote was as follows:

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

WHEREAS, BURGER KING CORPORATION has applied for the following:

- (1) DELETION of an Agreement only as it affects the hereinafter described subject property; said Agreement being recorded in Official Record Book 7197, at Pages 498 through 516, on the 26th day of April, 1971, and pursuant to Resolution Z-89-70, passed and adopted by the Board of County Commissioners on the 16th day of April, 1970.
- (2) DELETION of an Agreement entered into between South Cutler Bay, Inc. and Dade County; said agreement being recorded in Official Record Book 8997 at Pages 1168 through 1170 on the 22nd day of May, 1975, and required pursuant to Resolution Z-196-74, passed and adopted by the Board of County Commissioners on the 23rd day of July, 1974.
- (3) DELETION of a Declaration of Restrictive Covenants entered into between Sun-Belt Corporation of America and Dade County; said Restrictive Covenants being recorded in Official Record Book 11198 at Pages 987 through 999 on the 28th day of August, 1981.

The purpose of the above requests is to remove these agreements from the official records of Dade County, and to release the subject property from the conditions therein, leaving the property under the current restrictions of the Declaration of Restrictive Covenants filed pursuant to Resolution Z-30-85 in Official Record Book 12428 at Pages 990 through 1010.

SUBJECT PROPERTY: PARCEL 1: All of Blocks 8 and 11, lying S/ly and E/ly of the County Road, and all of Blocks 9 and 10 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67; and all of the south 1/2, of the north 1/2, of the SW 1/4, of the SW 1/4, of the SW 1/4 lying E/ly and S/ly of the County Road in Section 35; Township 55 South, Range 40 East, and also all that part of the SE 1/4, of the SE 1/4, of the SE 1/4 of Section 34, Township 55 South, Range 40 East, lying S/ly and E/ly of the County Road; also a strip of land 25' in width lying west of the said aforementioned Block 11 and south of the S/ly line of the County Road.

PARCEL 2: All that part of Lots 7 and 11 of the SW 1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of the County Road as shown on the plat of the SW 1/4 of Section 35, Township 55 South, Range 40 East, surveyed and drawn by S. H. RICHMOND and filed in Plat book 1, Page 67, and lying SE/ly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

PARCEL 3: All that part of the north 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of the County Road as shown on the plat filed in Plat book 1, Page 67, and lying SE/ly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

PARCEL 4: That portion of that certain parcel of land conveyed to Dade County by Warranty Deed from Julian S. Eaton and Ethelwynne Eaton, dated February 5, 1942 and recorded in Deed Book 2237 at Page 549, under Clerk's File Number R-22573, lying SE/ly of a line 50' SE/ly of and parallel with the following described centerline for Old Cutler Road; commence at the Southeast corner of Section 34, Township 55 South, Range 40 East; thence run N89°29'5"W along the south line of the SE 1/4 of said Section 34 for a distance of 151.64' to the Point of beginning of the herein described centerline for Old Cutler Road; thence run N31°3'37"E across the SE 1/4 of said Section 34 and across the SW 1/4 of Section 35, Township 55 South, Range 40 East, for a distance of 914.42', to a point on the north line of the north 1/2, of the SW 1/4, of the SW 1/4, of the SW 1/4 of said Section 35 and to the end of the herein described centerline for Old Cutler Road.

4 Feb-270-85

PARCEL 5: All of County Road shown on S.H. Richmond's Survey of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67, lying between those lands shown as Parcels 1 through 4 herein.

AND: All riparian and littoral rights (if any) appurtenant to all of the foregoing described property, including but not limited to, all riparian and littoral rights east of the mean high water line, and in the interest (if any) in the foregoing described property up to the centerline of an road(s) or street(s) abutting any of the foregoing described property.

AND:

All that part of Tracts 3, 4, 5, 6, 7, 8, and 9, lying east of the E/ly right-of-way line of Ingraham Highway of DOUGHTERY'S SUBDIVISION, Plat book 1, Page 1 of the Public Records of Dade County, Florida;

AND:

All that part of Tracts 1 and 2 lying east of the E/ly Right-of-Way line of Ingraham Highway, and all of Tracts 3 and 4 of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67;

AND:

The north 1/2 of the north 1/2 of the south 1/2 of the SE 1/4 of the SW 1/4 and the north 1/2 of the north 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4, all in Section 35, Township 55 South, Range 40 East, also known as the north 1/2 of Tracts 5 and 6 of S.H. RICHMOND'S SURVEY of the SW 1/4 of said Section 35, Plat book 1, Page 67;

AND:

That part of the NW 1/4 of the SW 1/4 of the SW 1/4 lying east of the E/ly right-of-way line of Ingraham Highway in Section 35, Township 55 South, Range 40 East;

AND:

All of that part of the north 1/2 of the north 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 in Section 35, Township 55 South, Range 40 East, lying east of the center line of the County Road as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67;

AND:

All that part of the County Road as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67, included in the above described parcels, EXCEPT the portions thereof now a part of Ingraham Highway;

AND:

The south 1/2 of the north 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4 (the south 1/2 of Lot 5) and the south 1/2 of the north 1/2 of the south 1/2 of the SE 1/4 of the SW 1/4 (south 1/2 of Lot 6) of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67; and all riparian and littoral rights (if any) appurtenant to all of the foregoing described property, including but not limited to, all riparian and littoral rights east of the mean high water line, as shown on the survey prepared by Jack Mueller & Associates, Inc., dated April 18, 1984, revised August 3, 1984, November 15, 1984 and December 21, 1984, and including the interest (if any) in the property up to the center line of any road(s) or street(s) abutting any of the foregoing described property.

LOCATION: The east side of Old Cutler Road between theoretical S.W. 177 Street and theoretical S.W. 184 Street, Dade County, Florida, and

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

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested deletions would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board, that the requested Deletion of an Agreement only as it affects the subject property; said Agreement being recorded in Official Record Book 7197, at Pages 498 through 516, on the 26th day of April, 1971, and pursuant to Resolution Z-89-70, Deletion of an Agreement entered into between South Cutler Bay, Inc. and Dade County; said agreement being recorded in Official Record Book 8997 at Pages 1168 through 1170 on the 22nd day of May, 1975, and required pursuant to Resolution Z-196-74 and Deletion of a Declaration of Restrictive Covenants entered into between Sun-Belt Corporation of America and Dade County; said Restrictive Covenants being recorded in Official Record Book 11198 at Pages 987 through 999 on the 28th day of August, 1981 be and the same are hereby approved.

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

PASSED AND ADOPTED this 24th day of JULY, 1985.

Heard 7/24/85
Hearing No. 85-7-32
7/25/85 aa

RESOLUTION NO. 4-ZAB-143-86

The following resolution was offered by Mr. Jose A. Losa seconded by Mr. Levi A. Johnson and upon poll of members present, the vote was as follows:

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

WHEREAS, BURGER KING CORPORATION has applied for the following:

- (1) UNUSUAL USE to permit the filling of a portion of an existing lake.

The applicant is requesting to fill underneath the proposed building site and provide a vertical bulkhead with a slope beginning 7'9" below the bulkhead cap, thence a minimum 3' wide shelf, thence a one foot vertical to two foot horizontal slope to the bottom of the existing lake.

Plans are on file and may be examined in the Zoning Department entitled "Burger King Corporation World Headquarters Site Sea Wall", consisting of six sheets, prepared by Bliss and Nyitray, Inc. Consulting Engineers, dated 3-21-86.

- (2) MODIFICATION of Condition #2 of Resolution 2-196-74, passed and adopted by the Board of County Commissioners on July 23, 1974 and amended by Resolution 2-30-85 passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Lake Modifications', as prepared by Post, Buckley, Schuh and Jernigan, Inc., dated last revised 1-31-85, consisting of 5 pages, and plan entitled 'Burger King World Headquarters: Site Plan', as prepared by Hellmuth, Obata and Kassabaum, Planners and Architects, consisting of one sheet (2A) dated last revised February 7, 1985."

TO: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Burger King Corporation World Headquarters Site Sea Wall', consisting of six sheets, prepared by Bliss and Nyitray, Inc., consulting engineers, dated 3-21-86."

The purpose of the request is to substitute new plans for the existing lake which indicates its current proposed shape, area to be filled underneath the building, new seawalls to be constructed and proposed new slope areas.

- (3) MODIFICATION of the Proffered Covenant paragraph of Resolution 2-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a complete set of which is on file with the Dade County Building and Zoning Department.

TO: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World

Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

- (4) MODIFICATION of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990 - 1010, accepted pursuant to Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11, and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

The purpose of the modification of resolution and agreement is to permit a revised site plan & parking plans which indicate a reconfiguration of the existing lake, elimination of a proposed second lake, merging of the technical center into one building, an increase of 2,485 square feet of building and additional outdoor parking areas.

The aforementioned plans are on file and may be examined in the Zoning Department.

SUBJECT PROPERTY: Tract "A" and "B" of BURGER KING WORLD HEADQUARTERS, Plat book 127, Page 86.

LOCATION: The east side of Old Cutler Road, between S.W. 177 Street and S.W. 184 Street, Dade County, Florida, and

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

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

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board, that the requested Unusual Use to permit the filling of a portion of an existing lake, Modification of Condition #2 of Resolution Z-196-74, Modification of the Proffered Covenant paragraph of Resolution Z-30-85, and Modification of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990-1010, accepted pursuant to Resolution Z-30-85 be and the same are hereby approved, subject to the following conditions:

1. That the revised Emergency Access plan satisfy the requirements of the Metro-Dade County Fire Department.
2. That the applicants comply with all conditions and requirements of the Department of Environmental Resources Management.
3. Building finishes shall be dark to enhance blending with vegetation and tree canopy and the architectural treatment for the primary office building shall provide for planter boxes and landscaping along the entire length of all four stories as well as the roof top on the building's east elevation to mitigate its visual impact.
4. That the applicant submit to the Planning Department for its review and approval a landscaping plan which indicates the type of plant material and size prior to the issuance of a building permit and to be installed prior to the issuance of a certificate of use and occupancy.

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

PASSED AND ADOPTED this 30th day of APRIL, 1986.

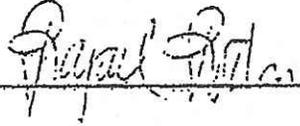
Heard 4/30/86
Hearing No. 86-4-28
Typed 5/2/86 aa

STATE OF FLORIDA)
 ;
COUNTY OF DADE)

I, Rafael Rodon, Director of the Metropolitan Dade County Building and Zoning Department, and Ex-Officio Secretary of the Metropolitan Dade County Zoning Appeals Board, DO HEREBY CERTIFY that the above and foregoing is true and correct copy of Resolution No. 4-ZAB-143-86 adopted by said Zoning Appeals Board at its meeting held on APRIL 30, 1986.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this 13th day of MAY, A.D. 1986.

Rafael Rodon, Ex-Officio Secretary
Metropolitan Dade County
Zoning Appeals Board

By: 

SEAL

RESOLUTION NO. Z-34-89

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

Barbara M. Carey	absent	Barry D. Schreiber	aye
Charles Dusseau	aye	Jorge (George) Valdes	aye
Joseph M. Gersten	aye	Sherman S. Winn	absent
Larry Hawkins	nay	Stephen P. Clark	absent
Harvey Ruvin	absent		

WHEREAAS, BURGER KING CORP., had applied for the following:

- (1) UNUSUAL USE to permit parking in a zone more restrictive than the use it serves; to wit: parking of cars in a GU district to serve an OPD district.

Plans are on file and may be examined in the Zoning Department entitled "Burger King Corporation World Headquarters," as prepared by Hellmuth, Obata & Kassabaum, Inc., dated 8-18-88 on sheets CL-1, CL-2, CL-3 & 2C.6-1. Plans may be modified at public hearing.

- (2) MODIFICATION of the Proffered Covenant paragraph of Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as modified by Resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986, as follows:

FROM: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88, a complete set of which is on file with the Dade County Building and Zoning Department."

- (3) MODIFICATION of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990-1010, accepted pursuant to Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, and modified by Resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986, as follows:

FROM: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site

Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88, a complete set of which is on file with the Dade County Building and Zoning Department."

The purpose of the modification of resolution and agreement is to show additional surface parking in the area north of the north office building on the official development plans.

SUBJECT PROPERTY: Tract "A" of BURGER KING WORLD HEADQUARTERS, Plat book 127, Page 86.

LOCATION: 17777 Old Cutler Road, Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida, was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested unusual use and Modifications of Covenants would be compatible with the area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance and should be approved, subject to conditions;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the application be approved, subject to the following conditions:

1. That an amended covenant be submitted in recordable form within 90 days of the public hearing approval of this application, and to submit the proposed amended Declaration of Restrictions for approval prior to recording.
2. That the applicant submit to the Planning Department for its review and approval a landscaping plan which indicates the type of plant material and size prior to the issuance of a building permit and to be installed prior to the issuance of a certificate of use and occupancy.

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, RICHARD P. BRINKER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-34-89, adopted by the said Board of County Commissioners at its meeting held on February 23, 1989

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 24th day of March, A. D. 19 89

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

By C. M. Spurlock
Deputy Clerk



This instrument prepared by:
and when recorded return to:
Jerry B. Proctor, Esq.
Bilzin Sumberg Baena Price & Axelrod LLP
2500 First Union Financial Center
Suite 2500
Miami, Florida 33131-5340

Exhibit 2

(Space Reserved for Clerk)

**DECLARATION OF RESTRICTIVE COVENANTS
IN LIEU OF UNITY OF TITLE**

KNOW ALL BY THESE PRESENTS that the undersigned Owner hereby makes, declares and imposes on the land herein described, these easements and covenants running with the title to the land, which shall be binding on the Owner, all heirs, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them;

WHEREAS, Owner holds the fee simple title to the land in the Village of Palmetto Bay, Florida, in Miami-Dade County, Florida, described in Exhibit "A," attached hereto and made a part hereof, hereinafter called the "Property;"

WHEREAS, Owner intends to develop said property for:

- Business Use
- Office Use
- Residential Use

WHEREAS, Owner intends to create multiple ownerships within the Property to serve existing and future development, and/or future phases of development, and

WHEREAS, Owner may wish to convey portions of the property from time to time in fee simple, and/or may wish to offer units as condominiums, this instrument is executed in order to assure that the phased development of the property with future multiple ownership and multiple fee simple ownership, will not violate the Zoning Code of Miami-Dade County, as adopted by the Village of Palmetto Bay or the remaining requirements in the Declaration of Restrictive Covenants and the First Amendment to the Declaration of Restrictive Covenants.

Declaration of Restrictive Covenants
in Lieu of Unity of Title
Page 2

NOW THEREFORE, in consideration of the premises, Owner hereby agrees as follows:

1. The Property will be developed in substantial compliance with the site plan entitled, "Burger King World Headquarters", prepared by Hellmuth, Obata and Kassabaum, P.A., Planners and Architects, dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7A, 7B, 8, 9, 10, 11 and 13-17, dated revised January 10, 1985 on cover sheet and sheet 2, and dated revised January 30, 1985 on sheets 7A revised 7B revised. No modification shall be effected in said site plan without the written consent of the then owner(s) of the Property, and the submittal of an application to modify the plan or covenant at public hearing before the Village Council of Palmetto Bay, Florida.
2. If the Property is developed in phases, each phase will be developed in substantial accordance with the site plan.
3. In the event of multiple ownership subsequent to said site plan approval, each of the subsequent owners, mortgagees and other parties in interest shall be bound by the terms, provisions and conditions of this instrument. Owner further agrees that it will not convey portions of the Property to such other parties unless and until the Owner and such other party or parties shall have executed and mutually delivered in recordable form, and instrument to be known as an "Easement and Operating Agreement" which shall contain, among other things:
 - (i) easements in the common area of each parcel for ingress to and egress from other parcels;
 - (ii) easements in the common area of each parcel for the passage and parking of vehicles;
 - (iii) easements in the common area of each parcel for the passage and accommodation of pedestrians;
 - (iv) easements for access roads across the common area of each parcel to private roadways;
 - (v) easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in appropriate areas in each such parcel;
 - (vi) easements on each such parcel for construction of buildings and improvements in favor of each such other parcel;

Declaration of Restrictive Covenants
in Lieu of Unity of Title
Page 3

- (vii) easements upon each such parcel in favor of each adjoining parcel for the installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations;
- (viii) easements on each parcel for attachment of buildings;
- (ix) easements on each such parcel for building overhangs, other overhangs and projections encroaching upon such parcel from adjoining parcel such as, by way of example, marquees, canopies, lights, lighting devices, awnings, wing walls and the like;
- (x) appropriate reservation of rights to grant easements to utility companies;
- (xi) easements in favor of each such parcel for pedestrian and vehicular traffic over dedicated private ring roads and access roads; and
- (xii) appropriate agreements between the owners of the several parcels as to the obligation to maintain and repair all private roadways, parking facilities, common areas and the like.

The easement provisions or portions thereof may be waived by the Village Attorney of the Village of Palmetto Bay, if they are not applicable to the subject application. When executed, the Easement and Operating Agreement shall not be amended without the prior written approval of the Office of the Village Attorney of Palmetto Bay. Such Easement and Operating Agreement may contain such other provisions with respect to the operation, maintenance and development of the Property as to which the parties thereto may agree, all to the end that although the property may have several owners, it will be constructed, conveyed, maintained and operated in accordance with the approved site plan.

4. The provisions of this instrument shall become effective upon their recordation in the public records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless released in writing by the then owners of the Property and the Village Attorney, acting for and on behalf of the Village of Palmetto Bay, Florida, upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the property for the purposes herein intended.
5. The provisions of this instrument may be amended or modified by a written instrument executed by the then Owner or Owners of the Property, with joinders by all mortgagees, if any. Should this Declaration of Restrictive Covenants be so

Declaration of Restrictive Covenants
in Lieu of Unity of Title
Page 4

amended, or modified, the Village Attorney, or his successor, shall forthwith execute a written instrument effectuating and acknowledging such amendment or modification. The provisions of this instrument may be released by a written instrument executed by the then Owner or Owners of the Property, with joinders by all mortgagees, if any, after public hearing. Should this Declaration of Restrictive Covenants be so released, after public hearing and approval of the Village Council of the Village of Palmetto Bay, the Village Attorney, or his successor, shall forthwith execute a written instrument effectuating and acknowledging such release.

6. Enforcement shall be by action against any parties or persons violating or attempting to violate any covenants. The prevailing party to 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.
7. Invalidation of any of these covenants by judgment of Court shall not affect any of the other provisions, which shall remain in full force and effect.
8. 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.
9. In the event of a violation of this Declaration, in addition to any other remedies available, the Village of Palmetto Bay is hereby authorized to withhold any future permits, and refuse to make any inspections or grant any approval, until such time as this Declaration is complied with.
10. This Declaration shall be recorded in the public records of Miami-Dade County at the Owner's expense.
11. This Declaration specifically incorporates the Declaration of Restrictive Covenants and the First Amendment to the Declaration of Restrictive Covenants recorded May 1, 1989 at Official Records Book 14089 at Pages 2349-52 and Official Records Book 12428 at Pages 923-1010, of the Public Records of Miami-Dade County, Florida, with the exception of the unity of title requirement, any inconsistencies between this Declaration and the prior documents, the Declaration of Restrictive Covenants and the First Amendment to the Declaration of

EXHIBIT "A"

LEGAL DESCRIPTION

Tracts A and B, Burger King World Headquarters, Plat Book 127, Page 86, of the
Public Records of Dade County, Florida.

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RESOLUTION NO. 07-31

ZONING APPLICATION VPB-07-01

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF THE VILLAGE OF PALMETTO BAY REQUESTING ZONING APPROVAL PURSUANT TO SECTION 33-303 OF THE MIAMI-DADE COUNTY CODE, AS ADOPTED BY THE VILLAGE, TO ALLOW FOR PUBLIC FACILITY PUBLIC USE AT THE PROPERTY KNOWN AS 17641 OLD CUTLER ROAD FOR A PUBLIC LIBRARY AND PUBLIC PARK; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made applications pursuant to Section 33-303 of the Miami-Dade County Code, as adopted by the Village for the ability to use the site for a public facility, as described in the Village's Planning and Zoning Recommendation to the Village Council of the Village of Palmetto Bay, which is attached to this resolution; and,

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Southwood Middle School on March 12th, 2007; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for a public facility use is consistent with the Village of Palmetto Bay's comprehensive plan and the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to grant the application, as provided in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. A hearing on the present applications was held on March 12th, 2007 in accordance with Ordinance. No. 02-03, entitled "Quasi-Judicial Hearing Procedures." Pursuant to the hearing, the Village Council makes the following findings of fact, conclusions of law and order.

Section 2. Findings of fact.

1. The applicant is the Village of Palmetto Bay, 8950 SW 152nd Street, Palmetto Bay, Florida 33157. The property that is the subject of this zoning resolution is located at 17641 Old Cutler Road. It is currently zoned EU-2. The applicant, pursuant to section 33-303 of the Miami-Dade County Code, is seeking to place a public facility use at the site, to wit: a public library and a public park.

1 2. The property bears the following legal description of:

2 Beginning at a point on the East side of the County Road 187 ½ feet due South of
3 the South Boundary of the Town of Cutler; thence Southerly along said County
4 Road to a point 338 feet due South of said South Boundary of the Town of
5 Cutler, thence East 1000 feet to Biscayne Bay, thence Northeasterly along
6 Biscayne Bay and parallel to said County Road to a point 187 ½ feet South of the
7 South boundary line of the Town of Cutler, thence West 1000 feet to the Point of
8 Beginning together with riparian rights lying between above described land and
9 the channel of Biscayne Bay, said above described land being in the NE ¼ SW ¼
10 of Section 35, Township 55 South, Range 40 East, lying and being in Miami-
11 Dade County, Florida.

12 LESS THE FOLLOWING DESCRIBED PARCEL OF LAND

13 All that certain tract or parcel of land lying and being situated in Miami-Dade
14 County, State of Florida, Section 35, Township 55 South, Range 40 East and
15 being described as follows:

16 Commencing at the intersection of the Easterly Right of Way of Old Cutler Road and a
17 line 187.5 feet South of the South boundary of the Town of Cutler. Then go
18 N87°E39'08"E for 750 feet to the Point of Beginning. For the Northern boundary of the
19 Tract continued N87°39'08"E from the Point of Beginning for 169 feet, more or less, to
20 the mean high water line of Biscayne Bay and a point hereafter designated as Point A, for
21 the Western, Southern and Eastern boundaries, go S07°24'35"W from the Point of
22 Beginning for 152.71 feet to the South line of Tract 2, of DAUGHERTY'S
23 SUBDIVISION, as recorded in Plat Book 1 at Page 1 of the Public Records of Miami-
24 Dade County, Florida, then go N87°39'08"E for 152 feet, more or less, to the mean high
25 water line of Biscayne Bay then go Northerly along said mean high line to Point "A."

26 3. The Village Council adopts the portions of the cover sheet to, and the Village
27 recommendation, entitled Introduction, Zoning Hearings History, Comprehensive Plan, and
28 Neighborhood Characteristics as its findings of fact.

29 Section 3. Conclusions of law.

30 1. The Village Council adopts the portions of the Village recommendation, entitled
31 Pertinent Requirements/Standards, section 33-303, Miami-Dade County Code; the Analysis, and
32 Recommendations contained in the staff report as the Village Council's conclusions of law.

33 2. Pursuant to the procedure provided under section 33-303, the Village may
34 establish any governmental facility in any location in the Village, without regard to the zoning or
35 use classification of any particular site or location.

1 3. A governmental facility is defined to include, but is not limited to: public parks,
2 playgrounds and buildings, and structures supplementary and incidental to such uses; public
3 libraries; public buildings and centers; art galleries and convention halls.
4

5 4. The Village Council may only authorize the erection, construction and operation
6 of the governmental facility(ies) by resolution following public hearing. The public hearing shall
7 be held upon at least fifteen (15) days' notice of the time and place of such hearing published in a
8 newspaper of general circulation in Miami-Dade County, which publication shall include the
9 time and place of hearing before the Village Council.
10

11 5. A courtesy notice containing general information as to the date, time, and place of
12 the hearing, the property location and general nature of the application may be mailed to the
13 property owners of record, within a radius of 300 feet of the property described in the
14 application, or such greater distance as the Community Development Director may prescribe;
15 provided, however, that failure to mail or receive such courtesy notice shall not affect any action
16 or proceeding taken hereunder.
17

18 6. To provide additional notice to the public, the property shall be posted by a sign
19 or signs indicating the action desired and the time and place of the public hearing thereon.
20 Failure to post such property shall not affect any action taken hereunder.
21

- 22 7. At the public hearing the Village Council shall consider, among other factors:
23 a. the type of function involved, the public need therefore;
24 b. the existing land use pattern in the area;
25 c. alternative locations for the facility; and
26 d. the nature of the impact of the facility on the surrounding property.
27

28 After considering these factors, the Village Council shall take such action as is necessary to
29 provide for and protect the public health, safety and welfare of the citizens and residents of the
30 Village.
31

32 8. In the event the Village Council authorizes the construction, erection, use or
33 operation of a governmental facility in accordance with the procedures delineated above, or in
34 the event the Council otherwise determines that Village owned property should be utilized by the
35 Village for a particular public purpose, the property, pursuant to the requirements of section 33-
36 303, shall be posted by a sign or signs conspicuously located thereon indicating the
37 governmental facility or use authorized for the property. Such sign or signs may be removed
38 upon the commencement of construction.
39

40 Section 4. Order.
41

42 a. The site plan shall be submitted to, and meet with the approval of, the Director,
43 after consultation with the Village Manager, upon the submittal of an application for a building
44 permit and/or Certificate of Use and Occupancy; said plan to include among other things, but not

1 be limited thereto, location of structure or structures, exits and entrances, drainage, wall, fences,
2 landscaping, etc.

3
4 b. In the approval of the plan, the plan shall be substantially in accordance with that
5 submitted for the hearing, and as attached hereto. Except as may be specified by any zoning
6 resolution applicable to the subject property, any future additions on the property which conform
7 to Zoning Code requirements will not require further public hearing action.

8
9 c. The use shall be established and maintained in accordance with the approved
10 plan.

11
12 d. The property shall be posted by a sign or signs conspicuously located thereon
13 indicating the governmental facility or use(s) authorized for the property. Such sign or signs may
14 be removed upon the commencement of construction.

15
16 e. This is a final order.

17
18 Section 5. Record.

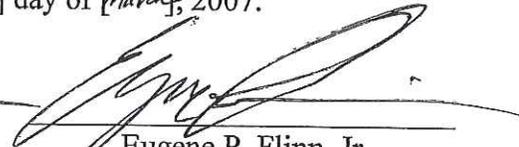
19
20 The record shall consist of the notice of hearing, the applications, documents submitted
21 by the applicant and the applicant's representatives to the Village of Palmetto Bay Department of
22 Community Development in connection with the applications, the Village recommendation and
23 attached cover sheet and documents, the testimony of sworn witnesses and documents presented
24 at the quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be
25 maintained by the Village Clerk.

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27 Section 6. This resolution shall take effect immediately upon approval.

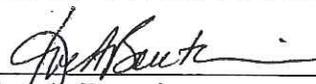
28
29 PASSED and ADOPTED this [12th] day of [March], 2007.

30
31
32 Attest:


33 Meighan Pier
34 Village Clerk


35 Eugene P. Flinn, Jr.
36 Mayor

37 APPROVED AS TO FORM:

38
39 
40 Eve A. Boutsis,
41 Nagin Gallop Figueredo, P.A.
42 Office of Village Attorney
43
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1 FINAL VOTE AT ADOPTION:
2
3 Council Member Ed Feller Yes
4
5 Council Member Paul Neidhart Yes
6
7 Council Member Shelley Stanczyk Yes
8
9 Vice-Mayor Linda Robinson Yes
10
11 Mayor Eugene P. Flinn Yes

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3 **RESOLUTION NO. 07-70**

4 A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE
5 VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING;
6 APPROVING THE MODIFICATION APPLICATION OF 17777 OLD
7 CUTLER, LLC, ALSO KNOWN AS THE PALMETTO BAY VILLAGE
8 CENTER (PBVC), WHICH IS LOCATED AT 17777-18001 OLD CUTLER
9 ROAD, TO PROVIDE FOR A PARKING GARAGE WITH ROOF-TOP
10 AMENITIES AND TEMPORARY PARKING FACILITIES DURING
11 CONSTRUCTION OF THE PERMANENT PARKING STRUCTURE AND
12 MODIFICATION OF SITE PLAN AND COVENANT RELATING TO THE
13 SITE PLAN; PROVIDING FOR PUBLIC HEARING; AND PROVIDING AN
14 EFFECTIVE DATE.

15 WHEREAS, the applicant made applications for a modification of the existing site plan
16 tied to certain covenants in order to construct temporary parking during the construction of a
17 permanent parking structure within the Office Park District (OPD) as described in the staff report
18 of the Community Development Department of the Village of Palmetto Bay, which is attached to
19 this zoning resolution; and,
20

21 WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-
22 judicial hearing on the application at Southwood Middle School on June 18, 2007; and,
23

24 WHEREAS, the Mayor and Village Council finds, based on substantial competent
25 evidence in the record, that the application for a modification of the site plan and associated
26 covenants tying the OPD to a prior site plan, is consistent with the Village of Palmetto Bay's
27 Comprehensive Plan and the applicable land development regulations; and,
28

29 WHEREAS, based on the foregoing finding, the Mayor and Village Council determined
30 to grant the applications, as provided in this resolution.
31

32 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE
33 COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
34

35 Section 1. A public hearing on the present applications was held on June 18, 2007 in
36 accordance with ordinance. no. 02-03, entitled "Quasi-judicial hearing procedures." Pursuant to
37 the hearing, the Village Council makes the following findings of fact, conclusions of law and
38 order.
39

40 Section 2. Findings of fact.

- 41 1. The applicant, 17777 Old Cutler, LLC, which is also known as Palmetto Bay
42 Village Center ("PBVC") owns and operates the office park at the northeast

1 corner of SW 184th Street and Old Cutler Road, which property currently
2 maintains the address of 17777-18001 Old Cutler Road, Palmetto Bay, Florida.
3

4 2. The property is encumbered by several Declaration of Restrictive Covenants,
5 which covenants regulate certain uses of the property. These declarations are
6 attached and incorporated by reference as exhibit B.
7

8 3. The PBVC, specifically requested to modify a set of previously approved plans
9 under Resolution Z-34-89, in order to construct a 356-space parking structure
10 (97.5' in height) with roof top recreational amenities use where a surface parking
11 lot presently exists along with the construction of a temporary parking lot. See
12 Exhibit A.
13

14 4. On February 23, 1989, pursuant to Resolution Z-34-89, the Board of Miami Dade
15 County Commissioners approved, with conditions, the applicant's request of an
16 unusual use to permit a parking lot in a zone more restrictive than the use it
17 served; to wit parking of cars in a GU district to serve an Office Park District
18 (OPD) in conjunction with the Modification of Proffered Covenants and
19 Modification of Declaration of Restrictive Covenants via prior Resolution 4-
20 ZAB-143-86 as attached hereto.
21

22 5. Under an OPD, the developer is to delineate an open space character for buildings
23 whose principal uses are administrative, professional or research related. The
24 major objectives to be achieved by this district are to provide office complexes in
25 an open space environment, to provide freedom for the designer to take a creative
26 approach to the development of an office park and thereby to enhance the visual
27 quality of the Village. Under an OPD, the principal uses permitted are those
28 associated with office buildings for business, professional and secretarial uses that
29 cater to the provision of services. Retail and industrial activities are not permitted
30 as principal uses. Under an OPD, accessory uses are allowed as of right, provided
31 the accumulated total of all accessory uses does not exceed 15 percent of the total
32 gross interior square footage of the buildings proposed for the site, excluding
33 areas devoted to structured parking. Accessory uses may include personal
34 services, private clubs, print shops, recreational facilities including swimming
35 pools, and other similar uses.
36

37 6. The adopted 2005 Village of Palmetto Bay Future Land Use Plan designates the
38 subject property as designated for Village Mixed-Use (VMU), GU and Park Use.
39 The residential densities allowed in this category range from a minimum of 3.0
40 to a maximum of 14 units per gross acre.
41

42 7. VMU also permits non-residential uses such as office and retail with an average
43 floor area ratio (FAR) of 0.5; subject to the limits adopted as part of an approved

1 "Master Plan" (PBVC Charrette Advisory Committee Report dated September
2 2004).

3
4 8. The adopted 2005 Future Land Use Plan designates the easterly portion of the
5 subject property for environmentally protected parks and the westerly portion of
6 the property for parks and recreation. The remainder of the property is designated
7 VMU.

8
9 9. For a modification of a site plan and/or associated covenant, pursuant to Section
10 33-311(A)(7), of the Miami-Dade County Code, as adopted by the Village, the applicant
11 must demonstrate that the modification of the underlying Resolution and covenant would:

- 12
13 a. not generate excessive noise or traffic;
14 b. not tend to create a fire or other equally or greater dangerous hazard;
15 c. not provoke excessive overcrowding of people;
16 d. not tend to provoke a nuisance; and,
17 e. be compatible with the area concerned, when considering the necessity
18 and reasonableness of the modification, in relation to the present and future
19 development of the area concerned

20
21 10. Under the underlying OPD zoning district the maximum height of any structure is
22 100 feet. As part of the construction of the parking structure with recreational use, the
23 applicant is seeking to construct a temporary parking lot on that portion of the property
24 which is also zoned OPD in order to satisfy the existing parking needs being temporarily
25 displaced during the construction of the parking structure. The construction is contained
26 within the OPD district and does not affect the GU zoned areas of the PBVC. The
27 modification, if approved by the Village Council, shall also require a modification of the
28 associated declaration of restrictions, so that the attached site plans associated with the
29 declarations correctly reflect the construction, location (site plan) associated with the
30 parking structure and recreational roof top use.

31
32 11. The existing covenants for the PBVC, at page four, section 7, indicates that "the
33 [PBVC] will continue to maintain native vegetation on the portion of their property
34 located adjacent to Old Cutler Road and the north and south boundaries with the intent to
35 obscure any visibility of the office building from Old Cutler Road. All landscaping plans
36 will be submitted to the [Village] for approval prior to implementation." The proposed
37 97.5 foot high parking structure, according to Dover Kohl, the land planning consulting
38 firm hired by PBVC, does not impact the native vegetation view of Old Cutler Road, as
39 the structure is over 500 feet from Old Cutler Road and the property continues to be
40 buffered by the native vegetation required under the covenant. See attached Exhibit B.
41 Not only does the structure comply with covenant requirements, but, it is also consistent
42 with the height limitations as recommended in the Palmetto Bay Village Center Charrette
43 Advisory Committee Report dated September 2004.

1 12. As the PBVC is an OPD approved via Resolution, staff has confirmed that all
2 existing and proposed accessory uses for the entire OPD site comply with the provisions
3 of the Resolution and section 33-284.30, and are within the 15 percent cap on accessory
4 uses. The 15 percent cap provides the PBVC with 61,771.65 square feet of allowable
5 accessory uses. Including the modification to include the roof top recreational uses
6 (includes the entire roof deck), PBVC will have utilized approximately 55 percent of
7 allowable accessory use space.
8

9 Section 3. Conclusions of law.

10 1. Pursuant to Section 33-311(A)(7) of the Miami-Dade County Code, as adopted by
11 the Village, the applicant's request to modify the existing site plans to provide for a
12 parking structure, temporary parking during construction and roof-top amenities is hereby
13 granted. The declaration of restrictions which require compliance with prior site plan
14 shall be modified to include compliance with the attached site plan for a parking garage,
15 temporary parking and roof-top amenities.
16

17 2. The applicant has submitted a site plan, floor plans and elevations showing the
18 development of the proposed parking structure with recreational roof top amenities. The
19 proposed parking structure with recreational roof top amenities is consistent with the
20 existing use and is in accordance with the Village's adopted Comprehensive Plan and the
21 Declaration of Restrictive Covenants associated with the site.
22

23 3. The zoning code provides a required minimum level of parking. It does not
24 preclude a development from including additional parking from that beyond required by
25 zoning. The Village Council accepts the proffered covenant amending the site plan to
26 include the parking structure would allow the applicant to provide additional parking and
27 recreational amenities for the existing Office Park Complex.
28

29 4. The Land Use Map of the Comprehensive Plan designates this site for Village
30 Mixed-Use which would allow the construction of a parking structure with roof top
31 recreational amenities. (Remainder of property is designated Park Use and GU). The
32 parking structure does not add habitable or leaseable space, the Village Council finds that
33 it will not generate excessive noise or traffic, does not pose any greater fire hazard,
34 contribute to overcrowding of people, will not provoke a nuisance nor be incompatible
35 with the area concerned.
36

37 Section 4. Order.

38 Additional conditions.
39

40 The Village Council approves the modification request pursuant to 33-311(A)(7),
41 provided the following conditions are complied with:
42

1. The applicant, PBVC, executes and records the proffered covenant to modify the existing Declaration of Restrictions in order to reflect the modified site plan approved by the village council. The modified site plan shall be identified as: as prepared by GAIL BYRON BALDWIN ARCHITECTS Inc., consisting of 16 sheets, dated stamped received 5/25/2007. In no other way shall the existing covenants be modified or superseded.
2. The applicant must meet the minimum requirements of Chapter 24 of the Code of Miami-Dade County and comply with all DERM conditions as set forth in their memorandum pertaining to this application, once submitted.
3. The applicant must meet the minimum requirements of all other applicable departments/agencies as part of the building permit submittal process, including the Florida Department of Community Affairs.
4. The applicant shall relocate all existing trees affected by the proposed temporary parking areas and permanent parking structure to another location within the OPD site.
5. The applicant shall provide an additional grouping of native trees and landscaping at the northern boundary of the site to restore the visual buffer and lost canopy. The applicant shall submit a landscape plan to be reviewed and approved by the Village.
6. The color of the proposed parking structure shall be consistent with existing buildings on site.
7. Once the permanent parking structure is constructed the PBVC shall remove all evidence of the temporary parking area and restore the area to its pre-existing green condition.
8. The applicant shall provide improvements to the Old Cutler Bike Path for that portion of the path adjacent to the subject property, as recommended in the Old Cutler Bike Path Committee Report, accepted by the Village Council in May 2007. The applicant shall work with the Village as to the timing of construction of the Bike Path amenities, including lighting of same.

This is a final order.

Section 5. Record.

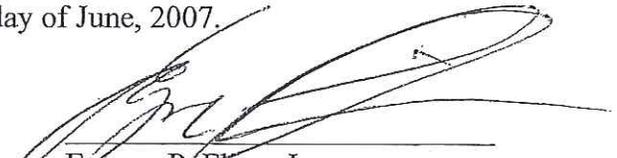
The record shall consist of the notice of hearing, the applications, documents submitted by the applicant and the applicant's representatives to the Village's Department of Community Development in connection with the applications, the county recommendation and attached

1 cover sheet and documents, the testimony of sworn witnesses and documents presented at the
2 quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained
3 by the Village Clerk.
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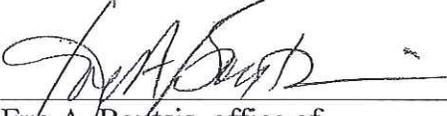
5 Section 6. This resolution shall take effect immediately upon approval.

6 PASSED and ADOPTED this 21st day of June, 2007.

7
8 Attest: 
9 Meighan Rader
10 Village Clerk


Eugene P. Flinn, Jr.
Mayor

11
12
13 APPROVED AS TO FORM:

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15 
16 Eye A. Boutsis, office of
17 Village Attorney
18 Nagin Gallop & Figueredo, P.A.
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24 FINAL VOTE AT ADOPTION:

- 25
26 Council Member Ed Feller YES
27
28 Council Member Paul Neidhart YES
29
30 Council Member Shelley Stanczyk YES
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32 Vice-Mayor Linda Robinson YES
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34 Mayor Eugene P. Flinn, Jr. YES
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RESOLUTION NO. 08-19

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE MODIFICATION APPLICATION OF THE VILLAGE OF PALMETTO BAY AS PROPOSED EASEMENT HOLDER OF APPROXIMATELY 2.10 ACRES AND OF 17777 OLD CUTLER, LLC, ALSO KNOWN AS THE PALMETTO BAY VILLAGE CENTER (PBVC), WHICH IS LOCATED AT 17777-18001 OLD CUTLER ROAD, TO PROVIDE FOR A PARKING AREA AND CONSTRUCTION STAGING FOR THE VILLAGE'S LUDOVICI PARK AND PUBLIC LIBRARY; AND MODIFICATION OF SITE PLAN AND COVENANT RELATING TO THE SITE PLAN; PROVIDING FOR PUBLIC HEARING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made applications for a modification of the existing site plan tied to certain covenants in order to provide a parking facility on the most Northern 2.10 acres, approximately, of the Palmetto Bay Village Center (PBVC) site to be used by the public in conjunction with the Village's Ludovici Park and Public Library as described in the staff report of the Community Development Department of the Village of Palmetto Bay, which is attached to this zoning resolution; and,

WHEREAS, 17777 Old Cutler, LLC, also known as the Palmetto Bay Village Center (PBVC) has agreed to provide the Village with a perpetual parking easement on approximately 2.10 acres of land to be used in conjunction with the Village's Ludovici Park and Public Library; and,

WHEREAS, prior to any such use, the modification of the approved site plan for the PBVC would require a modification to reflect the parking lot, and ensure compliance with the underlying Declaration of Restrictive Covenants, to wit: ensure the landscaping visual buffer along Old Cutler Road; and,

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Southwood Middle School on February 25, 2008; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for a modification of the site plan and associated covenants tying the property to a prior site plan, is consistent with the Village of Palmetto Bay's Comprehensive Plan and the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to grant the applications, as provided in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

1 Section 1. A public hearing on the present applications was held on February 25, 2008,
2 in accordance with ordinance. no. 02-03, entitled "Quasi-judicial hearing procedures." Pursuant to
3 the hearing, the Village Council makes the following findings of fact, conclusions of law and order.
4

5 Section 2. Findings of fact.

- 6 1.. The applicants are the Village of Palmetto Bay and 17777 Old Cutler, LLC, which is
7 also known as Palmetto Bay Village Center ("PBVC"). PBVC owns and operates the
8 office park at the northeast corner of SW 184th Street and Old Cutler Road, which
9 property currently maintains the address of 17777-18001 Old Cutler Road, Palmetto
10 Bay, Florida.
- 11
- 12 2. The property is encumbered by several Declaration of Restrictive Covenants, which
13 covenants regulate certain uses of the property. These declarations are attached and
14 incorporated by reference as exhibit A.
- 15
- 16 3. The Village desires to construct a public park and library at a property adjacent to the
17 PBVC, at 17641 Old Cutler Road. The PBVC has agreed to provide a perpetual
18 easement to the Village to allow access to the Northernmost 2.10 acres of the PBVC
19 site to the general public and to the Village for a parking and access easement area.
20 However, prior to allowing any such access easement, the PBVC is required to seek a
21 modification of the existing site plan for the site, and seek zoning approval to allow
22 the parking use at the 2.10 acre area. As such, the PBVC, specifically requests to
23 modify a set of previously approved plans under Village of Palmetto Bay zoning
24 resolution 07-06 and Miami-Dade County zoning resolution Z-34-89, in order to
25 allow the Village to construct a surface parking area to be used by the general public
26 in conjunction with the public park and library. See Exhibit B. The proposed public
27 parking lot is within the OPD district approved by the Board of County
28 Commissioners on February 23,1989, pursuant to zoning resolution Z-34-89.
- 29
- 30 4. On February 23, 1989, pursuant to zoning resolution Z-34-89, the Board of Miami
31 Dade County Commissioners approved, with conditions, the applicant's request of
32 an unusual use to permit a parking lot in a zone more restrictive than the use it
33 served; to wit parking of cars in a GU district to serve an Office Park District (OPD)
34 in conjunction with the Modification of Proffered Covenants and Modification of
35 Declaration of Restrictive Covenants via prior Resolution 4-ZAB-143-86 as attached
36 hereto.
- 37
- 38 5. Under an OPD, the developer is to delineate an open space character for buildings
39 whose principal uses are administrative, professional or research related. The major
40 objectives to be achieved by this district are to provide office complexes in an open
41 space environment, to provide freedom for the designer to take a creative approach
42 to the development of an office park and thereby to enhance the visual quality of the
43 Village. Under an OPD, the principal uses permitted are those associated with
44 office buildings for business, professional and secretarial uses that cater to the
45 provision of services. Retail and industrial activities are not permitted as principal

1 uses. Under an OPD, accessory uses are allowed as of right, provided the
2 accumulated total of all accessory uses does not exceed 15 percent of the total gross
3 interior square footage of the buildings proposed for the site, excluding areas
4 devoted to structured parking. Accessory uses may include personal services, private
5 clubs, print shops, recreational facilities including swimming pools, and other similar
6 uses.
7

- 8 6. On June 18, 2007, the Village Council pursuant to Village zoning resolution 07-06,
9 approved, with conditions, the PBVC's request to modify a set of previously
10 approved plans that were authorized under Miami-Dade County zoning resolution
11 Z-34-89, in order to construct a 356-space parking structure (97.5' in height) with
12 roof top recreational amenities use where a surface parking lot presently exists along
13 with the construction of a temporary parking lot.
14
- 15 7. On March 12, 2007, pursuant to zoning resolution 07-31, the Village Council
16 pursuant to 33-303 of the Miami-Dade County Code, as adopted by the Village,
17 changed the use of the library and park site located at 17641 Old Cutler Road from
18 residential to allow a governmental facility to be constructed. This change of use was
19 found consistent with the Village's Comprehensive Plan and Future Land Use Map,
20 which designated the site for Parks and Recreation as well as Institutional and Public
21 Facility use. The Institutional and Public Facility designation entitles an area to be
22 used to construct, amongst other things, a library.
23
- 24 7. The adopted 2005 Village of Palmetto Bay Future Land Use Plan designates the
25 PBVC property as designated for Village Mixed-Use (VMU), GU and Park Use. The
26 residential densities allowed in this category range from a minimum of 3.0 to a
27 maximum of 14 units per gross acre. The 2.10 acres in question in this zoning
28 application are within the OPD district, adjacent to the Parks and Recreation
29 designated areas for the site.
30
- 31 8. The adopted 2005 Future Land Use Plan designates the easterly portion of the
32 subject property for environmentally protected parks and the westerly portion of the
33 property for parks and recreation. The remainder of the property is designated
34 VMU.
35
- 36 9. The Future Land Use Map specifically illustrates park and recreation areas.
37 Compatible parks continue to be encouraged in all residential land use categories and
38 may continue to be allowed in all other future land use categories. The siting and use
39 of future public and private parks and recreation areas shall be guided by the
40 Recreation and Open Space Element and the Capital Improvements Element of the
41 Comprehensive Plan. The maximum intensity for ancillary uses associated with the
42 Parks and Recreation designation shall not exceed a floor area ration (FAR) of 0.2.
43
- 44 10. The Village's Ludovici Park and Public Library received a change of use, to allow the
45 construction of the proposed Library and park
46

1 11. For a modification of a site plan and/or associated covenant, pursuant to Section 33-
2 311(A)(7), of the Miami-Dade County Code, as adopted by the Village, the applicant
3 must demonstrate that the modification of the underlying Resolution and covenant
4 would:

- 5
6 a. not generate excessive noise or traffic;
7 b. not tend to create a fire or other equally or greater dangerous hazard;
8 c. not provoke excessive overcrowding of people;
9 d. not tend to provoke a nuisance; and,
10 e. be compatible with the area concerned, when considering the necessity and
11 reasonableness of the modification, in relation to the present and future
12 development of the area concerned
13

14 12. The modification, if approved by the Village Council, shall require a modification of
15 the associated declaration of restrictions, so that the attached site plans associated with the
16 declarations correctly reflect the construction, location (site plan) associated with the
17 proposed public parking lot on approximately the northernmost 2.10 acres.
18

19 13. The existing covenants for the PBVC, at page four, section 7, indicates that "the
20 [PBVC] will continue to maintain native vegetation on the portion of their property located
21 adjacent to Old Cutler Road and the north and south boundaries with the intent to obscure
22 any visibility of the office building from Old Cutler Road. All landscaping plans will be
23 submitted to the [Village] for approval prior to implementation." The proposed parking lot
24 is not intended to not impact the native vegetation view of Old Cutler Road, and the Village
25 shall be required to comply with the underlying Declaration of Restrictions to ensure the
26 visual landscape buffer is maintained along the 2.10 acre areas by the Village. The remainder
27 of the landscape buffer along Old Cutler Road shall be the responsibility and obligation of
28 the PBVC. See attached Exhibit B.
29

30 Section 3. Conclusions of law.

31 1. Pursuant to Section 33-311(A)(7) of the Miami-Dade County Code, as adopted by
32 the Village, the applicant's request to modify the existing site plans to provide for a parking
33 lot along approximately the northernmost 2.10 acres for a public parking lot and public
34 access easement area is hereby granted. The declaration of restrictions which require
35 compliance with prior site plan shall be modified to include compliance with the attached
36 site plan.
37

38 2. The applicant has submitted a site plan for the surface parking lot. The proposed
39 parking lot is consistent with the existing use and is in accordance with the Village's adopted
40 Comprehensive Plan and the Declaration of Restrictive Covenants associated with the site.
41 The property shall comply with prior site plan approvals and all covenants and restrictions.
42

43 3. The zoning code provides a required minimum level of parking. It does not
44 preclude a development from including additional parking from that beyond required by
45 zoning, particularly as the parking area is to serve the Village's adjacent park and library at

1 the site 17641 Old Cutler Road. The Village Council accepts the proffered covenant
2 amending the site plan to include the parking lot would allow the applicant to provide
3 additional parking and recreational amenities for the entire Village community.
4

5 4. The Land Use Map of the Comprehensive Plan designates this site for Village
6 Mixed-Use which would allow the construction of a parking lot for the Village, as a large
7 portion of the PBVC is designated for Park Use and GU. The parking lot does not add
8 habitable or leaseable space and is a benefit to the community at large. Based upon the
9 foregoing, the Village Council finds that it will not generate excessive noise or traffic, does
10 not pose any greater fire hazard, contribute to overcrowding of people, will not provoke a
11 nuisance nor be incompatible with the area concerned.
12

13 Section 4. Order.

14 Additional conditions.
15

16 The Village Council approves the modification request pursuant to 33-311(A)(7), provided
17 the following conditions are complied with:
18

- 19 1. The applicant, PBVC, executes and records the proffered covenant to modify the
20 existing Declaration of Restrictions in order to reflect the modified site plan
21 approved by the Village Council, to include prior approvals and this approval. The
22 addition of the modified site plan shall be identified as: as prepared by Wolfberg
23 Alvares date stamped received October 31, 2007, and shall continue to include all
24 prior site plans identified in prior recorded declaration of restrictive covenants. In
25 no other way shall the existing covenants be modified or superseded.
26
- 27 2. The applicant must meet the minimum requirements of Chapter 24 of the Code of
28 Miami-Dade County and comply with all DERM conditions as set forth in their
29 memorandum pertaining to this application, once submitted.
30
- 31 3. The applicants must meet the minimum requirements of all other applicable
32 departments/agencies as part of the building permit submittal process, including the
33 Florida Department of Community Affairs.
34
- 35 4. The Village shall attempt to relocate all existing trees affected by the proposed
36 temporary parking areas and permanent parking structure to another location within
37 the OPD site.
38
- 39 5. The Village shall provide an additional grouping of native trees and landscaping at
40 the northern boundary of the site to restore the visual buffer and lost canopy. The
41 applicant shall submit a landscape plan to be reviewed and approved by the Village.
42

43 This is a final order.

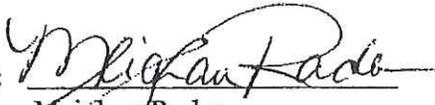
1
2 Section 5. Record.

3 The record shall consist of the notice of hearing, the applications, documents submitted by
4 the applicant and the applicant's representatives to the Village's Department of Community
5 Development in connection with the applications, the county recommendation and attached cover
6 sheet and documents, the testimony of sworn witnesses and documents presented at the quasi-
7 judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by the
8 Village Clerk.
9

10 Section 6. This resolution shall take effect immediately upon approval.

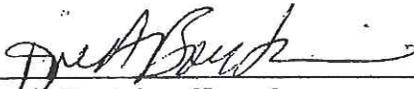
11 PASSED and ADOPTED this 3rd day of March, 2008.

12
13
14 Attest:


15 Meighan Rader
16 Village Clerk


17 Eugene P. Flinn, Jr.
18 Mayor

19 APPROVED AS TO FORM:

20
21 
22 Eve A. Boutsis, office of
23 Village Attorney
24 Nagin Gallop & Figueredo, P.A.
25

26
27 FINAL VOTE AT ADOPTION:

28
29 Council Member Ed Feller YES
30
31 Council Member Paul Neidhart YES
32
33 Council Member Shelley Stanczyk YES
34
35 Vice-Mayor Linda Robinson YES
36
37 Mayor Eugene P. Flinn, Jr. YES

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ORDINANCE NO. 08-09

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE'S CODE OF ORDINANCES, CHAPTER 30 ENTITLED "ZONING," CREATING SECTION 30-50.20, ENTITLED "VILLAGE MIXED USE" DISTRICT (VMU); WHICH SECTION SHALL BE PART OF THE VILLAGE'S LAND DEVELOPMENT CODE; AMENDING THE OFFICIAL ZONING MAP TO REFLECT THE CREATION OF THE VMU DISTRICT ON APPROXIMATELY 41.59 ACRES WITHIN 17777 - 18001 OLD CUTLER ROAD; AND ,REZONING THE DESIGNATED AREA TO THE "VILLAGE MIXED USE" DISTRICT; PROVIDING FOR DEFINITIONS, USES, GENERAL BUILDING REQUIREMENTS (DENSITY, HEIGHT, PARKING), AND PROCEDURES FOR ADMINISTRATIVE SITE PLAN REVIEW; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay pursuant to the Village's adopted Comprehensive Plan have pledged to develop a Land Development Code tailored to the needs of the Village's residents and properties; and,

WHEREAS, the Village has created Chapter 30 of the Village's Code of Ordinances entitled "Zoning," which Chapter shall be divided into divisions relating to separate subjects and which Chapter shall be considered the Village's Land Development Code; and,

WHEREAS, the Mayor and Village Council desire to create, consistent with the Village's Comprehensive Plan, a zoning district known as "Village Mixed Use," which provisions shall be found at Division 50, Section 20 of Chapter 30, entitled "Village Mixed Use" (VMU) District relating to the creation of a new zoning district within the Village to allow for a mixture of residential and commercial uses on a portion of the property known as the Palmetto Bay Village Center owned by 17777 Old Cutler Road, LLC; and,

WHEREAS, the Mayor and Village Council desire to amend the official zoning map to reflect the creation of the VMU district on approximately 41.59 acres within 17777 - 18001 Old Cutler Road; and,

WHEREAS, the VMU district provides for definitions, uses, general building requirements (density, height, parking), and procedures for administrative site plan review; and,

WHEREAS, the Village Mixed Use District is consistent with the Comprehensive Plan and in accordance with the Future Land Use Map, and,

WHEREAS, the Mayor and Village Council desire to adopt 30-50.20 as part of the Village's Land Development Code.

1 BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE
2 VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
3
4

5 Section 1. The Village of Palmetto Bay hereby creates Section 30-50.20 of the
6 Village's Land Development Code, which shall read as follows:
7

8 * * *
9

10 **30-50.20 VMU, VILLAGE MIXED USE DISTRICT.**
11

12
13 (a) Purpose, Intent and Applicability.
14

15 The purpose of the Village Mixed Use District (VMU) is to offer residents and
16 visitors an expanded range of opportunities to live and work within the Village, by creating a
17 mixed-use development with the characteristics of a pedestrian oriented neighborhood that
18 promotes the health and well being of its residents by encouraging physical activity,
19 alternative transportation and greater social interaction. By enacting the VMU, the Village
20 shall:
21

22 (1) Create and preserve an interconnected system of green space to
23 protect Biscayne Bay;
24

25 (2) create an inviting mixed-use, pedestrian-friendly environment and a
26 new use predominately comprised of high-end housing for older persons;
27

28 (3) establish a postcard-quality town scene that will be a symbol of the
29 caliber, character and identity of the Village of Palmetto Bay; and
30

31 (4) protect and enhance scenic Old Cutler Road, minimizing any visual
32 impacts from proposed development.
33

34 The boundaries shown in attached Figure 1 shall constitute the Village Mixed Use District
35 boundary plan with all areas therein designated as zoned within the requirements of the
36 ordinance.
37

38 (b) No provision in this Section 30-50.20 shall be applicable to any property
39 lying outside the boundaries of the Village Mixed-Use District ("VMU").
40

41 (c) Definitions.
42

43 Terms used throughout this zoning district, under Section 30-50.20 shall take their
44 commonly accepted meaning unless otherwise defined in other Village Code provisions.
45 Terms requiring interpretation specific to this zoning district are as follows:
46

47 Grade: The established grade of the Property shall be established at the crown of
48 the public road, as defined by this division, adjoining the Property.

1
2 Property: The entire land (Figure 1) within the VMU District, regardless of
3 ownership.
4

5 Residential Building Type: one of the following residential building types permitted
6 in the VMU District: Rowhouses/Townhouses or Senior Housing (as hereinafter defined).
7

8 Rowhouses/Townhouses: a single-family attached dwelling unit of a group of two
9 (2) or more units each separated from the adjoining unit by a common party firewall or slab.
10 Each common party fire wall shall extend to the roof line or above the roof of units that it
11 serves or otherwise meet fire code separation requirements. Each Rowhouse/Townhouse
12 unit shall be serviced with separate utilities and shall otherwise be independent of any other
13 unit. Notwithstanding the above, these units may be stacked one over the other, and may be
14 placed above or beside a shared garage and/or storage area.
15

16 Senior Housing: attached dwelling units, intended to be "housing for older persons"
17 as such phrase is defined in Section 760.29 (4) Florida Statutes, which may also include
18 ancillary offices and dining and entertainment space; as well as medical and nursing services,
19 long term care, assisted living, continuing care, transitional or hospice uses which shall be
20 limited to use by residents of the Senior Housing. To the extent the provision of these
21 ancillary services requires the use of a separate bedroom apart from a resident's unit for
22 overnight stays, each such bedroom shall be considered a residential unit. Notwithstanding
23 the foregoing, the nursing and medical services to be provided as an accessory or ancillary
24 use to senior housing shall not allow for the establishment or creation within the VMU
25 district of a state licensed hospital or a "skilled nursing facility" as such term is defined by
26 section 1819 of the Social Security Act. Notwithstanding the preceding sentence, as an
27 exception thereto, ancillary nursing and medical services may serve, at any one time, no more
28 than 20 percent of the Senior Housing residents.
29

30 (d) Uses.
31

32 Uses are allowed in the VMU as provided for in this subsection. However, these
33 uses shall not be deemed or construed to prohibit a continuation of any structure, use or
34 occupancy in the VMU that were existing as of the date of the effective date of this
35 ordinance.
36

37 (1) Permitted Uses.
38

39 a. Residential uses. Residential uses are permitted in the VMU as
40 provided below in accordance with the Village's adopted Comprehensive Plan and
41 the Declaration of Restrictive Covenants and the First Amendment to the
42 Declaration of Restrictive Covenants recorded May 1, 1989 at Official Records Book
43 14089 at Pages 2349-52 and Official Records Book 12428 at Pages 923-1010, of the
44 Public Records of Miami-Dade County, Florida.

45 (i) Multi-family residential Rowhouses/Townhouses up
46 to 100 units
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(ii) Senior Housing, intended to comply with 760.29, Florida Statutes, in the form of multi-family condominiums or apartments up to 300 residential units

b. Mixed uses. The vertical or horizontal integration of two (2) or more of residential, business and office, and other permissible uses. Vertical integration allows any combination of primary uses. Horizontal integration allows any combination of parcels with different primary uses within the VMU. The following uses shall be permitted, either as a mixed use or on their own:

- i. auditoriums;
- ii. banks;
- iii. banquet, convention or meeting halls;
- iv. beauty parlors, spa services and barber shops;
- v. civic uses, except schools;
- vi. day care center and nursery;
- vii. dry cleaning, pick up and drop off only;
- viii. fire stations or substations;
- ix. medical and dental offices; professional and general business offices; government offices;
- x. health clubs and private clubs;
- xi. hotel;
- xii. museums;
- xiii. newsstands;
- xiv. public parks; preserve areas;
- xv. recreational facilities; entertainment amphitheatre or stages; tennis courts; court games; putting greens, swimming pools;
- xvi. restaurants, coffee houses, cafeterias, delicatessens;

xvii. rowhouses/townhouses;

xviii. retail uses and service convenience uses;

xix. senior housing; and

xx. shoe repair shops.

c. Additional Uses. Approval of additional uses other than as set forth in i. through xx. above would require Village Council approval of the use provided such uses would not have an unfavorable effect on the economy of the Village, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, when considering the necessity for and reasonableness of such applied for use in relation to present and future development of the area concerned and the compatibility of the applied for use with such area and its development.

(2) Prohibited Uses.

Schools, public or private.

(e) General Requirements. These requirements shall not be deemed or construed to prohibit a continuation or restoration after casualty of any structure, use or occupancy in the VMU that was existing as of the date of the effective date of this ordinance.

(1) Buildings.

a. Heights. All height restrictions herein are deemed as consistent with the intent of the previously enacted Village of Palmetto Bay Comprehensive Plan which established parameters for this VMU district. Furthermore, all height restrictions must remain in conformity with any existing deed restrictions, declarations, or covenants in effect as to any lands within the VMU district. Multi-family Rowhouse/Townhouse units shall not exceed 70 feet above grade in height. Multi-family Senior Housing facilities shall not exceed 85 feet above grade in height. Non-residential buildings shall be no higher than 85 feet above grade in height. This shall not preclude, above such height restrictions, antennae, elevator and roof equipment, stairway roof access and railings or similar safety barrier, as long as said structures are not visible from the property line of the VMU district at Old Cutler Road.

b. Spaces. All buildings and building groups shall provide a minimum of ten (10) feet between each building or building groups

1 unless attached. Rowhouses/Townhouses shall provide a minimum of ten
2 (10) feet between building groups.
3

4 c. Building placement and buildable area:
5

6 i. Minimum lot width, depth and size for
7 Rowhouse/Townhouse: 24 feet wide by 30 feet deep. No
8 Rowhouse/Townhouse shall be smaller than 600 square feet, and the
9 average size of the Rowhouses/Townhouses in any grouping shall be
10 a minimum of 800 square feet.
11

12 ii. Maximum lot coverage: Maximum lot coverage shall
13 be 35 percent times gross lot area. The maximum lot coverage may
14 be calculated by measurement of the entire VMU district with lot
15 area coverage allocated by covenant or declaration of the property
16 owners within the Property. Areas covered by water features, access
17 roads, seawalls, sidewalks and other installations which are not
18 habitable building space shall be considered as open space in
19 calculations under this ordinance.
20

21 d. Allocation of development rights: All development rights
22 shall be allocated by covenant or declaration of the property owners within
23 the VMU. Development density shall be governed by height limitations,
24 maximum lot coverage, and residential unit density and not by any other
25 reference in the Land Development Code to floor area ratios, except for
26 non-residential uses which shall not exceed a floor area ratio of 0.5.
27

28 e. Density: Overall density for all residential units on the
29 Property, including Senior Housing facilities, shall be a minimum of 3.0 and a
30 maximum of 14.0 dwelling units per gross acre, all as consistent with the
31 Comprehensive Plan of the Village.
32

33 f. Covenant in lieu of unity of title: All property owners within
34 the VMU shall, notwithstanding any provision herein, be obliged to abide by
35 the conditions of any covenant in lieu of unity of title of record applicable to
36 the lands in the VMU.
37

38 g. Parking.
39

40 i. Multi-story parking garages, parking lots and on-street
41 parking on private roads shall count toward all parking requirements.
42 Individual parking garages for Rowhouses/Townhouses shall count
43 toward the parking requirement. Required parking for square footage
44 and uses added after the effective date of this Ordinance shall be:
45

46 ii. All permissible uses set forth herein, except
47 residential and medical not contained within a Senior Housing
48 facility: One (1) parking space for each 350 square feet, or portion

1 thereof, of net floor area, measured as the floor area less stairwells,
2 balconies, hallways, lobbies, elevator shafts and all vertical
3 penetrations.

4
5 iii. Multiple family dwelling units: One (1) parking space
6 for each bedroom, up to two (2) bedrooms, and then one (1) parking
7 space for every two (2) bedrooms thereafter.

8
9 iv. Senior Housing: A minimum of one (1) parking space
10 per dwelling unit, up to the first two (2) bedrooms, and then, a half-
11 space (.50) parking space for every bedroom thereafter.

12
13 v. Shared parking for non-residential uses may be
14 allowed by the Director to meet the code required parking
15 requirements, upon a review of the type of use, the level of projected
16 use and the hours of operation compared to other uses on the
17 Property.

18
19 vi. Medical: Other than medical uses which are contained
20 within any Senior Housing facility, one (1) parking space for each 200
21 square feet, or portion thereof, of net floor area, measured as the
22 floor area less stairwells, balconies, hallways, lobbies, elevator shafts
23 and all vertical penetrations.

24
25 (f) Signs.

26
27 Signage shall be permitted on the exterior of any structure, not to exceed five (5)
28 percent of the square footage area of the exterior facade of any structure. Monument signage
29 shall also be permitted, not to exceed ten (10) feet in height.

30
31 (g) Entrance Features.

32 Entrance features shall be permitted upon a showing that the location and means of
33 access do not create a visual obstruction that results in a traffic hazard, are complimentary in
34 character and scale to the development on the Property, and are maintained in a manner
35 acceptable to the Department.

36
37 (h) Hurricane Evacuation.

38 The property owner(s) shall create, enforce and implement a hurricane evacuation
39 plan for its residents. All costs associated with the plan's implementation shall be borne by
40 the master association which governs and enforces regulations applicable to all property
41 owners in the district. The Village shall bear no costs associated with hurricane evacuation
42 procedures required to be in full force and effect within the VMU.

1 (i) Non-conforming Structures, Uses, and Occupancies.

2
3 Nothing contained in this Section 30-50.20 shall be deemed or construed to prohibit
4 a continuation or restoration after casualty of a legal nonconforming structure, use or
5 occupancy in the VMU District that was existing as of the effective date of this ordinance.
6

7 (j) Review Procedure/Administrative Site Plan Review.

8
9 All applications for development approval within the VMU that are not otherwise
10 permitted as nonconforming uses or structures shall comply with the requirements of
11 Sections 30-30.5 and this section and with the site plan review criteria contained therein.
12 Developments shall be processed and approved administratively or by Village Council
13 action, as applicable, as follows:
14

15 (1) Administrative site plan review.

16
17 a. The Department shall review plans, including all materials
18 required under Section 30-30.5 for completeness and compliance with the
19 provisions of Sections 30-30.5 and 30-50.20, and for compliance with the site
20 plan review criteria provided therein, including but not limited to traffic
21 analysis.
22

23 b. This requirement shall be in addition to any declaration or
24 covenant effecting the Property that imposes greater or different standards
25 of review, including but not limited to any Covenant in Lieu of Unity of Title
26 requiring public hearing and compliance with existing site plans absent such
27 hearing and Village Council action, administrative review, notice and public
28 meetings and hearings; and/or all other existing or future restrictions, which
29 shall remain in full force and effect.
30

31 c. Conflicts. Conflicts with other sections, divisions and
32 regulations. This section shall govern the VMU district in the event of
33 conflicts with other zoning, subdivision or landscape regulations of this code.
34

35 (k) Public access to the general public of the VMU District's walking paths,
36 trails, path around the existing lagoon, and bike paths shall be provided during
37 daylight hours, with all parties utilizing said designated areas holding harmless the
38 owners within the VMU and entering at their own risk. This public access shall
39 provide a network of spaces available to the general public and interconnect the
40 green spaces of the VMU District to the remainder of Village. Public access to this
41 network of walkways and trails is consistent with the Village's Comprehensive Plan
42 and more specifically, pages 3 and 9 of the underlying charrette report approving the
43 creation of the VMU District. In no manner may residents trespass on other areas
44 of the VMU District which are not within the above designated areas and the owners
45 of property within the VMU district may develop reasonable regulations relating to
46 the manner, and extent of use of the public access walkways, paths, and trails,
47 provided that the above referenced hours shall not be modified except in the case of
48 emergency involving public safety or the establishment of special events that require

1 limited access during the duration of the event. The VMU property owners shall be
2 entitled to reconfigure the walkways and trails subject to public access. so long as
3 interconnection to the remainder of the Village is preserved.
4

5 * * *

6 Section 2. All ordinances or parts of ordinances in conflict with the provisions
7 of this ordinance are repealed.

8
9 Section 3. This ordinance shall be codified and included in the Code of
10 Ordinances.

11
12 Section 4. If any section, clause, sentence, or phrase of this ordinance is for any
13 reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall
14 not affect the validity of the remaining portions of this ordinance.

15
16 Section 5. This ordinance shall take effect immediately.

17
18 PASSED AND ENACTED this 9th day of June, 2008. (*executed July 16, 2008*)

19
20 First Reading: May 12th, 2008

21
22 Second Reading: June 9, 2008

23
24
25 Attest: *Meighan Rader*
26 Meighan Rader,
27 Village Clerk

Linda M. Robinson
Eugene P. Flinn, Jr.,
Mayor (Vice Mayor Robinson in his absence)

28
29
30 APPROVED AS TO FORM:

31
32 *Eye A. Boutsis*
33 Eye A. Boutsis,
34 Nagin Gallop Figueredo, P.A.
35 Office of Village Attorney

36
37
38 FINAL VOTE AT ADOPTION:

39
40 Council Member Ed Feller YES
41
42 Council Member Paul Neidhart YES
43
44 Council Member Shelley Stanczyk YES
45
46 Vice-Mayor Linda Robinson YES
47
48 Mayor Eugene P. Flinn, Jr. YES

EXACTA

COMMERCIAL LAND SURVEYORS

L.B. 7551

1035 STATE ROAD 7, SUITE 315-23, WELLINGTON, FL 33414

TEL. No. 561-314-0769 FAX No. 561-314-0770

RECORDING AREA

SKETCH OF A PORTION OF TRACTS "A" & "B" BURGER KING WORLD HEADQUARTERS, P.B. 127, PG 86, D.C.R.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C5	116.91'	29.08'	29.01'	S83°25'34"E	14°15'06"
C6	52.68'	69.23'	64.35'	S35°14'33"E	75°17'29"
C7	52.27'	57.52'	54.66'	S34°19'12"W	63°02'29"
C8	181.21'	177.00'	170.05'	S16°10'07"E	55°57'47"
C9	183.40'	131.00'	128.23'	S17°22'40"E	40°55'26"
C10	162.36'	103.13'	101.40'	S24°22'22"W	36°23'33"
C11	229.96'	75.73'	75.39'	S52°00'11"W	18°52'05"
C12	52.50'	27.73'	27.41'	N55°52'57"E	30°16'07"
C13	116.02'	76.84'	75.44'	N12°21'54"E	37°56'52"
C14	498.45'	182.52'	181.50'	N02°52'51"E	20°58'50"
C15	309.63'	131.92'	130.93'	N25°34'37"E	24°24'41"
C16	555.99'	176.86'	176.12'	N21°56'05"E	18°13'33"
C17	289.00'	182.41'	179.39'	N29°33'22"E	36°09'46"
C18	709.44'	167.48'	167.09'	N37°25'19"E	13°31'33"
C19	199.86'	207.63'	198.42'	N01°47'37"W	59°31'23"
C20	363.84'	116.78'	116.28'	N52°30'14"W	18°23'22"

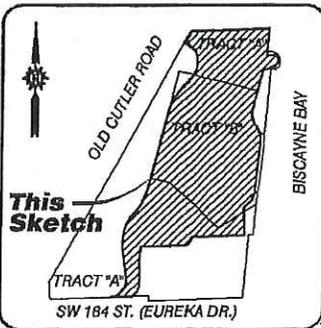
LEGEND:

- D.C.R. MIAMI-DADE COUNTY RECORDS
- C5 CURVE NUMBER 5
- P.B. PLAT BOOK
- PG. PAGE
- P.O.B. POINT OF BEGINNING

DOUGHERTY'S SUBDIVISION,

P.O.B. P.B.1, PG. 1, D.C.R.

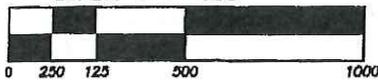
N87°39'08"E 744.70'



Location Map
NOT TO SCALE

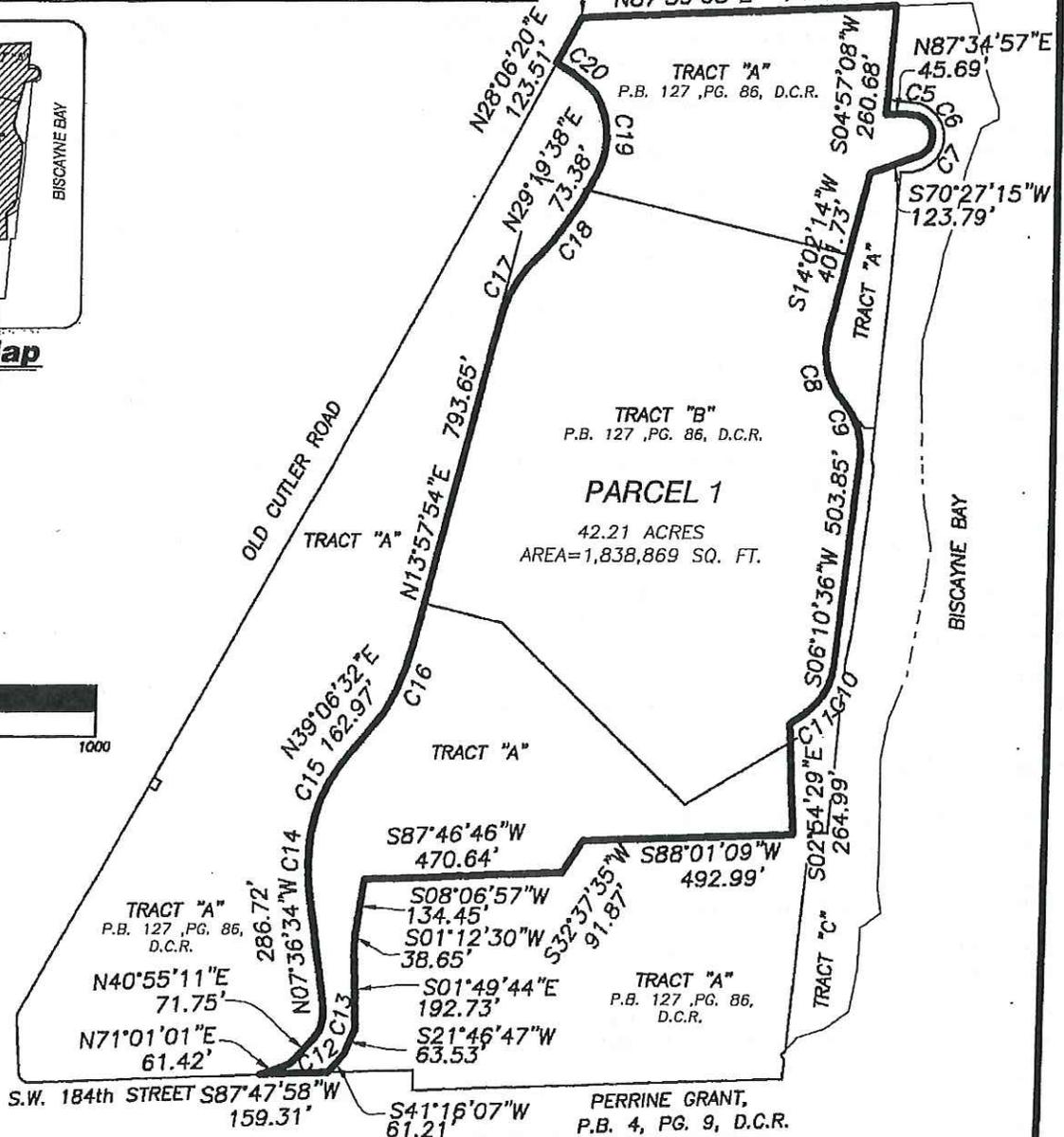


SCALE: 1" = 500'



SHEET 1 OF 3

FLO0603-0224B



EXACTA

COMMERCIAL LAND SURVEYORS

L.B. 7551

1035 STATE ROAD 7, SUITE 315-23, WELLINGTON, FL 33414

TEL. No. 561-314-0769 FAX No. 561-314-0770

RECORDING AREA

SKETCH OF A PORTION OF TRACTS "A" & "B" BURGER KING WORLD HEADQUARTERS, P.B. 127, PG 86, D.C.R.

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF TRACTS "A" AND "B", BURGER KING WORLD HEADQUARTERS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 127, PAGE 86, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINS AT THE NORTHWEST CORNER OF TRACT "A" OF SAID BURGER KING WORLD HEADQUARTERS PLAT;

THENCE N.87°39'08"E., ALONG THE NORTH LINE OF SAID TRACT "A" AS SHOWN ON SAID BURGER KING WORLD HEADQUARTERS PLAT, A DISTANCE OF 744.70 FEET TO A POINT ON THE EAST LINE OF SAID TRACT "A";

THENCE S.04°57'08"W., ALONG SAID EAST LINE AND THE SOUTHERLY PROJECTION THEREOF, A DISTANCE OF 260.68 FEET;

THENCE N.87°34'57"E., A DISTANCE OF 45.69 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE SOUTH HAVING A CHORD BEARING OF S.83°25'34"E.;

THENCE EASTERLY AND SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 116.91 FEET AND A CENTRAL ANGLE OF 14°15'06" FOR AN ARC DISTANCE OF 29.08 FEET TO A POINT OF COMPOUND CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST HAVING A CHORD BEARING OF S.35°14'33"E.;

THENCE SOUTHEASTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 52.68 FEET AND A CENTRAL ANGLE OF 75°17'29" FOR AN ARC DISTANCE OF 69.23 FEET TO A POINT OF COMPOUND CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A CHORD BEARING OF S.34°19'12"W.;

THENCE SOUTHERLY AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 52.27 FEET AND A CENTRAL ANGLE OF 63°02'29" FOR AN ARC DISTANCE OF 57.52 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE S.70°27'15"W., A DISTANCE OF 123.79 FEET;

THENCE S.14°02'14"W., A DISTANCE OF 401.73 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST HAVING A CHORD BEARING OF S.16°10'07"E.;

THENCE SOUTHERLY AND SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 181.21 FEET AND A CENTRAL ANGLE OF 55°57'47" FOR AN ARC DISTANCE OF 177.00 FEET TO A POINT OF REVERSE CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A CHORD BEARING OF S.17°22'40"E.;

THENCE SOUTHEASTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 183.40 FEET AND A CENTRAL ANGLE OF 40°55'26" FOR AN ARC DISTANCE OF 131.00 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE S.06°10'36"W., A DISTANCE OF 503.85 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A CHORD BEARING OF S.24°22'22"W.;

THENCE SOUTHERLY AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 162.36 FEET AND A CENTRAL ANGLE OF 36°23'33" FOR AN ARC DISTANCE OF 103.13 FEET TO A POINT OF COMPOUND CURVATURE OF A TANGENT CURVE TO THE NORTHWEST, HAVING A CHORD BEARING OF S.52°00'11"W.;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 229.96 FEET AND A CENTRAL ANGLE OF 18°52'05" FOR AN ARC DISTANCE OF 75.73 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE S.02°54'29"E., A DISTANCE OF 264.99 FEET;

THENCE S.88°01'09"W., A DISTANCE OF 492.99 FEET;

THENCE S.32°37'35"W., A DISTANCE OF 91.87 FEET;

THENCE S.87°46'46"W., A DISTANCE OF 470.64 FEET;

THENCE S.08°06'57"W., A DISTANCE OF 134.45 FEET;

THENCE S.01°12'30"W., A DISTANCE OF 38.65 FEET;

THENCE S.01°49'44"E., A DISTANCE OF 192.73 FEET;

THENCE S.21°46'47"W., A DISTANCE OF 63.53 FEET;

THENCE S.41°16'07"W., A DISTANCE OF 61.21 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT "A";

THENCE S.87°47'58"W., ALONG SAID SOUTH LINE, A DISTANCE OF 159.31 FEET;

THENCE N.71°01'01"E., A DISTANCE OF 61.42 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A CHORD BEARING OF N.55°52'57"E.;

EXACTA

COMMERCIAL LAND SURVEYORS

L.B. 7551

1035 STATE ROAD 7, SUITE 315-23, WELLINGTON, FL 33414

TEL. No. 561-314-0769 FAX No. 561-314-0770

RECORDING AREA

LEGAL DESCRIPTION: (CONTINUED)

THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 52.50 FEET AND A CENTRAL ANGLE OF 30°16'07" FOR AN ARC DISTANCE OF 27.73 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE N.40°55'11"E., A DISTANCE OF 71.75 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A CHORD BEARING OF N.12°21'54"E.;

THENCE NORTHEASTERLY AND NORTHERLY, ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 116.02 FEET AND A CENTRAL ANGLE OF 37°56'52" FOR AN ARC DISTANCE OF 76.84 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE N.07°36'34"W., A DISTANCE OF 286.72 FEET TO A POINT ON THE ARC OF A TANGENT CURVE CONCAVE TO THE EAST;

THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 498.45 FEET AND A CENTRAL ANGLE OF 20°58'50" FOR AN ARC DISTANCE OF 182.52 FEET TO A POINT OF COMPOUND CURVATURE OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST;

THENCE NORTHERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 309.63 FEET AND A CENTRAL ANGLE OF 24°24'41" FOR AN ARC DISTANCE OF 131.92 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE N.39°06'32"E., A DISTANCE OF 162.97 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A CHORD BEARING OF N.21°56'05"E.;

THENCE NORTHEASTERLY AND NORTHERLY, ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 555.99 FEET AND A CENTRAL ANGLE OF 18°13'33" FOR AN ARC DISTANCE OF 176.86 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE N.13°57'54"E., A DISTANCE OF 793.65 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE, CONCAVE TO THE SOUTHEAST, HAVING A CHORD BEARING OF N.29°33'22"E.;

THENCE NORTHERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 289.00 FEET AND A CENTRAL ANGLE OF 36°09'46" FOR AN ARC DISTANCE OF 182.41 FEET TO A POINT OF REVERSE CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A CHORD BEARING OF N.37°25'19"E.;

THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 709.44 FEET AND A CENTRAL ANGLE OF 13°31'33" FOR AN ARC DISTANCE OF 167.48 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE N.29°19'38"E., A DISTANCE OF 73.38 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE, CONCAVE TO THE WEST, HAVING A CHORD BEARING OF N.01°47'37"W.;

THENCE NORTHEASTERLY, NORTHERLY AND NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 199.86 FEET AND A CENTRAL ANGLE OF 59°31'23" FOR AN ARC DISTANCE OF 207.63 TO A POINT OF COMPOUND CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 363.84 FEET AND A CENTRAL ANGLE OF 18°23'22" FOR AN ARC DISTANCE OF 116.78 FEET TO A POINT ON A NON-TANGENT LINE. SAID POINT ALSO BEING ON THE WEST LINE OF SAID TRACT "A";

THENCE N.28°06'20"E, ALONG SAID WEST LINE, A DISTANCE OF 123.51 FEET TO THE POINT OF BEGINNING. SAID LANDS SITUATE WITHIN MIAMI-DADE COUNTY, FLORIDA CONTAINING 42.21 ACRES (1,838,869 SQUARE FEET), MORE OR LESS.

SURVEY NOTES:

1. THE BEARINGS SHOWN HEREON ARE BASED ON S.87°47'58"W. ALONG THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 35-55-40, LYING WITHIN MIAMI-DADE COUNTY, FLORIDA.
2. THE PROPERTY SHOWN HEREON WAS NOT ABSTRACTED FOR OWNERSHIP, RIGHTS-OF-WAY OF OTHER MATTERS OF RECORD BY EXACTA, A LAND SURVEYING COMPANY. THIS SKETCH DOES NOT REPRESENT A FIELD SURVEY (THIS IS NOT A SURVEY).
3. THE LEGAL DESCRIPTION SHOWN HEREON WAS AUTHORED BY EXACTA COMMERCIAL SURVEYORS, INC. WITHOUT THE BENEFIT OF A TITLE SEARCH AND BASED ON SKETCH PROVIDED BY THE CLIENT.

FILE: C:\Exacta Commercial surveyors\Grouper Financial\FL0803.0329 BK HQ S&D\0805-0224B.dwg

REVISIONS	DATE	BY

DATE OF SKETCH:	DRAWN BY	CHECKED BY	FIELD BOOK
07/07/08	JDLR	SF	N/A

CERTIFICATE:
 THIS IS TO CERTIFY THAT THE SKETCH & LEGAL DESCRIPTION SHOWN HEREON IS ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SKETCH AND LEGAL DESCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.07, FLORIDA STATUTES.

JAVIER DE LA ROCHA
 PROFESSIONAL SURVEYOR AND MAPPER NO. 8080 - STATE OF FLORIDA

SEAL
 NOT VALID UNLESS SEALED HERE WITH AN EMBOSSED SURVEYOR'S SEAL

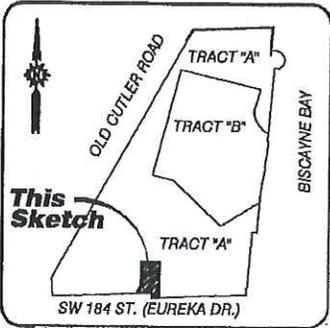
SHEET 3 OF 3

SHEET FLOOR -0224B

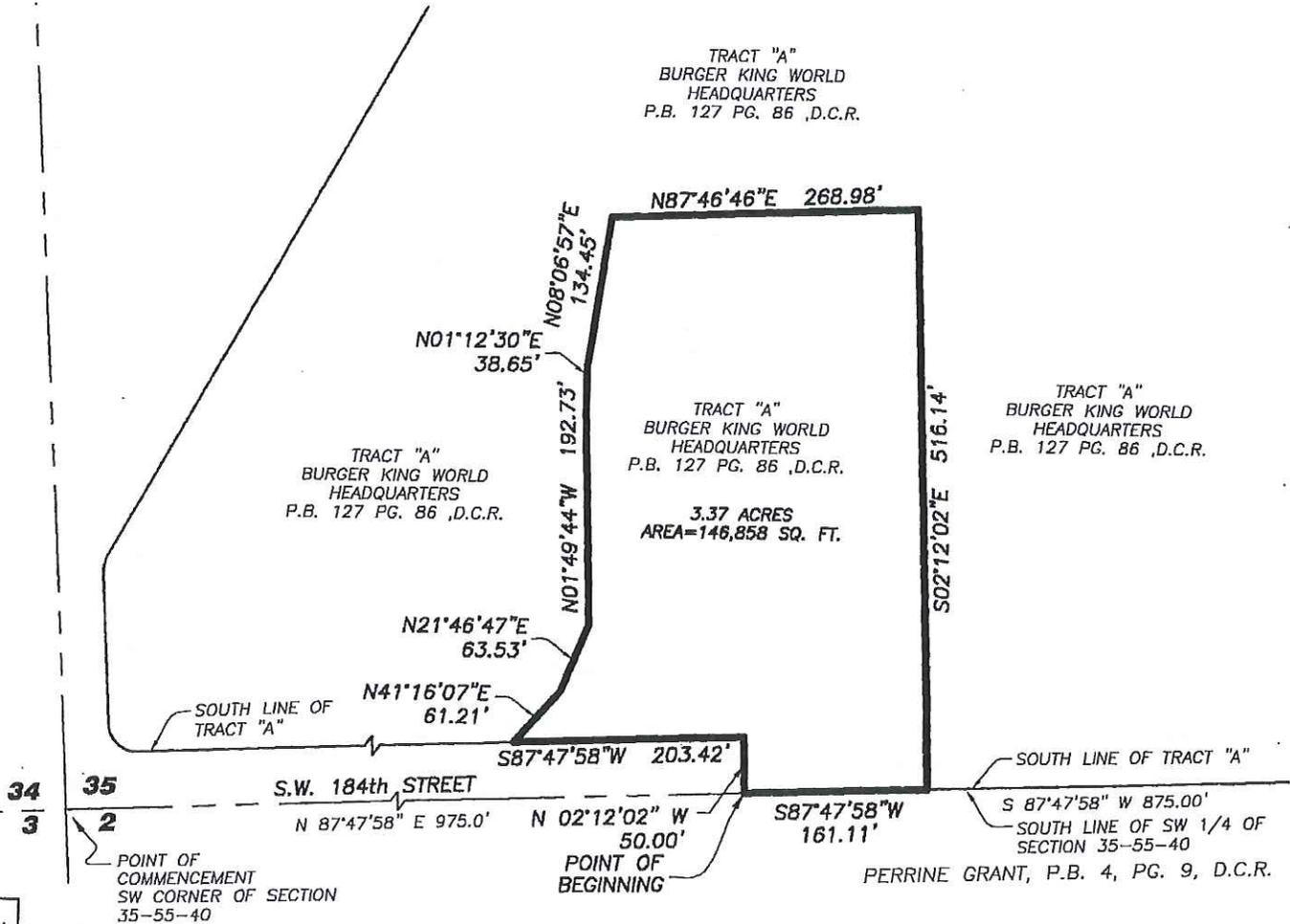
SKETCH OF A PORTION OF TRACT "A"
BURGER KING WORLD HEADQUARTERS, P.B. 127, PG 86, D.C.R.
PARCEL 2

LEGEND:

- D.C.R.....MIAMI-DADE COUNTY RECORDS
- P.B.PLAT BOOK
- PG.PAGE
- P.O.B.....POINT OF BEGINNING



Location Map
 NOT TO SCALE



SKETCH NO.
 FLO0805-0224

EXACTA

COMMERCIAL LAND SURVEYORS

L.B. 7551

1035 STATE ROAD 7, SUITE 315-23, WELLINGTON, FL 33414

RECORDING AREA

LEGAL DESCRIPTION OF A PORTION OF TRACT "A" BURGER KING WORLD HEADQUARTERS, P.B. 127, PG 86, D.C.R. PARCEL 2

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF TRACT "A", BURGER KING WORLD HEADQUARTERS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 127, PAGE 86, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA AND A PORTION OF SECTION 35, TOWNSHIP 55 SOUTH, RANGE 40 EAST. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 35, TOWNSHIP 55 SOUTH, RANGE 40 EAST, LYING WITHIN MIAMI-DADE COUNTY, FLORIDA;

THENCE N.87°47'58"E., ALONG THE SOUTH LINE OF SAID SECTION 35, A DISTANCE OF 975.00 FEET TO THE SOUTHERLY LIMITS OF SAID TRACT "A". SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE N.02°12'02"W., ALONG SAID SOUTHERLY LIMITS, A DISTANCE OF 50.00 FEET;

THENCE S87°47'58"W., ALONG SAID SOUTHERLY LIMITS, A DISTANCE OF 203.42 FEET;

THENCE N.41°16'07"E., DEPARTING SAID SOUTHERLY LIMITS, A DISTANCE OF 61.21 FEET;

THENCE N.21°46'47"E., A DISTANCE OF 63.53 FEET;

THENCE N.01°49'44"W., A DISTANCE OF 192.73 FEET;

THENCE N.01°12'30"E., A DISTANCE OF 38.65 FEET;

THENCE N.08°06'57"E., A DISTANCE OF 134.45 FEET;

THENCE N.87°46'46"E., A DISTANCE OF 268.98 FEET;

THENCE S.02°12'02"E., A DISTANCE OF 516.14 FEET TO THE SOUTH LINE OF SAID TRACT "A";

THENCE S.87°47'58"W., ALONG SAID SOUTHERLY LIMITS, A DISTANCE OF 161.11 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE WITHIN MIAMI-DADE COUNTY, FLORIDA CONTAINING 3.37 ACRES (146,858 SQUARE FEET, MORE OR LESS).

SURVEY NOTES:

1. THE BEARINGS SHOWN HEREON ARE BASED ON S.87°47'58"W. ALONG THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 35-55-40, LYING WITHIN MIAMI-DADE COUNTY, FLORIDA.
2. THE PROPERTY SHOWN HEREON WAS NOT ABSTRACTED FOR OWNERSHIP, RIGHTS-OF-WAY OF OTHER MATTERS OF RECORD BY EXACTA, A LAND SURVEYING COMPANY. THIS SKETCH DOES NOT REPRESENT A FIELD SURVEY (THIS IS NOT A SURVEY).
3. THE LEGAL DESCRIPTION SHOWN HEREON WAS AUTHORED BY EXACTA COMMERCIAL SURVEYORS, INC. WITHOUT THE BENEFIT OF A TITLE SEARCH AND BASED ON SKETCH PROVIDED BY THE CLIENT.

FILE: C:\Exacta Commercial surveyors\Grouper Financial\FL0803.0329 BK HQ S&D\0805-0224 Sketch & Description B.dwg

REVISIONS	DATE	BY	CERTIFICATE:
REVISE BOUNDARY LIMITS	6-16-08	JDLR	
REVISE BOUNDARY LIMITS	7-7-08	JDLR	
DATE OF SKETCH: 06/02/08			THIS IS TO CERTIFY THAT THE SKETCH & LEGAL DESCRIPTION SHOWN HEREON IS ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SKETCH AND LEGAL DESCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.07, FLORIDA STATUTES.
DRAWN BY: JDLR	CHECKED BY: SF	FIELD BOOK: N/A	
DATE OF SKETCH: 06/02/08			JAMIER DE LA ROCHA PROFESSIONAL SURVEYOR AND MAPPER NO. 6080 - STATE OF FLORIDA
DRAWN BY: JDLR	CHECKED BY: SF	FIELD BOOK: N/A	

SEAL

NOT VALID UNLESS
SEALED HERE WITH
AN EMBOSSED
SURVEYOR'S SEAL

SHEET 2 OF 2

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RESOLUTION NO. 09-41

ZONING APPLICATION [08-003]

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF MIAMI-DADE FIRE RESCUE AND PALMETTO BAY VILLAGE CENTER, WHICH IS LOCATED AT 17777-18001 OLD CUTLER ROAD, FOR SITE PLAN MODIFICATION AND AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS IN LIEU OF UNITY OF TITLE; PROVIDING FOR PUBLIC HEARING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicants made applications for the issuance of a declaration of restrictive covenants in lieu of unity of title, as described in the staff report of the Village Attorney as presented to Planning and Zoning Department of the Village of Palmetto Bay, which is attached to this resolution; and,

WHEREAS, on April 13, 2009, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at the Deering Estate, 16701 SW 72 Avenue, Palmetto Bay, Florida; and,

WHEREAS, the underlying 2006 declaration of restrictions in lieu of unity of title and pursuant to section 33-303, Miami-Dade County Code, the applicants, 17777 Old Cutler Road, LLC, d/b/a Palmetto Bay Village Center (PBVC) and the Miami-Dade Fire Rescue Department are required to hold a public hearing to modify the underlying site plan for the property; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for the amendment of the attached declaration of restrictive covenants in lieu of unity of title, which is consistent with the Village of Palmetto Bay's comprehensive plan and the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to grant the applications, as provided in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. A public hearing on the present application was held on April 13, 2009, in accordance with ordinance no. 02-03, entitled "Quasi-judicial hearing procedures." Pursuant to the hearing, the Village Council makes the following findings of fact, conclusions of law and order.

Section 2. Findings of fact.

1 1. The applicant, 17777 Old Cutler Road, LLC, d/b/a Palmetto Bay Village Center
2 ("PBVC") owns and operates the office park at the northeast corner of SW 184th Street and
3 Old Cutler Road, which property currently maintains the address of 17777-18001 Old Cutler
4 Road, Palmetto Bay, Florida. The co-applicant, Miami-Dade County Fire Rescue shall own
5 the facility and land and provide fire rescue services from the proposed site, upon approval
6 of the Village Council of the underlying request.

7
8 2. The property is encumbered by a 1985 Declaration of Restrictive Covenants, which
9 covenants regulate certain uses of the property.

10
11 3. Section 33-257 of the Miami-Dade County Code, which code section was adopted by
12 the Village Council on May 5, 2003, authorized the Village to replace the "unity of title"
13 requirement contained in the 1985 Declaration of Restrictive Covenants with the 2006
14 Declaration of Restrictive Covenants in Lieu of Unity of Title, which allowed the property to
15 have multiple owners under a master operating agreement, and compliance with the
16 remainder of the 1985 restrictions.

17
18 4. The Palmetto Bay Village Center (PBVC) structures were originally constructed
19 within an Office Park District (OPD), which land and construction was tied to a detailed
20 declarations of restrictions ("the 1985 restrictions"). All the relevant land use restriction
21 portions of the 1985 restrictions remain in full force and effect; of particular interest are the
22 Old Cutler Road view restriction precluding view of the office buildings (the three specific
23 former Burger King Buildings); and the 75% resident approval of all those properties within
24 500 feet of the PBVC to any application by the property owner to change zoning for the
25 purposes of residential construction on Tract II and B (along the far south/east portion of
26 the site and the far west area adjacent to most of the Old Cutler Road tree area). Please
27 note, the proposed fire station is not within Tract II or B.

28
29 5. Previously, in 2006, the Village revised one of the 1985 restrictions, solely as to the
30 unity of title requirement. The Village allowed there to be more than one owner of the
31 PBVC site, provided the specific "declaration of restrictions in lieu of unity of title"
32 (hereinafter "2006 restrictions") were complied with by all property owners. These 2006
33 restrictions, incorporated all the remaining 1985 restrictions (particularly the two most
34 relevant provisions listed above as to view from Old Cutler and development preconditions
35 as to Tract II or B). The 2006 restrictions simply allowed the land to be separated. It
36 requires all owners are to comply with the underlying 1985 restrictions. The 2006
37 restrictions also specifically tied the property to a specific site plan (which through
38 subsequent public hearings has been amended). Pursuant to the 2006 restrictions, the only
39 way to amend the site plan is by public hearing. The 2006 restrictions also require a Master
40 Easement and Operation agreement, amongst the owners to ensure maintenance of
41 property, roadways, easements, and, of course, maintain compliance with the 1985
42 restrictions.

43
44 6. The Village, subsequent to the 2006 restrictions, has held two different public
45 hearings to modify the 2006 restrictions – solely to allow the approved PBVC site plan to be

1 modified. These two revisions include: the allowance of easement and parking area on
2 PBVC for the use of the Ludovici Park and Public Library; and the allowance for PBVC to
3 build a parking garage.
4

5 7. Thereafter, on June 9, 2008, the Village enacted the VMU District for most of the
6 PBVC. The VMU District covers 41.59 acres of the approximately 80 acres of the PBVC
7 property (17777 – 18001 Old Cutler Road). The zoning ordinance incorporates by reference
8 the underlying 1985 restrictions (approved under the 1985 Office Park Development zoning
9 resolution for the former Burger King site), and specifically states that the more restrictive
10 sections of either the zoning ordinance or the 1985 restrictions would apply to the
11 underlying property. In short, this ordinance rezoned the Palmetto Bay Village Center
12 property from Office Park District (OPD) to the VMU District. The VMU does not include
13 Tract II or B, which remains consistent with the relevant 1985 restrictions. It also
14 incorporates, by specific reference the Old Cutler restriction on view of the three former
15 Burger King office buildings.
16

17 8. The VMU District, as enacted, contemplates administrative site plan review of
18 permitted uses. In other words, permitted uses within the District do not require a public
19 hearing. Under the VMU District, fire stations or sub-stations, are permitted as allowable, as
20 of right, use within the District.
21

22 9. This matter is before the Village Council, for public hearing, due to the underlying
23 2006 restrictions, which ties the entire affected property to a specific site plan. The relevant
24 portion of that document provides that the applicant, PBVC, must request a public hearing
25 in order to be able to modify its site plan. Therefore, the request to install the fire station on
26 the property must be approved at a public hearing, to modify the site plan referenced in the
27 2006 restrictions.
28

29 10. To reconcile the 2006 restrictions and the intent of the VMU district, the request for
30 the Council to consider is as follows: to approve the site plan modification to approve the
31 inclusion of the fire station and to modify the 2006 restriction, solely as to the site plan
32 public hearing section – to conform to the intent of the VMU ordinance. In other words,
33 the VMU ordinance, which incorporates the 1985 restrictions, allows certain permitted uses,
34 without public hearing. These permitted uses include fire stations or sub-stations, which
35 should be reviewed administratively by the Planning and Zoning Department.
36

37 11. However, as the 2006 restriction is more stringent, tying the property to a site plan,
38 every zoning application, even an “as of right” permitted use under VMU would require a
39 public hearing. Again, this is because the entire 41.59 acres VMU district is tied to the 2006
40 restriction, public hearing site plan requirement. In order to reconcile the VMU District
41 administrative review process and the 2006 restrictions requirement, it is the request to
42 change the site plan language to reflect the intent that permitted uses under the VMU district
43 do not require a public hearing, and may proceed with administrative review. However, all
44 other requests, including any modifications to any of the declaration of restriction provisions
45 would require a public hearing. This modification of the 2006 restrictions would reconcile

1 the intent of the Council and continue to ensure compliance with the 1985 restrictions. It
2 would also allow continued force of the remaining provisions of the 2006 restrictions as to
3 the duties and obligations of the individual owners of the property.
4

5 12. Miami-Dade Fire Rescue has also requested that it be provided an exemption from
6 the Master Easement and Operation requirement of the 2006 restrictions. The Fire Rescue
7 property and use, accepts that it will have to ensure compliance with the remaining
8 provisions of the 2006 restrictions, and will have to execute cross-easements for access,
9 utilities, etc. The Fire Department has agreed to individually covenant to maintain
10 landscaping and ensure its own compliance with the 1985 restrictions, but, does not want to
11 be tied to the Master Operation documents. In other words, the Fire Department is
12 concerned with the possible assessment against them for remainder of the lands' (land
13 owners') compliance with the 1985 covenants and other general expenses relating to
14 remainder of the property. The operations agreement would operate as a Common Area
15 Maintenance (CAM) type cost that the Fire Department is seeking a waiver from by the
16 Village Council.
17

18 13. The site plan modification under the 2006 restrictions requires a public hearing for a
19 modification. As the specific use would be an allowed use under VMU, this is a unique
20 situation, in that the new zoning district has superseded the prior review criteria of 33-311 of
21 the Miami-Dade County Code, as to site plan modifications. Additionally, as the fire station
22 is a government facility, it can be reviewed as a governmental use under 33-303. Therefore,
23 in evaluating the application for a change of use, Section 33-303, of the Miami-Dade County
24 Code, as adopted by the Village, provides that the Village Council take into consideration,
25 among other factors:
26

- 27 a. the type of function involved, the public need therefore;
- 28 b. the existing land use pattern in the area;
- 29 c. alternative locations for the facility; and
- 30 d. the nature of the impact of the facility on the surrounding property.
31

32 14. The subject 80 +/- acre property known as the Palmetto Bay Village Center, is
33 located on the east side of Old Cutler Road, between theoretical S.W. 177th Street and
34 theoretical S.W. 184th Street, Palmetto Bay, Florida. The applicant is requesting to modify a
35 set of plans that were previously approved, after public hearing.
36

37 15. The applicants desires to modify the plans to allow for the construction of a two-
38 story, three-bay c.b.s, fire rescue station containing approximately 10,000 sq. ft., designed to
39 accommodate up to twelve (12) firefighters/paramedics, 24 hours a day, 7 days a week. The
40 fire station is to be built on approximately 1.08 acres within the Palmetto Bay Village Center
41 approximately 200 feet East of Old Cutler Road and just northwest of Building B. The
42 modification, if approved by the Village Council, shall also require a modification of the
43 associated declaration of restrictions, so that the attached site plans associated with the
44 declarations correctly reflect the construction, location (site plan) associated with the
45 proposed fire rescue station.

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16. The properties to the North are developed with single family residences and are zoned EU-2, Estate Single Family District. The property immediately adjacent to the North is the site of the Village's public library and Ludovici Park. The Village Site obtained a 33-303, government use designation in 2007. The properties to the west are zoned, EU-1, Estate Single Family Residential and EU-2, Estate Single Family Residential District. A portion of the eastern boundary of the property is designated environmentally protected land and belongs to Biscayne National Park.

17. The applicants have submitted a site plan, floor plans and elevations showing the development of the proposed fire rescue station. The Village Council takes notice of staff comment that the fire rescue station is consistent with the existing use and is in accordance with the Village's adopted Comprehensive Plan and the 1985 Declaration of Restrictive Covenants associated with the site.

18. The existing covenants at PBVC, at page four, section 7, indicates that "the [PBVC] will continue to maintain native vegetation on the portion of their property located adjacent to Old Cutler Road and the north and south boundaries with the intent to obscure any visibility of the [Burger King] office building from Old Cutler Road. All landscaping plans will be reviewed and approved prior to by the Village's Department of Planning and Zoning."

19. The Village Council takes note that the Village and Miami-Dade County have sought to provide a location for a fire station within Palmetto Bay for over six years. The stations serving the Village of Palmetto Bay include Station No. 50 located at 9798 Hibiscus Street and Station No. 4 located 9201 SW 52 Street. There is a public need for a fire station. The existing land use pattern in the area is predominantly residential, with the PBVC office complex adjacent to the specific site for the fire station. Alternative locations have been sought for the fire station, including within the front buffer area, west of the VMU and on the southern border. The Village Council in approving the VMU District rejected any use of these areas, and continued enforcement of the provisions in the 1985 Covenant. The Fire Department has also attempted to purchase land in the neighboring municipality of the Town of Cutler Bay, to no avail.

20. The Village Council is specifically aware that there currently do not appear to be alternative sites available for the fire station. Miami-Dade County has the funds appropriated to construct the station. The impact to surrounding properties would be favorable as they would be able to more readily obtain fire department services. This site would not impact environmental wetlands nor require a wetland permit (as the alternative sites may have required).

The public hearing was opened and the following persons testified:

Scott W. Mendelsberg, Assistant Director Budget, Planning and Grants, Miami-Dade Fire Rescue Department spoke in favor of the application. Also in attendance were Carlos Heredia,

1 Planning Section Supervisor, Miami-Dade Fire Rescue Department; Scott Silver, PBVC, 17777 Old
2 Culter Road, LLC.; Angel Lamela, Architect and Facility Manager, Miami-Dade Fire Rescue
3 Department. Station proposed is to be Green, Silver LEED Certified.
4

5 Henry Clifford of the Village's Fire Service Committee spoke in favor of the site
6 recommended.
7

8 Beth Kibbler, resident, supported the application.
9

10
11 Section 3. Conclusions of law.

12 The site plan modification is granted, pursuant to Section 33-303 for "Government Uses"
13 and 33-257 of the Miami-Dade County Code, as is the applicants' request to amend
14 Paragraphs 1 and 3, as reflected in the attached declaration of restriction in lieu of unity of
15 title is hereby granted. The revised declaration of restrictions in lieu of unity of title is
16 attached as exhibit 1 to this resolution and incorporated by reference into this resolution.
17 The modification would be in keeping with the basic intent and purpose of the zoning and
18 land use regulations, is in character with the existing use of the property, and consistent with
19 the Village's Comprehensive Plan.
20

21 Section 4. Order.

22 The applicants' request pursuant to the underlying 2006 declaration of restrictions in lieu of
23 unity of title authorized under 33-257 and 33-303 of the Miami-Dade County Code of
24 Ordinances, as adopted by the Village to provide a fire rescue station that will serve the
25 municipalities of Palmetto Bay and Cutler Bay is approved, with conditions:
26

27 Additional conditions.
28

- 29 1. The plans entitled "Proposed Fire Station No. 62" as prepared by Miami Dade Fire
30 Rescue Facilities and Construction, Architect, Angle H. Lamela, consisting of 2 sheets, dated
31 stamped received March 20, 2009 are approved.
32
- 33 2. The applicants shall meet the minimum requirements of Chapter 24 of the Code of
34 Miami-Dade County.
35
- 36 3. The applicants shall meet the minimum requirements of all other applicable
37 departments/agencies as part of the building permit submittal process.
38
- 39 4. The applicants shall relocate all existing trees affected by the proposed fire rescue station
40 on site.
41

- 1 5. The proposed structure shall be compatible in architectural design with that of the
2 adjacent public library and shall make every effort to incorporate green building
3 elements.
4
- 5 6. The applicants shall incorporate energy efficient outdoor lighting fixtures that are
6 compatible or similar in design with that of the adjacent public library
7
- 8 7. The applicants shall provide a space for the collection and storage of recyclables
9
- 10 8. The applicants shall provide roof location and install conduit from the electrical room
11 for future Photovoltaic System (PV) installation. A minimum of 300 sq. ft. or larger of
12 roof area in a south or west direction shall be dedicated and clear of vent pipes and other
13 obstructions to allow for the installation of a future PV system.
14
- 15 9. The applicants shall install Energy Star Appliances that use 10-50% less energy and water
16 than standard models.
17
- 18 10. The applicants shall provide an Indoor Air Quality Management Plan on the
19 construction drawings that, at minimum includes protecting ducts during construction
20 and changing the filters and vacuuming the ducts prior to occupancy.
21
- 22 11. The applicants shall provide secure bike parking in accordance with section 30-70.11 of
23 the Village of Palmetto Bay Land Development Code.
24
- 25 12. The applicants shall work with the Art in Public Places Advisory Board in addressing its
26 Art in Public Places requirement. Miami-Dade County funding requirement for art in
27 public places, should be added to the Village's requirement, for the Village's
28 disbursement in relation to creation of one art piece.
29
- 30 13. The attached covenant shall be executed by the applicants, which covenant requires the
31 following: modification of Paragraph 1 to the existing 2006 covenant, which would state
32 as follows: "No modification shall be effected to the underlying property without the
33 consent of the then owners of the Property, and the submittal of an application to
34 modify the plan in compliance with the permitted uses listed in the Village's Mixed Use
35 (VMU) District, for administrative review. Any conditional uses or other modifications
36 other than those as-of-right, permitted uses, including but not limited to any covenant
37 modifications would require approval of the then owners of the property, and the
38 submittal of the application at public hearing before the Village Council of the Village of
39 Palmetto Bay, Florida."
40
- 41 14. Paragraph 3, relating to an "Easement and Operating Agreement" for the property
42 would provide an exception for the Miami-Dade County Fire Department site, allowing
43 the Fire Department to opt out of the Operating Agreement. The Fire Department
44 would be required to execute mutual ingress, egress, utility, pedestrian and vehicular

1 traffic and construction easements and individually covenant to maintain the landscaping
2 within the site plan area and individually comply with the 1985 restrictions, as applicable.
3

4 15. The applicants' project does not require Chapter 360, Florida Statutes, review for
5 Regional Impact. On March 26, 2009, staff has conferred with Mike McDaniel, Chief,
6 Office of Comprehensive Planning with Florida Department of Community Affairs. A
7 fire station is not within the review criteria for a Regional Impact Determination.
8

9 16. The applicants shall seek to install a stop light at entrance of theoretical SW 177th Street
10 for exiting of Fire Department.
11

12 Section 5. Record.

13 The record shall consist of the notice of hearing, the application, documents submitted by
14 the applicants and the applicants' representatives to the Miami-Dade County Department of
15 Planning and Zoning in connection with the applications, the county recommendation and attached
16 cover sheet and documents, the testimony of sworn witnesses and documents presented at the
17 quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by
18 the Village Clerk.
19

20 Section 6. This resolution shall take effect immediately upon approval.

21 PASSED and ADOPTED this 13th day of April, 2009.

22 Attest:

23 Meighan Rader
24 Meighan Rader
25 Village Clerk

Eugene P. Flinn, Jr.
Eugene P. Flinn, Jr.
Mayor

26 APPROVED AS TO FORM:

27 Eve A. Boutsis
28 Eve A. Boutsis, office of
29 Village Attorney
30
31

32 FINAL VOTE AT ADOPTION:

33
34 Council Member Ed Feller YES
35
36 Council Member Howard Tendrich YES
37
38 Council Member Shelley Stanczyk YES
39
40 Vice-Mayor Brian W. Pariser YES
41
42 Mayor Eugene P. Flinn, Jr. YES

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RESOLUTION NO. 09-96

ZONING APPLICATION VPB-09-0_

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF THE VILLAGE OF PALMETTO BAY REQUESTING ZONING APPROVAL PURSUANT TO SECTION 33-303 OF THE MIAMI-DADE COUNTY CODE, AS ADOPTED BY THE VILLAGE, TO ALLOW FOR SIGNAGE ASSOCIATED WITH THE 2007 APPROVAL OF A PUBLIC FACILITY PUBLIC USE AT THE PROPERTY KNOWN AS 17641 OLD CUTLER ROAD FOR A PUBLIC LIBRARY AND PUBLIC PARK; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2007, the applicant made applications pursuant to Section 33-303 of the Miami-Dade County Code, as adopted by the Village for the ability to use the site for a public facility – for a Public Library and the Ludovici Park; and,

WHEREAS, the original application neglected to address permanent signage for the library and park; and,

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at The Deering Estate on November 19, 2009; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application to modify the public facility use application to include signage is consistent with the Village of Palmetto Bay's comprehensive plan and the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to grant the application, as provided in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. A hearing on the present applications was held on November 19, 2009, in accordance with the Village's "Quasi-Judicial Hearing Procedures" Ordinance. Pursuant to the hearing, the Village Council makes the following findings of fact, conclusions of law and order.

Section 2. Findings of fact.

1. The applicants are the Village of Palmetto Bay, 8950 SW 152nd Street, Palmetto Bay, Florida 33157; and 17777 Old Cutler Road LLC, d/b/a Palmetto Bay Village Center.. The property that is the subject of this zoning resolution is located at 17641 Old Cutler Road and the northern most 2.1 acres of 17777 Old Cutler Road, received a public facility use designation in 2007. the northern most 2.1 acres of 17777 Old Cutler Road LLC's parcel contains an access and parking easement agreement in favor of the Village's Library, and contains the median area in

1 which the proposed government use sign (joint use signage) would be located. The applicants,
2 pursuant to section 33-303 of the Miami-Dade County Code, is seeking to modify the 2007
3 government use facility application to include signage for the public library, public park, and the
4 Palmetto Bay Village Center, along the northern entry to the Palmetto Bay Village Center, which
5 entryway is the vehicular access point to the Village's library and park.
6

7 2. The property bears the following legal description of:

8 A portion of tract "A" of "Burger King Work Headquarters" according to the
9 plat thereof as recorded in plat book 127 at page 86 of the public records of
10 Miami-Dade County, Florida, more particularly described as follows:

11 Commence at the intersection of S.W. 176th Street and Old Cutler Road, said
12 point being the beginning of a curve to the right, of which the radius point lies
13 N64°41'14"W, a radial distance of 2,864.93 feet; thence Southwesterly along the
14 arc, through a central angle of 02°48'48", a distance of 140.67 feet to a point of
15 tangency; thence S28°07'34"W for a distance of 249.44 feet along the centerline
16 of Old Cutler Road; thence run N87°39'08"E for a distance of 40.61 feet to a
17 point on the easterly right-of-way line of Old Cutler Road, said point being the
18 point of beginning; then continue N87°38'29"E for a distance of 399.14 feet
19 along the South boundary line of Track 2 (plat book 1 - page 1); thence
20 S28°07'34"W for a distance of 366.42 feet; thence N61°52'26"W for a distance of
21 344.00 feet said point being coincident to a point on the easterly right-
22 -of-way of Old Cutler Road; thence along the easterly right-of-way line of Old Cutler Road
23 N28°07'34"E for a distance of 164.00 feet to the point of beginning.

24 Containing 91,282.64 square feet or 2.10 acres, more or less.

25
26 3. The Village Council adopts the portions of the cover sheet to, and the Village
27 recommendation, entitled Introduction, Zoning Hearings History, Comprehensive Plan, and
28 Neighborhood Characteristics as its findings of fact.
29

30 Section 3. Conclusions of law.
31

32 1. The Village Council adopts the portions of the Village recommendation, entitled
33 Pertinent Requirements/Standards, section 33-303, Miami-Dade County Code; the Analysis, and
34 Recommendations contained in the staff report as the Village Council's conclusions of law.
35

36 2. Pursuant to the procedure provided under section 33-303, the Village may amend
37 the established governmental facility use for the underlying location, without regard to the zoning
38 or use classification of any particular site or location.
39

40 3. A governmental facility is defined to include, but is not limited to: public parks,
41 playgrounds and buildings, and structures supplementary and incidental to such uses; public
42 libraries; public buildings and centers; art galleries and convention halls. Signage may be
43 provided as part of the government facility. However, the original application did not provide
44 signage for the library or park. Within the easement area, the Palmetto Bay Village Center has a
45 permitted and existing sign. That sign is recommended for removal and replacement. The

1 attached plans reflect the proposed joint use signage. Due to the Village's easement agreement,
2 the Village is entitled to place a sign within the northern entry way to the Palmetto Bay Village
3 Center. Through the government facility use process, the Village approved the signage proposed,
4 including the joint use portion of same.
5

6 4. The Village Council may only authorize the erection, construction and operation
7 of the governmental facility(ies) by resolution following public hearing. The public hearing shall
8 be held upon at least fifteen (15) days' notice of the time and place of such hearing published in a
9 newspaper of general circulation in Miami-Dade County, which publication shall include the time
10 and place of hearing before the Village Council.
11

12 5. A courtesy notice containing general information as to the date, time, and place of
13 the hearing, the property location and general nature of the application may be mailed to the
14 property owners of record, within a radius of 300 feet of the property described in the
15 application, or such greater distance as the Community Development Director may prescribe;
16 provided, however, that failure to mail or receive such courtesy notice shall not affect any action
17 or proceeding taken hereunder.
18

19 6. To provide additional notice to the public, the property shall be posted by a sign
20 or signs indicating the action desired and the time and place of the public hearing thereon. Failure
21 to post such property shall not affect any action taken hereunder.
22

23 7. At the public hearing the Village Council shall consider, among other factors:

- 24 a. the type of function involved, the public need therefore;
- 25 b. the existing land use pattern in the area;
- 26 c. alternative locations for the facility; and
- 27 d. the nature of the impact of the facility on the surrounding property.
28

29 After considering these factors, the Village Council shall take such action as is necessary to
30 provide for and protect the public health, safety and welfare of the citizens and residents of the
31 Village.
32

33 Section 4. Order.
34

35 a. The site plan shall be submitted to, and meet with the approval of, the Director,
36 after consultation with the Village Manager, upon the submittal of an application for a building
37 permit; said plan to include among other things, but not be limited thereto, location of the
38 proposed sign, landscaping, etc.
39

40 b. In the approval of the plan, the plan shall be substantially in accordance with that
41 submitted for the hearing, and as attached hereto. Except as may be specified by any zoning
42 resolution applicable to the subject property, any future additions on the property which conform
43 to Zoning Code requirements will not require further public hearing action.
44

45 c. The use shall be established and maintained in accordance with the approved
46 plan.
47

1 d. The Mayor and Village Council accepted the Planning & Zoning Directors
2 updated memorandum dated November 18, 2009, in which the copy for the sign was modified to
3 reflect the following language "The Edward and Arlene Feller Community Room and
4 Amphitheater at Ludovici Park." ON November 2, 2008, the Mayor and Council, via Resolution
5 no.: 09-95 had officially renamed the community room and amphitheater and therefore, the copy
6 for the signage of the site was modified accordingly.

7
8 e. The Mayor and Council requested the co-applicant, the Palmetto Bay Village
9 Center (PBVC) to place LED lighting and investigate the possibility of Solar lighting for the co-
10 located signage. The manager of the PBVC agreed to the condition.

11
12 f. This is a final order.

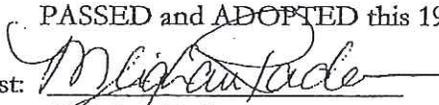
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14 Section 5. Record.

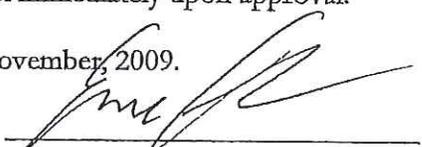
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16 The record shall consist of the notice of hearing, the applications, documents submitted
17 by the applicant and the applicant's representatives to the Village of Palmetto Bay Department of
18 Planning and Zoning in connection with the applications, the Village recommendation and
19 attached cover sheet and documents, the testimony of sworn witnesses and documents presented
20 at the quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be
21 maintained by the Village Clerk.

22
23 Section 6. This resolution shall take effect immediately upon approval.

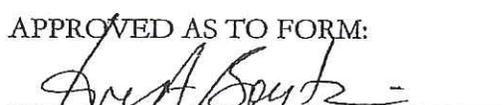
24
25 PASSED and ADOPTED this 19th day of November, 2009.

26
27 Attest:

28 
29 Meighan Rader
30 Village Clerk

31 
32 Eugene P. Flinn, Jr.
33 Mayor

34 APPROVED AS TO FORM:

35 
36 Eve A. Boutsis,
37 Office of Village Attorney

38 FINAL VOTE AT ADOPTION:

39 Council Member Ed Feller YES
40
41 Council Member Howard Tendrich YES
42
43 Council Member Shelley Stanczyk YES
44
45 Vice-Mayor Brian W. Pariser YES
46
47 Mayor Eugene P. Flinn, Jr. YES

RESOLUTION

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS

VPB-16-005

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.15, ENTITLED TRANSFER OF DEVELOPMENT RIGHTS (TDR); TRANSFERRING 85 RESIDENTIAL UNITS FROM 17901 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT A; TO 17777 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT B; AND ACCEPTING BY THE VILLAGE, AS A CONDITION THEREOF, THE OWNERSHIP OF PARCELS OF APPROXIMATELY 40± ACRES, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT C, FOR PUBLIC FACILITIES, PARKS, AND CONSERVATION PURPOSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Applicant, 17777 Old Cutler Road, LLC, made an application to transfer the development rights of 85 residential units from 17901 Old Cutler Road (sender site), as more particularly described at Attachment A, to 17777 Old Cutler Road (receiver site), as more particularly described at Attachment B; and

WHEREAS, the sender site is a 22± acre parcel of undeveloped land which contains wetlands, pine up-lands, and native fauna and vegetation; and the receiver site is over 40± acres and is developed with office buildings and is permitted to have multifamily uses; and

WHEREAS, in transferring the development right to the receiver property the applicant has offered and intends to deed the property together with other lands of approximately 40± acres, as more particularly described at Attachment C, to the Village of Palmetto Bay; and

WHEREAS, by transferring the development rights from the sender site and deeding the land to the Village of Palmetto Bay, it becomes available for a passive park and conservation area with only minor ancillary structures, and the north 1 ½ acres of the 22± parcel, can be made available to locate a much needed fire rescue facility; and

WHEREAS, the request is consistent with and in furtherance of the recognized purpose of the TDR program including the creation to additional opens space, preservation of environmentally sensitive lands, and public facilities; and

WHEREAS, the applicant has agreed to transfer approximately 40± acres of land for the purpose of providing for parks, conservation, and public facilities; and

WHEREAS, once development rights are transferred, they are not available for private development on the sender site; and

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Village Hall, 9705 East Hibiscus Street, on _____, 2016 and _____, 2016; and

1
2 **WHEREAS**, the Mayor and Village Council finds, based on substantial competent evidence
3 in the record, that the application for the transfer of development rights is consistent with the
4 Village of Palmetto Bay's Comprehensive Plan and the applicable Land Development Regulations;
5 and,
6

7 **WHEREAS**, based on the foregoing finding, the Mayor and Village Council determined to
8 grant the application, as provided in this resolution.
9

10 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**
11 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**
12

13 **Section 1. Quasi-judicial.** A public hearing on the present applications was held on
14 _____, 2016, in accordance with the Village's "Quasi-judicial Hearing Procedures".
15 Pursuant to the testimony and evidence presented during the hearing, the Village Council makes the
16 following findings of fact, conclusions of law and final order.
17

18 **Section 2. Recitals.** The above recitals are true and correct and incorporated herein by
19 this reference.
20

21 **Section 3. Findings of fact.**
22

23 1. The transfer of development rights is consistent with the Village's Comprehensive
24 Plan, as further specified in the Analysis Section of the Village's Staff report.
25

26 2. The rules that govern transfer of development rights are at Section 30-30.15 of the
27 Land Development Regulations. A review of that Code, as evidenced in the analysis of staff, which
28 is incorporated by reference into this resolution, and after hearing the applicant and applicant's
29 experts, the Village Council found the request consistent with those criteria.
30

31 3. The Village adopts and incorporates by reference the Planning & Zoning
32 Department staff report, which expert report is considered competent substantial evidence.
33

34 4. The applicant has agreed to all conditions in the section entitled Order.
35

36 5. The Village Council had no substantive disclosures regarding ex-parte
37 communications and the applicant raised no objections as to the form or content of any disclosures
38 by the Council.
39

40 **Section 4. Conclusions of law.**
41

42 The transfer of development rights application was reviewed pursuant to Section 30-30.15(f)
43 of the Village of Palmetto Bay's Code of Ordinances, and was found to be conditionally consistent.
44

45 **Section 5. Order.**
46

1 The Village Council grants the transfer of developments request with the following conditions:
2

3 1. The applicant shall provide sealed surveys that accurately depict the sender site,
4 receiver, and land dedication site, prior to the transfer of the 85 residential units. Said surveys will
5 be deemed acceptable for purposes of transferable rights and land dedication upon staff
6 determination that they are generally reflective of the Attachments A, B and C, of the Resolution.
7

8 2. As part of the land dedication process, and prior to transfer of the 85 residential
9 units, the lands involved shall comply with Chapter 28, Subdivisions, of the Miami-Dade County
10 Code of Ordinances, and/or record any other legal instrument deemed necessary to ensure clear
11 title.
12

13 3. The approved Resolution shall be recorded to the titles of all lands involved.
14

15 4. Prior to transfer of the 85 residential units The Village shall receive clear title to the
16 dedicated lands as generally described in Attachment C of the Resolution and as further depicted in
17 the survey submitted and accepted pursuant to condition of 2 of this recommendation.
18

19 5. All previous conditions, approvals, covenants and resolutions shall remain in effect
20 unless otherwise altered by the granting of this request and any conditions assigned therein.
21

22 This is a final order.
23

24 **Section 6. Record.**
25

26 The record shall consist of the notice of hearing, the applications, documents submitted by
27 the applicant and the applicants' representatives to the Village of Palmetto Bay Department of
28 Planning and Zoning in connection with the applications, the county recommendation and attached
29 cover sheet and documents, the testimony of sworn witnesses and documents presented at the
30 quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by
31 the Village Clerk.
32

33 **Section 7. Effective date.**
34

35 This resolution shall take effect immediately upon approval.
36

37 PASSED and ADOPTED this ____ day of _____, 2016.
38
39
40

41 Attest: _____
42 Meighan Alexander
43 Village Clerk
44

Eugene Flinn
Mayor

45 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
46 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

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Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Karyn Cunningham _____
Council Member Tim Schaffer _____
Council Member Larissa Siegel Lara _____
Vice-Mayor John DuBois _____
Mayor Eugene Flinn _____

This Resolution was filed in the Office of the Village Clerk on this ____ day of _____, 2016.

Meighan Alexander
Village Clerk

ATTACHMENT A

Sender Site

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS
VPB-16-005

ATTACHMENT B

Receiver Site

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS
VPB-16-005

Attachment B

Receiver Site



ATTACHMENT C

Donation Site

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS
VPB-16-005

Attachment C

Donation Site



APPLICATION

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS

VPB-16-005

February 12, 2016

Mr. Darby Delsalle, AICP, Director
Department of Planning and Zoning
Village of Palmetto Bay
9705 East Hibiscus Street
Palmetto Bay, Florida 33157

Re: Zoning Application
Transfer of Development Rights
Applicant: 17777 Old Cutler Road, LLC
Folio Numbers: 33-5035-013-0020 and 33-5035-013-0010

Dear Mr. Delsalle:

Our Firm represents 17777 Old Cutler Road, LLC ("Applicant"), owner of the Office Park Development and surrounding acreage at 17777 and 18001 Old Cutler Road (the "Property"). The Property contains zoning designations of VMU (Village Mixed Use) and I (Interim). The zoning designations were created after the incorporation of the Village of Palmetto Bay and incorporate concepts espoused in the 1985 Development Order issued for the property which granted Development Order rights to develop a large office park development with ancillary retail facilities in the eastern property area (the "Office Park Area") and to maintain a visual buffer area with limited development on the area now zoned "I" located closest to Old Cutler Road (the "Environmentally Sensitive Area"). In conjunction with this Development Order, the major points of access were concentrated in the north and south border areas of the Property, with the central area along Old Cutler Road free of any vehicular access and consisting of significant landscaping and pedestrian paths.

The Applicant hereby requests zoning approval for a transfer of Development Rights to permanently disallow residential development in the Environmentally Sensitive Area, and to transfer 85 additional residential units to the Office Park Area in a manner that will be consistent with the Village's Comprehensive Plan, compatible with the surrounding area, and in keeping with the planning principles originally approved in 1985 for the Property. Specifically, the Applicant requests that the Village's determination in the attached letter dated January 26, 2016, be implemented

through the transfer of Development Rights from the Environmentally Sensitive Area to the Office Park Area. This transfer of Development Rights is consistent with Ordinance Numbers 2015-16 and 2015-17, adopted by unanimous vote of the Mayor and Village Council on December 7, 2015 (the "Approved TDR Legislation"). The Approved TDR Legislation created a means of transferring Development Rights away from environmentally sensitive lands by facilitating appropriate redevelopment and revitalization in a limited, compatible manner for more developable properties. The legislation's most significant goal is to increase the availability of open space and publicly owned park space for the benefit of the Village. In addition, two ordinances are proposed:

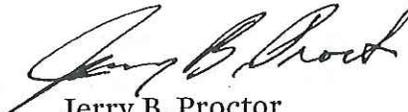
1. Amendment of the Land Use Element of the Village's Comprehensive Plan to amend the descriptions for the Property to reflect the current approved residential density for the Property, and to recognize that development of the Office Park Area may include the additional units granted by a transfer of Development Rights approved by the Village Council. By virtue of the specific submittal of this application, this transfer would be permitted from the area zoned VMU in the Office Park Area, and the development of residential units would be prohibited in the Environmentally Sensitive Area.
2. Ordinance amending the VMU District to reflect the ability to develop up to 85 additional units in the Office Park Area, which may include multi-family residential development, row houses or townhouses, and/or senior living housing, in accordance with past policy decisions of the Village Council. This ordinance reflects that up to 2 additional stories of building height may be developed in accordance with the provisions of Ordinance Numbers 2015-16 and 2015-17.

We believe that this Application and the accompanying legislation will provide the permanent continuation of the existing buffer space along Old Cutler Road, will allow for compatible development on the remainder of the Property, and will provide additional open space that will benefit the quality of life for Village residents.



Thank you for your consideration of this Application.

Sincerely,



Jerry B. Proctor

JBP\wp
cc Ed Silva, Village Manager
Dexter Lehtinen, Esq., Village Attorney
Scott Silver
Tom Dotzenrod
Steve Devinney





ZONING HEARING (ZH) APPLICATION
Village of Palmetto Bay, Department of Planning and Zoning

LIST ALL FOLIO #S: 33-5035-013-0020, 33-5035-013-0010 Date Received _____

1. NAME OF APPLICANT (Owner(s) of record of the property or lessee. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).
17777 Old Cutler Road, LLC

2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: 18001 Old Cutler Road, #600
City: Palmetto Bay State: FL Zip: 33157 Phone#: 305-377-8802

3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): 17777 Old Cutler Road, LLC
Mailing Address: 18001 Old Cutler Road, #600
City: Palmetto Bay State: FL Zip: 33157 Phone#: 305-377-8802

4. CONTACT PERSON'S INFORMATION:

Name: Company: Jerry B. Proctor, Esq., Bilzin Sumberg Baena Price & Axelrod LLP
1450 Brickell Avenue, 23rd Floor
City: Miami State: FL Zip: 33131 Cell Phone#: _____
Phone#: 305-350-2361 Fax#: 305-351-2250 E-mail: jproctor@bilzin.com

5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, a legal description for each requested zone must be provided. Attach separate sheets as needed and clearly label (identify) each legal description attached. In addition to paper version it is requested that lengthy metes and bounds descriptions be provided on diskette or compact disc in Microsoft Word or compatible software.)

See attached survey

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc.)

17777 Old Cutler Road

7. **SIZE OF PROPERTY** (in acres): _____ (divide total sq. ft. by 43,560 to obtain acreage)

8. **DATE** property acquired leased: Oct., 2003 9. **Lease term:** _____ years
(month & year)

10. **IS CONTIGUOUS PROPERTY OWNED BY THE SUBJECT PROPERTY OWNER(S)?**

NO YES

If yes, provide complete legal description of said contiguous property.

11. Is there an option to purchase or lease the subject property or property contiguous thereto.

NO YES

(If yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

12. **PRESENT ZONING CLASSIFICATION:** VMU, I

13. **APPLICATION REQUESTS** (Check all that apply and describe nature of the request in space provided)

District Boundary (zone) Changes [Zone(s) requested]: _____
(Provide a separate legal description for each zone requested)

Unusual Use: _____

Use Variance: _____

Non-Use Variance: _____

Alternative Site Development: Option: _____

Special Exception: _____

Modification of previous resolution/plan: _____

Modification of Declaration of Covenant: _____

Approval of Transfer of Development Rights for up to 85 residential units

14. Has a public hearing been held on this property within the eighteen (18) months?

NO YES

If yes, provide applicant's name, date, purpose and result of hearing, and resolution number: _____

15. Is this application a result of a violation notice? NO YES (If yes, give name to whom the violation notice was served and describe the violation: _____)

16. Describe structures on the property: Office Park

17. Is there any existing use on the property? NO YES (If yes, what use and when established?)

Use: Office Park Year: 1988

Planning Staff Use Only

Base Fee	Reviewed and Accepted by	Date
Receipt No.	Deemed Complete By	Date



VILLAGE OF PALMETTO BAY

January 26, 2016

Scott Silver,
17777 Old Cutler Road, LLC
18001 Old Cutler Road, Suite 600
Palmetto Bay, Florida 33157

Re: Front 22 Acres of 17777 & 18001 Old Cutler Road.

Mr. Silver:

The following is in response to your letter dated January 11, 2016 as it pertains to your request for a "building rights" determination for the front 22 net acres of land locate at 17777 & 18001 Old Cutler Road. Based on the analysis provided below, it appears the property enjoys a potential zoning development right of 85 residential units.

The property in question is presently zoned Interim (I) with a land use designation of Parks and Recreation (PR). The I zoning category was applied to the property when the Village adopted its own land development regulations in 2009. It was previously zoned Government Use (GU) under Miami-Dade County's zoning provisions. The PR designation was applied in 2005 when the Village adopted its Comprehensive Plan and corresponding Future Land Use Map (FLUM). Chapter 163 of the Florida Statutes requires zoning to be consistent with land use. Although the I zoning category is consistent with a PR designation, it may be considered awkward in the context of the private ownership of land.

The PR land use designation is fairly restrictive with regard to permitted uses and development standards. Residential and commercial uses would not be permitted within this designation. The I zoning district (or for that matter the GU district) does not preclude them. The 2005 action establishing the PR designation appeared to anticipate an eventual park amenity; however the land was never acquired by a governmental entity, nor was the property owner required to build one. Its continued private ownership has thus allowed the question to linger of the land's ultimate permitted use. For private development to occur on the property, be it residential or commercial, the land use designation must change accordingly.

9705 East Hibiscus Street, Palmetto Bay, FL 33157
Tel: (305) 259-1234 ♦ www.palmettobay-fl.gov

The Village's I zoning category mirrors Miami-Dade County's GU category. Both districts essentially provided for the concept of "trending of development." As applied, determination of use and intensity within an I or GU district is based on the zoning of adjacent lands. If the surrounding properties vary in intensity, the "trending of development" would fall somewhere in between that permitted within the adjacent zones. Typically, a determination would be applied to the property and then be followed by a rezoning request consistent with the identified uses and intensity.

Given the above, a determination of "building rights" is reviewed under the context of the land's ownership by a private entity and its potential usage as governed by the I zoning district.

The majority of the lots west of the property are zoned One Acre Estate Single-Family District (E-1). The E-1 district permits one unit per acre. One lot is zoned Five Acre Estate Single-Family District (E-2) and two (2) other lots are zoned Estate Modified Single-Family District. The E-2 permits one (1) unit per five (5) acres and the EM district permits roughly three (3) units per acre. The overall density works out to approximately one (1) unit per acre. The lands to the north and east are zoned Village Mixed Use (VMU). The VMU zoned land is approximately 41.59 acres and is permitted to have mid-rise office uses and up to 400 residential units of varying types. Overall residential density works out to approximately the 9.61 units per acre. The resulting trend of residential development would be approximately Five (5) units per acre.

The land in question is subject to a declaration of restrictive covenant that requires the property to provide and maintain landscaping to visual obscure from Old Cutler Road, the more intense multi-family and office uses permitted within the VMU zoning district on the east side. The covenant was proffered as a clear attempt to buffer and protect the low density residential neighborhoods on the west side from the more intense office and multi-family residential uses permitted on the east side property. Given the intent, it is not unreasonable to conclude the covenant would have also resulted in a restriction of commercial development within the 22 acres. It does not appear that the covenant restricts all development on the land in question, however the landscape element in and of itself would logically result in a diminished area available for development. That form of development would most likely be low density residential. In this context, it is assumed that it would take a strip of land of approximately five (5) acres in area immediately adjacent to Old Cutler Road to accomplish the needed landscaping screen. That leaves approximately 17 of the 22 net acres that may be contemplated for potential residential development.

In applying the assumptions described herein, it appears the building right potential for the 22 net acres would be 85 homes.

If you have any additional question please contact this office at 305-259-1234.

17777 Old Cutler Road, LLC
18001 Old Cutler Rd, Suite 600
Palmetto Bay, FL 33157
O: 305-377-8802 | F: 305-377-8804

January 11, 2016

Mr. Darby DeSalle
Director
Planning & Zoning Dept.
9705 E Hibiscus St
Palmetto Bay, FL 33157

Please provide me with the determination of development rights letter as to the land parcel bounded by the VMU District on the East and Old Cutler Road on the West encompassing approximately 22 net acres.

Regards,

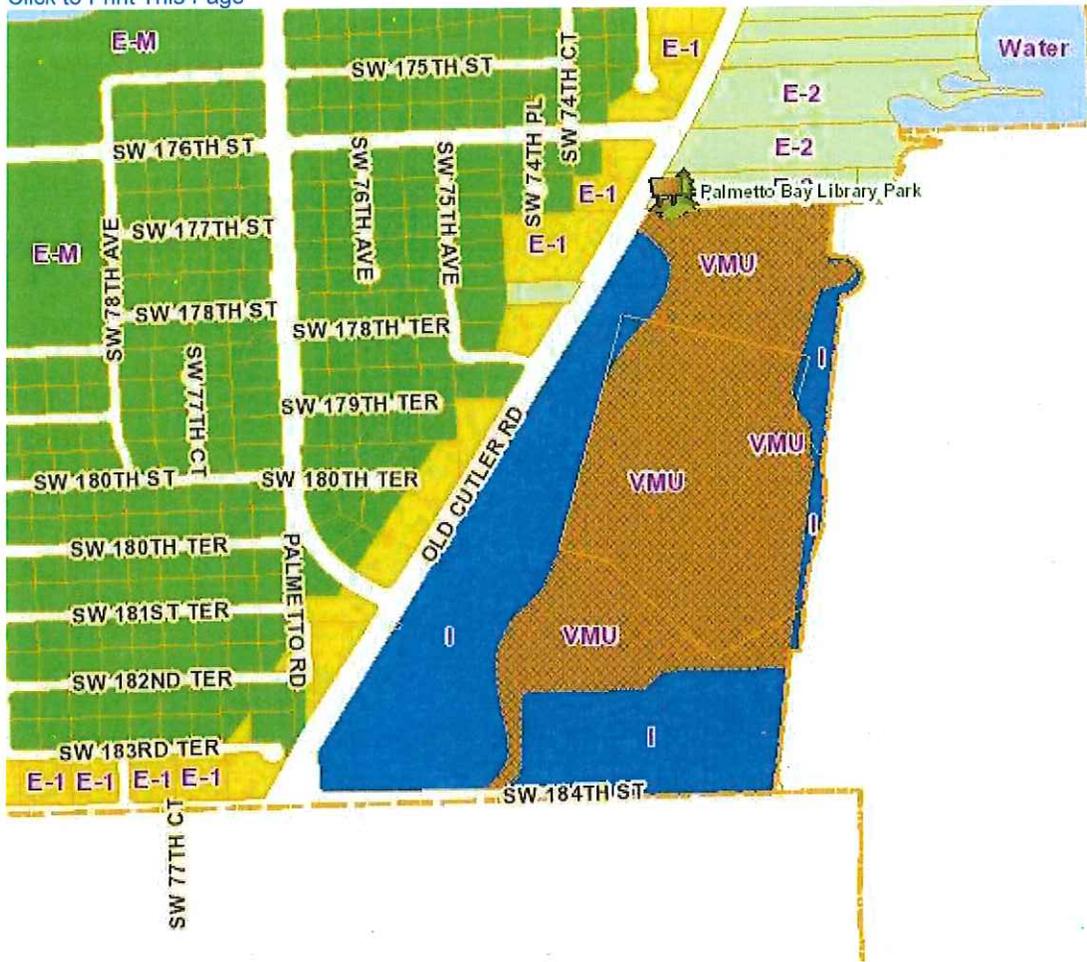


Scott Silver
Authorized Rep

ZONING & LAND USE MAPS

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS
VPB-16-005

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