



To: Meighan Alexander
Village Clerk

Date: September 03, 2013

From: Darby P. Delsalle, AICP, Director
Department of Planning and Zoning

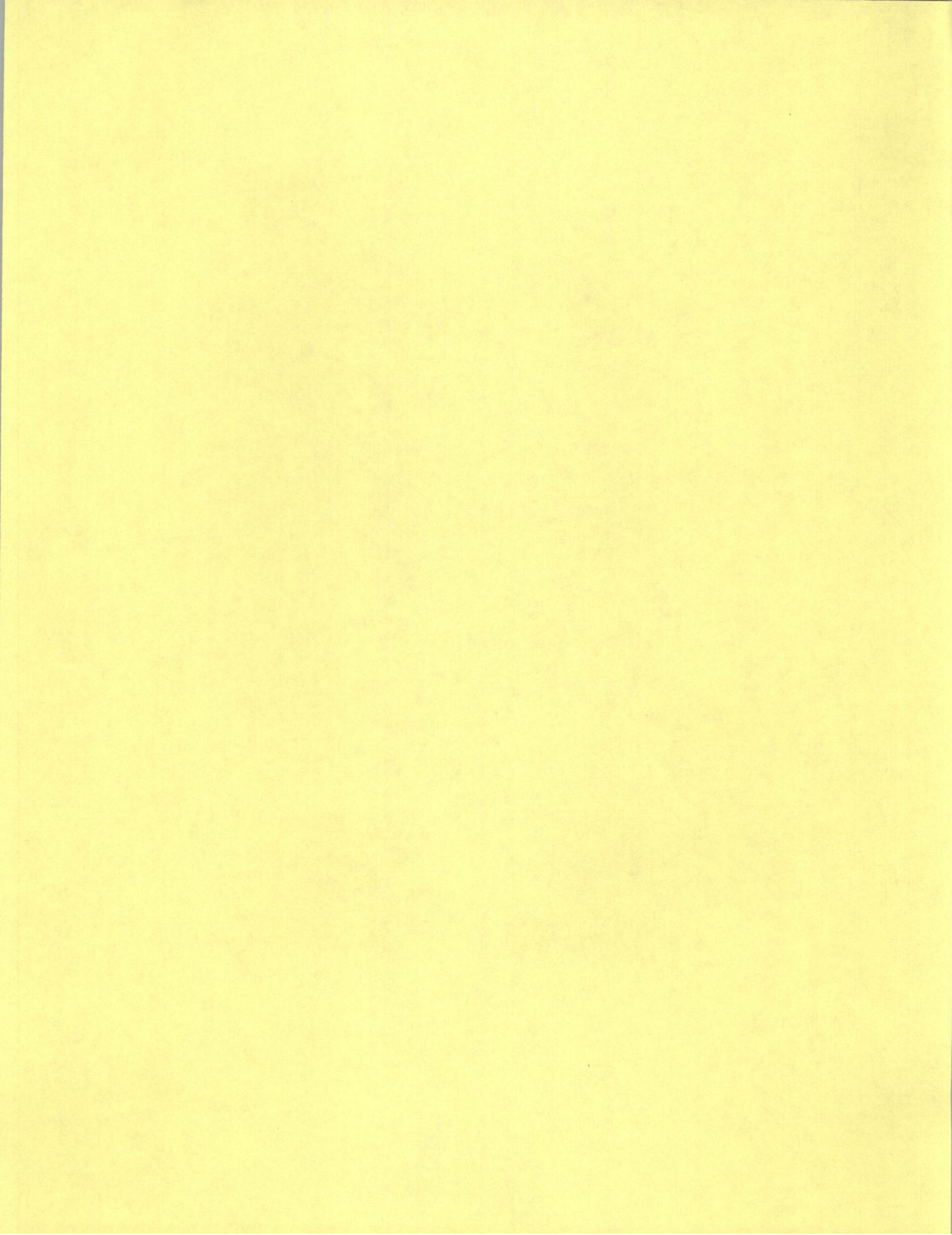
RE: VPB-13-001 South Motor
Company of South Dade

Pursuant to Section 30-30.12(a), Simon Ferro of Gunster, PA, on behalf of the applicant has submitted the following supplemental information. Attached please find the following documents to be distributed as part of South Motor Company of South Dade, Co. public hearing application:

Email correspondence between the applicant and the Department of Planning and Zoning, responding to staff's analysis.

A revised staff report reflective of the email correspondence above.

An email correspondence providing the list of expert witnesses and qualifications, as submitted on August 30, 2013.



Darby Delsalle

From: Darby Delsalle
Sent: Tuesday, September 03, 2013 11:03 AM
To: Ferro, Simon
Cc: Eve Boutsis (eboutsis@fbm-law.com); Darby Delsalle
Subject: RE: Response to staff report

Mr. Ferro,

If the report represents a factual error then a correction will be made. In this case, the information provided regarding the signatures is not factually incorrect. As such, any modification made to the report shall be as identified in the email dated August 30, 2013 as attached herein.

Respectfully,

From: Ferro, Simon [mailto:SFerro@gunster.com]
Sent: Friday, August 30, 2013 4:30 PM
To: Darby Delsalle
Cc: 'Eve Boutsis'
Subject: RE: Response to staff report

Good afternoon Darby. Thanks for your responses and modifications to the staff report. We still respectfully disagree with your [position on the signatures. The signatures were certified by the county and allowed us to file the application. Without arguing the issues of whether a person who previously signed can withdraw or rescind the signature (which a court may find highly inequitable after we relied on the signature and proceeded to process the application) the language in the staff report seems to suggest or imply the validity of the signatures, which I believe improperly casts a shadow of doubt as to the legitimacy of the process. How would the Village proceed to be assured that the signatures are valid beyond the county's certification? I believe the language in the staff report needlessly raises an issue which a councilmember or the public might interpret as requiring another verification of the signatures, which I don't believe is warranted.

I'm happy to discuss at your convenience.

Thanks and best,

Simon



GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Simon Ferro | Shareholder
2 South Biscayne Boulevard, Suite #3400
Miami, FL 33131-1897
P 305-376-6016 C 305-431-4922
gunster.com | SFerro@gunster.com

From: Darby Delsalle [mailto:ddelsalle@palmettobay-fl.gov]
Sent: Friday, August 30, 2013 3:11 PM
To: Ferro, Simon

Cc: 'Eve Boutsis'

Subject: RE: Response to staff report

Simon,

Please find herein a response to the items you identified.

1) The areas on page 2 shown appear to be correct based on the surveyors last drawing.

Response: Noted

2) Page 2, Section B. Background: The property houses the Honda, Mini Cooper and BMW new car dealerships.

Response: Staff report updated to reflect Mini Cooper

3) Page 3 - 1st Paragraph - "wrap-around building for administrative offices." The wrap around structure that they are referring to is at the existing inventory garage. This addition includes 2 floors of parts, support spaces for technicians including training rooms and locker rooms, service bays, and additional storage parking. It is not labeled administrative offices anywhere. I would strike the word "however" from the second paragraph of Page 3.

Response: Staff report updated to reflect comment.

4) Page 3 - under "Parcel B" - the statement "and contains the 3-story new car parking building". The wording is awkward as it seems to allude to a new building. It's really a reference to an existing building that may contains new cars. It's also possible this building may be used as parking for employees and clients. This terminology appears in several other places in the report. I would strike the word "new" to avoid confusion or use the term "new-car".

Response: Staff report updated to reflect comment.

5) Page 5, numbered Paragraph (6) states that the recorded covenant "...would preclude structures and mechanical use...". This is not correct. The covenant language precludes structures that which would permit automobile repairs, painting, cleaning, body and top work, etc. It does not preclude structures per se or parking structures. This is an important distinction.

Response: Staff report updated to reflect comment.

6) -Page 8 - section F - bottom of 3rd paragraph - "The Floor area ratio (FAR) is 0.4 for the first story and plus 0.11 for each additional story up to 6 stories." In the Palmetto Bay Code of Ordinances, under section 30-50.17-B-2 Business District, the FAR table lists the ratios as being:

One Story - 0.40

Two Stories - 0.50

Three Stories - 0.60

Four Stories - 0.70

Five Stories - 0.80.

Please confirm which is correct, .60 or .62?

Response: The Zoning Code at Sections 30-50.1 and 30-50.17 are in conflict with each other as they reflect the total FAR for a 3 story to be .62 and .60 respectively. As there is a conflict in the Code, interpretation shall be that which is most favorable to the applicant. As such, the FAR shall be reflected at 30-50.1 and dully noted in the updated staff report.

7) Page 9 - last sentence - "...removes surface level parking areas the [that] currently are located within the future park area." Per our proposed site plan we have no existing parking lot areas that fall within the proposed future park. There are several references to the term "public" park. To be consistent with the proposed resolutions the term "public" should be deleted.

Response: Initial report was based on an older aerial. The 2012 aerial photo confirms your position. Staff report is updated to reflect same. A review of the document did not find the word "public" used in conjunction with the word "park".

8) Page 10 - under "analysis" for "transportation element" - Middle sentence - "Existing accessory services include a vehicle maintenance facility (solely for Honda's use)..." The site includes service facility areas also for BMW, Mini Cooper and Honda.

Response: Staff report updated to reflect comment.

8-Page 13 - typo in the Analysis section for "Parks Element" - they consistently refer to 3.41 PER PERSON...this should be 3.41 per 1,000 residents...as per the description above under "Policy 7.1.2".

Response: Staff report updated to reflect comment.

9-Variou Pages starting on Page 18-2nd paragraph - "provided, however, the signatures remain valid." The validity of the signatures was already established. This statement raises an issue that is not warranted and will only confuse the reader. This statement should be deleted from the various pages where it is referenced.

Response: Staff disagrees as nothing precludes any signatory from rescinding their signed consent.

The revised staff report will not be released until all of your final comments are received as of September 3, 2013.

From: Ferro, Simon [<mailto:SFerro@gunster.com>]

Sent: Friday, August 30, 2013 12:25 PM

To: Darby Delsalle

Cc: 'Eve Boutsis'

Subject: FW: Response to staff report

Good afternoon Darby and Eve. We have reviewed the proposed draft of the staff report and, aside for some minor typos, have the following comments and observations:

1) The areas on page 2 shown appear to be correct based on the surveyors last drawing.

2) Page 2, Section B. Background: The property houses the Honda, Mini Cooper and BMW new car dealerships.

3) Page 3 - 1st Paragraph - "wrap-around building for administrative offices." The wrap around structure that they are referring to is at the existing inventory garage. This addition includes 2 floors of parts, support spaces for technicians including training rooms and locker rooms, service bays, and additional storage parking. It is not labeled administrative offices anywhere. I would strike the word "however" from the second paragraph of Page 3.

4) Page 3 - under "Parcel B" - the statement "and contains the 3-story new car parking building". The wording is awkward as it seems to allude to a new building. It's really a reference to an existing building that may contains new cars. It's also possible this building may be used as parking for employees and clients. This terminology appears in several other places in the report. I would strike the word "new" to avoid confusion or use the term "new-car".

5) Page 5, numbered Paragraph (6) states that the recorded covenant "...would preclude structures and mechanical use...". This is not correct. The covenant language precludes structures that which would permit automobile repairs, painting, cleaning, body and top work, etc. It does not preclude structures per se or parking structures. This is an important distinction.

6) -Page 8 - section F - bottom of 3rd paragraph - "The Floor area ratio (FAR) is 0.4 for the first story and plus 0.11 for each additional story up to 6 stories." In the Palmetto Bay Code of Ordinances, under section 30-50.17-B-2 Business District, the FAR table lists the ratios as being:

One Story - 0.40

Two Stories - 0.50

Three Stories - 0.60

Four Stories - 0.70

Five Stories - 0.80.

Please confirm which is correct, .60 or .62?

7) Page 9 - last sentence - "...removes surface level parking areas the [that] currently are located within the future park area." Per our proposed site plan we have no existing parking lot areas that fall within the proposed future park. There are several references to the term "public" park. To be consistent with the proposed resolutions the term "public" should be deleted.

8) Page 10 - under "analysis" for "transportation element" - Middle sentence - "Existing accessory services include a vehicle maintenance facility (solely for Honda's use)..." The site includes service facility areas also for BMW, Mini Cooper and Honda.

8-Page 13 - typo in the Analysis section for "Parks Element" - they consistently refer to 3.41 PER PERSON...this should be 3.41 per 1,000 residents...as per the description above under "Policy 7.1.2".

9-VariouS Pages starting on Page 18-2nd paragraph - "provided, however, the signatures remain valid." The validity of the signatures was already established. This statement raises an issue that is not warranted and will only confuse the reader. This statement should be deleted from the various pages where it is referenced.

Thanks,

Simon



GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Simon Ferro | Shareholder
2 South Biscayne Boulevard, Suite #3400
Miami, FL 33131-1897
P 305-376-6016 C 305-431-4922
gunster.com | SFerro@gunster.com

specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein. Click the following hyperlink to view the complete Gunster IRS Disclosure & Confidentiality note.

<http://www.gunster.com/terms-of-use/>



Village of Palmetto Bay

ZONING ANALYSIS

APPLICANT: South Motor Company of Dade County **PH:** VPB-13-001 (FLUM Amendment and Rezoning)
Revised as of Sept. 3, 2013

PROPERTY ADDRESS: 16165/16215 South Dixie Hwy **ZIP:** 33157
9271 SW 164 Street

SECTION: 28-55-40 **HEARING:** 09/16/13

COUNCIL DISTRICT: 3 **ITEM:** 1

SCOPE OF ZONING APPLICATION:

As per the Applicant's submitted Fourth Amended Letter on July 31, 2013¹, South Motors Company Of Dade County, Co., a/k/a South Motors BMW, is requesting a map amendment to the Future Land Use Map (FLUM) changing approximately 1.9344 acres from the land use designation of Low Density Residential to Business Office; and is requesting a rezoning of approximately 6.3705 acres from R-1, Single-Family Residential District to B-2, Business District, for the property located at 9271 SW 164 Street. This request is part of a larger zoning application submittal, which seeks modification of a previously approved master site plan and associated resolutions and covenants for the existing South Motors BMW facility. This report provides an analysis to the rezoning and land use amendment portions of the zoning application request. Further analysis regarding the modified site plan and its existing resolutions and covenants shall be provided in conjunction with the second readings of the rezoning and FLUM amendment.

A. GENERAL INFORMATION

REQUESTS:

1. A **Future Land Use Map change** (Small Scale Amendment) from *Low Density Residential to Business Office* (Pursuant to Section 30-30.8 – Amendment to the Comprehensive Plan).

A portion of Tract 7 and 8, EAST HILL, according to the plat thereof, as recorded in Plat Book 46, Page 43, of the public records of Miami-Dade County, Florida; lying

¹ The original letter was submitted on December 19, 2012 with subsequent revisions on February 13th and April 21st, 2013. Revisions to the site plans were also submitted to the Village.

South of a line that is 287.00 feet South of and parallel with the North line of said Tracts 7 and 8; AND is North of a line that is 229.33 feet North of and parallel with the West portion of the South line of said Tract 8 and Easterly extension thereof.

Said lands situate, lying and being in Miami-Dade County, Florida, and containing 84,264 square feet or 1.9344 acres more or less.

2. A **District Boundary change** (a/k/a "rezoning") from R-1 Single-Family Residential District to B-2 Business District (Pursuant to Section 30-30.7 – Amendment to the official zoning map).*

A portion of Tract 7 and 8, EAST HILL, according to the plat thereof, as recorded in Plat Book 46, Page 43, of the public records of Miami-Dade County, Florida; more fully described as follows:

Beginning at the Northwest corner of said Tract 7; thence South 88°58'26" East, on the North line of said Tracts 7 and 8, a distance of 673.10 feet to the Northeast corner of said Tract 8; thence South 00°10'11" East, on the East line of said Tract 8, a distance of 410.59 feet; thence North 89°14'49" West, on a line 229.33 feet North of and parallel with the South line of said Tract 8, and Westerly extension thereof, a distance of 673.58 feet; thence North 00°05'42" West, on the West line of said Tract 7, a distance of 413.79 feet to the Point of Beginning.

Said lands situate, lying and being in Miami-Dade County, Florida, and containing 277,498 square feet or 6.3705 acres, more or less.

The requested rezoning is predicated upon the modification or release of the existing recorded Declaration of Restrictions, dated May 28, 1980, and associated resolutions and plans, after receipt of the required number of signatures authorizing the request for rezoning as provided under the covenant. As an ordinance involving a rezoning under 10 acres only requires a public hearing during second reading, staff scheduled the public hearing as to the modification of the related covenants and restrictions for that second reading, public hearing date.

OVERALL LOT SIZE: 13.2347 net acres
AMENDMENT SIZE: 84,264 square feet or 1.9344 acres +/-
REZONING: 277,498 square feet or 6.3705 acres +/-
FOLIO NUMBERS: 33-5028-002-0030, 33-5028-002-0070* & 33-5028-002-0080*

* Portions subject to the FLUM Amendment and rezoning.

B. BACKGROUND

The property in question consists of several lots, 13.2347 acres of land, and currently houses the Honda, Mini Cooper and BMW new car dealerships with typical accessory uses including used cars sales and repair facilities. The Applicant is seeking to expand its new car sales center facility and expand the service facilities area, as a majority of the repair service is provided off-site, resulting in an additional 300 vehicle trips, per day. The service facility will be located within the proposed modification to the existing three story parking structure that currently consists of 135,988 sq. ft. That structure will also provide a vehicle storage display area, and a “wrap-around” building for existing inventory garage, two floors of parts, support spaces for technicians, training rooms, service bays and added inventory storage parking ~~administrative offices~~. The Applicant’s stated objective is to streamline and consolidate operations; reduce vehicle trips to and from an existing off-site maintenance and repair facility for the BMW portion of the site; and create a large proposed passive park (approximately 3.0973 acres), which will act as a buffer to the residential areas adjacent to the development.

The project consists of three parcels of land under the following folio numbers: 33-5028-002-0030, -0070 and -0080 and legal descriptions:

Parcel A (Folio No. 33-5028-002-0030)

The parcel is 3.80 acres in size and contains existing sales, showroom, parts, customer service and administrative uses totaling 77,887 sq. ft. This parcel is Future Land Use designated *Business and Office* and zoned B-2.

Parcel B (Folio No. 33-5028-002-0070) aka Tract 7

The parcel is 4.51 acres in size and contains the 3-story inventory ~~new~~ car parking building encompassing 135,988 sq. ft. This parcel is Future Land Use designated *Business and Office* on the north 287 feet and *Low Density Residential* on the south 351 feet. The entire parcel is zoned R-1.

Parcel C (Folio No. 33-5028-002-0080) aka Tract 8

The parcel is 4.94 acres in size and contains surface parking for new cars on the north. This parcel is Future Land Use designated *Business and Office* on the north 287 feet and *Low Density Residential* on the south 351 feet. The entire parcel is zoned R-1.

C. ZONING HEARING HISTORY:

On July 5, 1956, the Dade County Board of County Commissioners, pursuant to **Resolution No. 9996**, rezoned most of what was known as Parcel A (along US 1) from AU (Agricultural Use) to BU-3A (Liberal Business Masonry).

On June 17, 1964, the Dade County Board of County Commissioners, pursuant to **Resolution No. 2-ZAB-347-64**, approved a sign setback variance for an automobile dealership.

On September 11, 1973, the Dade County Board of County Commissioners, pursuant to **Resolution Z-256-73**, granted a rezoning from AU to RU-3M and EU-M for tracts 7 & 8 (eastern properties that are currently vacant); and denied the special exception requests.

On May 5, 1977, the Dade County Board of County Commissioners, pursuant to **Resolution No. Z-115-77**, granted a use variance for the purpose of expanding and existing automotive use.

On October 11, 1979, the Dade County Board of County Commissioners, pursuant to **Resolution No. 4-ZAB-408-79**, granted non-use variances pertaining to signage and fencing, and a special exception to store vehicles in an AU district.

On September 4, 1980, the Dade County Board of County Commissioners, pursuant to **Resolution No. Z-198-80**, approved the Applicant's, South Realty Associates, request to rezone a portion of the property from AU to BU-3 (western portion of property, at Tract 4) and another portion of the property from EU-M to RU-1 (parcel that is subject of current application, Tracts 7 & 8); and a special exception to permit a cluster development to be serviced by a private drive on the portion of the property that was rezoned to RU-1 at a density of 5.6 units per net acre. The resolution also authorized the RU-1 property to be used for an "unusual use" for the outdoor storage of cars, as would otherwise be approved in a BU-3 district, although the BU-3 rezoning request had been denied. As part of the application, a covenant was proffered and recorded.

On or about May 28, 1980, the Covenant, Declaration of Restrictions, was recorded at Official Record Book 10973 at Pages 1003 through 1009. It provided, amongst other things, that the RU-1 cluster zoning on the south portion of the entire application (property that is the subject of this memorandum). If a new zoning or rezoning, or use variance is requested, the Applicant is required to obtain a release or revision of the covenant relating to the RU-1 zoning by the Board of County Commissioners, at a public hearing, after obtaining the following:

- (a) consent of all fee holders of the following immediately adjacent properties: 9200, 9220, 9240, 9260 and 9280 SW 164th Street; and,
- (b) consent of fee holders of 75% of the separate properties located within the adjoining area bounded by SW 164th Street and SW 94th Avenue.

On February 4, 1982, the Dade County Board of County Commissioners pursuant to **Resolution No. Z-38-82** heard South Realty Associates' renewed application on the same item as heard in 1980, as there had been an error in the legal description from the original hearing item. Due to the foregoing, the County Commission affirmed the basic intent of the original Resolution Z-198-80, and specifically ruled:

- (1) To allow the rezoning to RU-1, Single-Family Residential, from EU-M, Estate Modified Residential, (the property that is the subject of this pending application);

- (2) To allow the rezoning to BU-3, Liberal Business District from AU, Agricultural, (16165 South Dixie Highway), subject to conditions.
- (3) To allow a special exception on a portion of the property that is the subject of this pending application, with conditions to allow a cluster development with 5.6 units, per net acre.
- (4) To deny the rezoning to BU-3, Liberal Business District, from RU-1, Single-Family Residential.
- (5) To grant the use variance for a portion of the RU-1 property (part of the property that is the subject of this pending application) for outdoor car storage.
- (6) The Applicant in 1980 proffered and recorded a covenant, which was accepted by the Commission, which provided that the RU-1 cluster plan could not be modified, and the property could not be rezoned without the approval of the defined community, as provided under the covenant. Additionally, approval no. (5) would preclude structures that would permit automobile repairs, painting, cleaning body and top work, and mechanical use — only allow car storage. This additional covenant term is this the other major provision contained in the Declaration of Restriction, recorded at Official Record Book 10973, at Pages 1003 through 1009.

On July 27, 1983, the Metropolitan Dade County Zoning Appeals Board issued **Resolution No: 4-ZAB-229-83**, to modify the relating to the special exception for the cluster home development on Parcel C, as to the 1980 and 1982 resolutions, to allow the Applicant 42 months to commence development, and 18 months in between stages. The request was granted. The development was never built.

On July 16, 1997, the Metropolitan Dade County Zoning Appeals Board approved **Resolution No: 5-ZAB-230-97**, allowing a non-use variance of sign and setback regulations to allow the installation of six Class "B" signs.

In 2010, the Village created its Land Development Code and Comprehensive Zoning Map, and re-designated the subject property as R-1. (Documentation not provided in this back-up as it is voluminous and is existing Code).

Once the Village incorporated all covenants on a property are to be applied by the Village. Any release of a covenant, would be released according to the Village's Code of Ordinances, Section 30-30.9, which requires a quasi-judicial zoning hearing. The Applicant, in order to apply for the release of that portion of the covenant, as it relates to the Declaration of Restrictions recoded at Official Record Book 10973, at pages 1003-1009, needed to obtain 100% of the signatures of the fee holders of the five parcels located at 9200, 9220, 9240, 9260 and 9280 SW 164th Street; and 75% of all the parcels between SW 164th Street and SW 94th Avenue. The Applicant obtained the signatures, which was forwarded to Miami-Dade County for confirmation. Ileana J. Cea, Computer Services Manager, of the Miami-Dade County Regulatory & Economic Resources Department, was charged with the responsibility of confirming compliance with the requirements of the Declaration of Restrictions. Per Ms. Cea, she determined the following:

- We extracted (using the latest Miami-Dade County’s Property Appraisers File) 161 properties found inside the covenant area.
- Out of these 161 properties, 156 were in the 75% GROUP. From this aforementioned category, we received 118 consent forms that were all OK, and 2 consent forms that were rejected. The “OKs” amount to a 75.64% compliance.
- Out of these 161 properties (same source/area mentioned above), 5 properties were in the 100% GROUP, and for these we received 8 consent forms from all parties involved. The “OKs” here amount to 100% compliance.
- The grand total of the 75% GROUP and the 100% GROUP equals 161 records/properties.

Based upon the foregoing, the Applicant has obtained the requisite signatures to seek the modification of the Declaration of Restrictions recorded at Official Record Book 10973, at pages 1003 - 1009, and Applicant may proceed with requesting a rezoning of the property. The hearing as to the release of the covenant, to allow the rezoning to proceed, will be held during second reading of the ordinance on rezoning the property to B-2, Business District.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

Subject Property:

B-2; Business District
 R-1; Single Family Residential

Surrounding Properties:

NORTH:

B-2; Business District

EAST:

R-3M; Apartment House
 R-1; Single Family Residential District

SOUTH:

E-M; Estate Modified – Single Family
 R-1; Single Family Residential District
 (2.5 to 6 D.U.’s)
 B-2; Business District – Special
 AG; Agricultural/Residential
 I; Interim District (Perrine Wayside Park)

WEST:

BU-2; Business District, Special (MDC*)

LAND USE DESIGNATION

Business and Office
 Low Density Residential

Business and Office

Low-Medium Density Residential
 (5-13 D.U.’s)
 Low Density Residential (2.5-6 D.U.’s)

Low Density Residential
 (2.5 to 6 D.U.’s)
 Business and Office
 Parks and Recreation

Business and Office (MDC)

MDC = Miami-Dade County Code
D.U. = Dwelling Units

E. REZONING/FLUM AMENDMENTS – PROCEDURALLY.

Comprehensive planning is a term used in the United States by land use planners to describe a process that determines community goals and aspirations in terms of community development. The outcome of comprehensive planning is the Comprehensive Plan which dictates public policy in terms of transportation, utilities, land use, recreation, public schools, and, often, housing. Comprehensive plans typically encompass large geographical areas, a broad range of topics, and cover a long-term time horizon. The Future Land Use Element (FLUE) and associated Future Land Use Map (FLUM) provide the future vision for the land within a community. Each designation on the FLUM tells the community what the future land uses for the area should be. The Village's FLUM for approximately half of the vacant land that is the subject of this application reflects the Business Office designation, which is consistent with the US 1 corridor map designations as to intensity of use. The remainder of the vacant parcel reflects the Low Density Residential designation, consistent with the prior zoning resolution for the property, which reflects a cluster single-family home development.

The state legislature created Chapter 163, Florida Statutes to provide guidelines to communities in dealing with such issues as the development of land. Chapter 163 provides the policies as to "Growth Management" and guidelines for the development of Comprehensive Plans. Once the plan is developed, the municipality is to enact zoning laws, consistent with the proposed designation under the Future Land Use Map (FLUM) and the Future Land Use Element (FLUE) definitions for the Map, from the Comprehensive Plan. In other words, if a parcel is designated Business Office, the zoning should be modified, over time to reflect zoning that is consistent with the intensity of use proposed in the FLUE and FLUM.

The Applicant is seeking a small-scale (less than 10 acres) amendment to the FLUM, to add approximately 1.9 acres to the existing Business Office future land use designation for a portion of the property. If the modification is made to the 1.9344 acres, then that portion, along with the remainder of the parcel that is designated Business Office could then be eligible for a rezoning to the B-2, Business District. Without the Future Land Use Map modification the 1.9344 acres could not be rezoned to B-2, as doing so would be inconsistent with the Future Land Use Map designations and intensities of use.

Consistent with the Village's Code requirements and State law, a public hearing must be held on the Comprehensive Plan amendment to the FLUM. The state, for a small-scale amendment, only requires one public hearing on the ordinance, which public hearing would occur at second reading. As the Village is to enact an Ordinance to allow for the FLUM modification to the 1.9344 acres, the Council will hold two readings on the ordinance, with the public hearing held during second reading. At that time the Council will hold with the public hearing to release the Declaration of Restriction and its associated resolutions and plans, as presented in the Request Section of this report. There shall also be a hearing of the

Council acting as the Land Planning Agency. After the necessary public hearings, the Village Council shall take action to deny or approve the application, or approve it with modifications or conditions for purposes of transmittal to the Florida Department of Community Affairs [now known as the Department of Economic Opportunity (DEO)] pursuant to the requirements of Section 163.3161, Florida Statutes. If denied, the Applicant may resubmit the application as provided under Section 30-30.2, of the Village's Code. If approved for purposes of transmittal, the Village shall thereafter provide the necessary administrative support for the DEO's review process required under Section 163.3161, et seq., Florida Statutes, and the Village's ordinance would go into effect.

Pursuant to Village Charter, Section 10.2.2, four affirmative votes are required to rezone any lands that have an initial Land Use designation of Residential. As such, those portions of the rezoning request which overlap with the FLUM amendment, must receive a minimum of four affirmative votes. In order to proceed with the modification of the Future Land Use Map, the Applicant must comply with the Village's procedures for authorizing the changes. The following section provides a review of the request pursuant to the Village's Land Development Code and applicable elements of the Village's Comprehensive Plan.

F. GENERAL DISCUSSION OF FLUM AND ZONING

Future Land Use Map (FLUM). The current designation of the two parcels subject to the FLUM amendment is Low Density Residential (LDR). The LDR designation permits residential densities to range from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre. This density category is generally characterized by detached single-family homes. It can also include large fee-simple town homes with extensive surrounding open space or a mixture of both housing types, provided that the maximum gross density is not exceeded.

The adopted 2009 Village of Palmetto Bay Comprehensive Plan, Future Land Use Element (FLUE), as amended, defines Business and Office (BO) as a category that accommodates a full range of sales service activities including retail, wholesale, personal and professional services, commercial and professional offices, hotels, motels, hospitals, theaters, medical buildings, nursing homes, entertainment and cultural facilities, amusements and commercial recreational establishments (such as private commercial marinas). These uses may occur in self-contained centers, high rise structures, campus parks and municipal centers business districts. The specific range and intensity of uses appropriate in the BO areas vary by location as a function of such factors as availability of public services, roadway access and neighborhood compatibility.

Special limitations may be imposed on uses in BO designated areas where necessary to protect environmental resources including wellfield protection areas. Through the assignment of zoning districts and special conditions, the specific range and intensity of uses appropriate for a particular site will be determined. Strip commercial shopping centers with inadequate lot depth, which allow only a single row of commercial structures and parking in front, are discouraged in this designation. The floor area ratio (FAR) is 0.4 for the first story, .51 for 2nd, .62 for 3rd. ~~plus 0.11 for each additional story up to 6 stories.~~

Mixing of residential use with commercial, office and hotels is also permitted in BO areas provided that the scale and intensity is not out-of-character with adjacent and nearby development, and the project does not negatively impact any area neighborhoods. Where these conditions are met, residential density may be approved up to one density category higher than the average land use density of adjacent parcels. If no residentially-designated parcels exist adjacent to a BO parcel or no higher density categories exist on the Village FLUM, the maximum density allowed shall be 13 units per gross acre. Development in this category must adhere to and incorporate the concepts and standards in the Village's Urban Design Manual to the maximum extent possible.

Zoning Designation. The existing zoning of the undeveloped land that is the subject of this application is R-1, Single-Family Residential District, which principally permits single-family homes and associated accessory structures. The district also permits certain places of congregation as further regulated by Section 30-110 of the Land Development Code. The proposed zoning district, B-2, Business District, permits a full array of office and commercial uses and is one of the most intense use districts within the Village.

G. ANALYSIS

This analysis is provided in three parts. The first subsection completes a review of the relevant Comprehensive Plan's Goals, Policies, and Objectives. The second subsection reviews the FLUM amendment request, and third subsection reviews the rezoning request. The analysis portion of both the FLUM and rezoning requests incorporate all portions of Subsection I below. Further, the Background Section of this report is hereby incorporated into all parts of the analysis and is incorporated herein by reference.

SUBSECTION I – COMPREHENSIVE PLAN:

The application was reviewed for consistency with the Villages Comprehensive Land Use Plan and corresponding Goals, Objectives and Policies thereof. The following is an analysis of that review.

Future Land Use Element

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 principal request addressed in this analysis pertains to a FLUM amendment and the rezoning request, however the overall request to be presented at second reading shall also include a request for a site plan modification and release of Declarations of Restrictions and prior site plans/resolutions (hereinafter "master application"). The "master application" plan provides a 3.0973± acre park buffer to the single-family

residential properties just south of the project site. The plan reflects landscape treatments and traffic calming elements for the enhancement of the neighborhood and removes surface level parking areas ~~the currently are located within the future park area.~~

Finding: Conditionally consistent provided applicant provides a covenant, easement or leasehold document running with the land relating to the park use of the 3.0937± acres in a form to be approved by the Village Attorney.

Transportation Element

Policy 2A.1.1: The Village of Palmetto Bay recognizes the Urban Development Boundary designated by Miami-Dade County within its municipal limits. The minimum acceptable p.m. peak period operating level of service for all State and County roads within the Urban Development Boundary shall be the following:

* * *

(3) Where extraordinary transit service, such as express bus service exists, parallel roadways within ½ mile shall operate at no greater than 120 percent capacity.

Analysis: The front of the property faces and adjoins US-1 which runs parallel to the South-Dade Bus Way, which bus way provides for express bus service. Demand capacity is a function of a specific development type and configuration. The property currently operates as an automobile dealership showcasing the BMW, Mini Cooper and Honda brands. Existing accessory services include a vehicle maintenance facility ~~(solely for Honda's use)~~, vehicle storage, and used car sales. Any proposed expansion of the existing uses will require transportation concurrency review at time of site plan consideration.

Finding: Not applicable for purpose of FLUM amendment or rezoning as such impact cannot be properly measured until site plan review.

Policy 1.1.12: Encourage balanced future land use patterns along the US-1 commercial corridor that would ensure a natural buffer or transition area between the commercial uses and the single family residential areas, thus ensuring the concentration of future development in areas with adequate infrastructure and facilities.

Analysis: This application is consistent with the land use designation and zoning of the properties to the North, which include a parcel leased to the Applicant for auto sales and a large big box retail shopping center. Additionally the Applicant proposes, via covenant, easement, or leasehold document to the

Village, to convert the south 3.0973± acres of the property to park land to serve as a transition area to the adjacent single-family residential to the South.

Finding: Conditionally consistent provided applicant provides a covenant, easement or leasehold document running with the land relating to the park use of the 3.0973± acres in a form to be approved by the Village Attorney.

Infrastructure Element

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: Per the Village's Comprehensive Plan's Data and Inventory Analysis, the 2005 WASD sanitary sewer system exceeded the 2% of maximum daily flow requirement and will continue to through 2020. As of 2002, Miami Dade-County possessed excess capacity of 63.5 million gallons, per day of potable water. Projections provided by the Comprehensive Plan show Village population growth through 2029 will consume less than 2 million gallons of that excess capacity. Any project constructed will require compliance with water quality standards. Specific demand generated by any proposed site plan will be evaluated at time of permitting by Miami-Dade County's WASD.

Finding: Consistent.

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: As of 2005, the Village of Palmetto Bay generates approximately .52% of the total demand countywide for sanitary sewer service. That results in approximately 99 gallons, per capita, per day. Per the Village's Comprehensive Plan, the County's capacity grew by 25 million gallons per day through 2010. Assuming the Village's available share remains constant and usage remains stable as compared against Village's current population of

approximately 24,000 residents, the result is an additional capacity of 130,000 gallons per day or 5.4 gallons, per capita, per day. Specific demand generated by any proposed site plan will be evaluated at time of permitting by Miami-Dade County's WASD.

Finding: Consistent.

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 area is served by an 8 inch sanitary sewer gravity main line.

Finding: Consistent.

Obj. 4C.1 Maintain Adopted Level-of-Service Standards.
Coordinate with the Federal Emergency Management Agency (FEMA), South Florida Water management District (SFWMD), and Miami-Dade County Department of Environmental Resource Management (DERM) to ensure the Village's stormwater management system meets or exceed adopted LOS design standards over the planning period.

Analysis: The Village currently is seeking certification to participate in the Community Rating System (CRS) flood management program for the benefit of its property owners. Evaluation of water retention and stormwater drainage is incorporated into all of the Village's plan reviews. This evaluation shall occur at the time of site plan review and permitting to ensure compliance.

Finding: Not applicable as such review occurs at the time of site plan review (in the form of a note committing to compliance) and at building permitting.

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 Village of Palmetto Bay generates approximately 41,000 tons of solid waste annually which equals a rate of approximately 9.3 pounds, per-capita, per day. This accounts for only approximately 1.5% of total waste generated. As of 2003, the South Dade Landfill has a capacity of 9.148 million tons with a life expectancy through 2032. Actual impact to LOS of any site plan shall occur at site plan review and building permitting.

Finding: Consistent.

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 5.2 acres of developed park area per 1,000 residents by 2009, and an LOS of 5.0 acres by 2025.

Analysis: Based on current Village population (approximately 24,100) and inventory of existing Village parks (85 acres), current LOS equals approximately 3.41 per 1,000 residents ~~person~~. The Applicant proposes, via covenant to the Village, to convert the south three acres of the property to park land to serve as a transition area to the adjacent single-family residential to the south. This addition will result in an increase LOS of .13 for a total LOS of 3.54 per 1,000 residents ~~person~~. Further, because of the proposed park covenant, leasehold or easement that portion of the project which is to remain with land use and zoning designations of residential shall dilute the Park LOS. The Village could designate the park land as "Parks and Recreation", under the FLUM, which would resolve this "dilution."

Finding: Conditionally consistent provided applicant provides a covenant, easement or leasehold document running with the land relating to the park use of the 3.0973± acres- in a form to be approved by the Village Attorney.

Capital Improvements Element

Obj. 9.3: Concurrency and Level-of-Service (LOS) Standards.
Make the availability of high-quality public facilities at adopted LOS standards concurrent with the impacts of development, an important basis for future land planning and capital decisions.

Analysis: Please see all Goals, Objectives and Policies reviewed in this Subsection. The proposed FLUM amendment and rezoning does not negatively impact minimum Level of Service for sanitary sewer, solid waste, drainage, potable water and transportation. Actual LOS of the project shall be reviewed at time of site planning and building permit review.

Finding: Conditionally consistent as provided for in each element of this Subsection herein.

Education Element

Obj. 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 Applicant proposes, via covenant to the Village, to convert the south 3.0973± acres of the property to park land to serve as a transition area to the adjacent single-family residential properties to the South. All public schools within the Village are under capacity and the proposed site plan proposal of the Applicant is to not include residential construction. As such, there is no impact provided the property is not developed for residential use.

Finding: Conditionally consistent provided applicant provides a covenant, easement or leasehold document running with the land relating to the park use of the 3.0973± acres- in a form to be approved by the Village Attorney.

SUBSECTION II – FUTURE LAND USE AMENDMENT

The following is a review of the request pursuant to the Village's variance criteria found at Section 30-30.8(b) of the Land Development Code. The Background Section and the Analysis Section, at Subsection I of this report is hereby incorporated by reference into this analysis.

Criteria (1) Whether the proposal is internally consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: Please see Subsection I of this Analysis. Site specific LOS calculations shall be performed at the time of site planning and building permit as appropriate.

Finding: Conditionally consistent as per the findings of Subsection I of this Analysis.

Criteria (2) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing Comprehensive Plan, and whether the changes support or work against the proposed amendment.

Analysis: The History Section is hereby incorporated as back-up to this analysis herein by reference. As presented in the History Section of this report, a number of events have occurred regarding conditions that affect the existing and future development of the site starting with Resolution No. Z-38-82 and the associated Declaration of Restrictions, which granted an "unusual use" variance to a portion of the property and required a written consent from surrounding residents prior to seeking a rezoning or another unusual use request.

In 2005, the Village Council adopted the FLUM designations for the Village, and provided a Business Office designation for those areas that were already developed for car dealership use along US 1, and for the area that was being used for the unusual use, relating to the car dealership. This was a change from the Miami-Dade County designation for the back-half of the property, which previously had a residentially designation under the County Comprehensive Master Plan.

Since that time, the Village amended its zoning code to eliminate the practice of allowing "use variances." In so doing, the Applicant's property became legal non-conforming, in that the use, if discontinued or ceased, would not be entitled to be re-established. The Business Office designation, however, is consistent, with the current use. Therefore, by rezoning those portions of the land currently approved for commercial operations, the property would come into conformance with both the land use designation and zoning.

Another change since the 1980 approval which imposed the Declaration of Restrictive Covenants, is that the Applicant was successful in securing the requisite number of signatures from the surrounding community to permit the Applicant to request a rezoning, and therefore, to also seek the site plan modification. The site plan modification is not precluded by the Declaration of Restrictive Covenants, except to the extent that the covenant required a cluster home development on that portion of land, and required the community "sign-off" to request the rezoning. Before either the rezoning or site plan can be approved, approximately 1.9344 acres of the FLUM must be changed from Low Density Residential to Business Office, hence, the Applicant's reason for this request.

Finding: Consistent.

Criteria (3) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed neighboring property land use.

Analysis: Goal 1 for Subsection I, above, is incorporated into this analysis herein by reference. The area subject to the FLUM amendment will be utilized, if approved by the Village Council, for an expansion southward of the existing auto dealership use, which is appropriately designated Business Office under the FLUM. Further, the Applicant proposes converting the remaining 3.0973± acres of residentially designated land South thereof as a passive park to be dedicated to Village via a covenant, leasehold or easement. The passive park buffer covers a distance of over 200 feet (north to south). The passive park would not only provide screening of the commercial use but may also increase the property values of the single-family homes adjacent to the use.

Finding: Conditionally consistent provided Applicant provides a covenant, easement or leasehold document running with the land relating to the park use of the 3.0973± acres in a form to be approved by the Village Attorney.

Criteria (4) Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: Please see Criteria 2 and 3. Statistical data was not produced that provides a clear projection of property values to the adjacent residential neighborhood, however, conventional wisdom would suggest a rise in value of adjacent commercial properties should the Applicant's project move forward. Conversion of the remaining residentially designated areas to park usage should provide buffering to the adjacent residential uses, which may in turn have a positive effect on those property values. Finally, estimated at \$30 million worth of construction, the project, if completed, and its corresponding increase in property values of adjacent commercial parcels, may have the effect of reducing the tax burden of the adjacent and Village-wide residential properties.

As per discussions with the Applicant, the car dealership could be put at risk if certain fundamental upgrades are not timely achieved. Failure to do so may actually result in a devaluation of the property values for the over 13 acres of land that constitute the entire property. Loss of the BMW, Mini Cooper and Honda franchises could represent a loss in property value to the development itself and the surrounding commercial properties. In this scenario, real estate tax burden is shifted to residential properties.

Finding: Conditionally consistent provided Applicant provides a covenant, easement or leasehold document running with the land relating to the park use of the 3.0973± acres- in a form to be approved by the Village Attorney.

Criteria (5) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.

Analysis: The proposed FLUM amendment is compatible with the existing BO designation just north thereof. Further, the remaining 3.0973± acres of residentially designated land south thereof is to be dedicated as a passive park to the Village via a covenant, or other legal instrument. The passive park buffer covers a distance of over 200 feet (North to South). The passive park would not only provide screening of the commercial use but may also increase the property values of the single-family homes adjacent to the use.

The FLUM amendment along with the requests for rezoning and site plan approval will result in a more cohesive and orderly development plan. A positive effect of the amendment and modified site plan would render the existing dealership use and proposed expansion consistent with the proposed land use designation. A potential negative effect, unless regulated further by the Village Council or the development plan, would be to allow via the land use designation multiple uses such as hospital, or commercial recreational facility - should the proposed plan not be implemented.

Finding: Conditionally consistent provided a covenant or other legal instrument runs with land tying the property to the park use for the 3.0973± acres.

Criteria (6) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of the Comprehensive Plan.

Analysis: The History Section, Subsection I, and Criteria 1, 3, 4, and 5 are incorporated herein by reference. Pursuant to the existing Declaration of Restrictions any rezoning of the property requires consent of a certain portion of the property owners within a certain distance to the site (100% of 5 properties and 75% of the remaining "neighborhood" area as defined in the covenant). The required number of signed letters of consent, as confirmed by Miami-Dade County, are submitted with this application and authorize the Applicant to seek a rezoning to B-2. Before the rezoning may proceed, the approximately 1.9344 acres of the land requires a modification to its land use designation from Low Density Residential to Business Office.

Finding: Conditionally consistent provided, however, the signatures remain valid, a covenant runs with land tying the property to the Applicant's proposed site plan, and the remaining residentially designated portions of the property are designated for park use. In light of the Applicant's ability to attain the required signatures from the community, and due to the referenced analysis above, the request is consistent with the public interest, and is in harmony with the purpose and interest of the Comprehensive Plan.

Criteria (7) Whether the proposed amendment meets the requirements of Section 163.3161, Florida Statutes, entitled "The Local Government Comprehensive Planning and Land Development Regulation Act."

Analysis: Recent changes to Florida land use laws leveraged greater authority in the review and processing of small-scale land use amendments (those less than 10 acres). Submission, review and proposed implementation of the application is consistent with those provisions. The proposed small-scale amendment to amend the 1.9344 acre area from Low Density Residential to Business Office meets the requirements of Section 163.3161, Florida Statutes, as amended.

Finding: Consistent.

Criteria (8) Other matters which the Local Planning Agency [here the Village Council], in its legislative discretion, may deem appropriate.

Finding: Decision for the Village Council.

SUBSECTION III – REZONING

The following is a review of the request pursuant to the Village's rezoning criteria found at Section 30-30.7(b), of the Land Development Code. The Background Section and the Analysis Subsection I of this report is hereby incorporated by reference into this analysis.

Criteria (1) Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the Village's concurrency management program.

Analysis: Please see Subsection I and Subsection II, Criteria 1 of this Analysis.

Finding: Conditionally consistent as per the findings of Subsection I, and Subsection II, Criteria 1 of this Analysis.

Criteria (2) Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: Please see Subsection II, Criteria 2.

Finding: Conditionally consistent provided the signatures remain valid and the Land Use amendment is approved.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Please see Subsection II, Criteria 2.

Finding: Conditionally consistent provided the signatures remain valid and the Land Use amendment is approved.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: Please see Subsection II, Criteria 5. Approximately half of the vacant land portion of the application is already designated for the Business Office (BO) use. If the 1.9344 additional acres of BO Land Use is authorized, then that entire are may be rezoned. The rezoning would allow the continued, conforming use, of that portion of the property for the car dealership and proposed associated repair facility uses. Although there may be an impact, as the land was previously vacant, the use would be buffered through the

development of a park, would allow for better traffic flow, and would be consistent with surrounding existing uses and proposed land uses. US-1 has the greatest intensity of uses within the Village. The car dealership site plan use would preclude additional residential units from being developed, and would ensure that the residential properties behind and to the side of the proposed park are provided a natural barrier from the commercial intensities of US-1.

Findings: Conditionally consistent provided a covenant or other legal instrument runs with land tying the property to the park use for the 3.0973± acres.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: Please see Subsection I and Subsection II, Criteria 1 of this Analysis.

Finding: Conditionally consistent as per the findings of Subsection I, and Subsection II, Criteria 1 of this Analysis.

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

Analysis: The majority of the site subject to this rezoning request, 6.7305 net acres, is currently developed with a 3-story new car parking garage and surface parking. The remaining portion is open field with sparse landscaping. Only 1.9344 acres of the lot which is subject to the rezoning request is designated Low Density Residential with the remaining portions Business Office. That portion not subject to the rezoning is to remain Low Density Residential and be dedicated via covenant, leasehold or easement as a passive park use to buffer any future commercial development.

Finding: Consistent.

Criteria (7) Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: Please see Subsection II, Criteria 4.

Finding: Conditionally consistent provided the remaining residentially designated portions of the property are designated for park use.

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on land use pattern shall be identified.

Analysis: Please see Subsection II, Criteria 5.

Finding: Conditionally consistent provided a covenant or other legal instrument runs with land tying the property to the park use for the 3.0973+ acres.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of Chapter 30.

Analysis: Please see Subsection II, Criteria 2. The existing Declaration of Restrictions requires concurrence by certain property owners of any changes to the existing zoning at the property. Once the required signatures were obtained and submitted the Village Council is then authorized to consider the Applicant's request for rezoning to B-2.

Finding: Conditionally consistent provided the signatures remain valid, and prior to second reading of the rezoning the FLUM amendment must be approved and the Village Council votes to release the exiting Declaration of Restrictive Covenants, dated May 28, 1980, and recorded at Official Record Book 10973 at Pages 1003 through 1009.

Criteria (10) Other matters which the Local Planning Agency or the Village Council in its legislative discretion may deem appropriate.

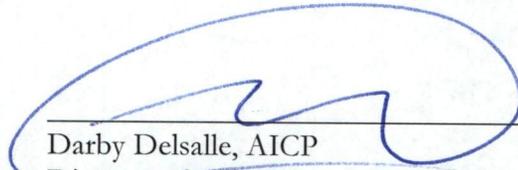
Finding: Decision for the Village Council.

H. RECOMMENDATION:

The FLUM amendment and rezoning are consistent, with the Zoning, Land Development Regulations and Comprehensive Plan provided the following conditions are met:

1. Prior to second reading of the rezoning, the Village Council authorizes the release of the exiting Declaration of Restrictive Covenants, dated May 28, 1980, and recorded at Official Record Book 10973 at Pages 1003 through 1009.
2. Covenant, easement or leasehold document running with the land relating to the park use of the 3.0973± acres in a form to be approved by the Village Attorney.

3. Prior to second reading of the rezoning the FLUM amendment must be approved.



Darby Delsalle, AICP
Director of Planning and Zoning

Darby Delsalle

From: Ferro, Simon <SFerro@gunster.com>
Sent: Friday, August 30, 2013 6:34 PM
To: Darby Delsalle
Subject: Expert witnesses for South Motor
Attachments: RG_Employment_resume.pdf; Herbert Martin - 2013.pdf; Bruce Ford - 2013.pdf

Good afternoon Darby, hope all is well. Attached for your review are the curriculum vitae of the following individuals who may testify at the September 16, 2013 hearing for South Motor:

Bruce Arthur: Architect. Will testify to any and all issues relating to the site plan.

Bruce Ford: Architect. Will testify to any and all issues relating to the proposed site plan.

Herbert Martin: Landscape Architect. Will testify to any and all issues relating to landscaping o the property.

Richard Garcia: Traffic Consultant. Will testify to any and all issues relating to traffic.

Thanks,

Simon



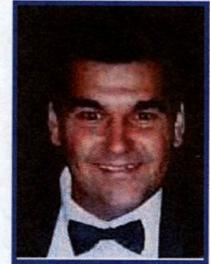
GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Simon Ferro | Shareholder
2 South Biscayne Boulevard, Suite #3400
Miami, FL 33131-1897
P 305-376-6016 C 305-431-4922
gunster.com | SFerro@gunster.com

Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein. Click the following hyperlink to view the complete Gunster IRS Disclosure & Confidentiality note.

<http://www.gunster.com/terms-of-use/>

RICHARD GARCIA, M.Sc., P.E.



EDUCATION: **Master of Science in Civil Engineering**
1996–1997 Florida International University Miami, FL
Bachelor of Science in Civil Engineering
1993–1995 University of Miami Miami, FL
Associate in Arts Degree
1991–1993 Miami Dade Community College Miami, FL

REGISTRATION: **Florida Board of Professional Engineers P.E. No. 54886**

EXPERIENCE:

2003-Present Richard Garcia & Associates, Inc. Miami, FL

President

- Founded firm and established S corporation.
- Established qualifications with the Florida Department of Transportation in 7 workgroup categories.
- Obtained DBE (Disadvantaged Business Enterprise) and MBE (Minority Business Enterprise) certification.
- Qualified the RGA firm in the Miami-Dade County's Equitable Distribution Program (EDP).
- Prepared RFP (Request for Proposals), entered in negotiation and obtained contracts.
- Developed business relations and marketing strategies through networking with fellow colleagues.
- Engineer of Record for all engineering services including: planning, design, analysis and data collection.
- Established Project Costing system and maintained accounts payable and receivable.

1998–2003 Florida Department of Transportation Miami, FL

Traffic Operations Engineer

- Project Manager for District Minor Design (Pushbutton) Contract.
- Project Manager for Traffic Operations Studies.
- Respond to citizen request and meet with County, Cities and Municipalities to address traffic safety and operational issues.
- Develop (SOS) Scope of Service, Contract Negotiations and RFP's (Request for Proposal) to establish consultant services.
- Coordinate design projects with construction personnel.
- Review SOS, design plans and traffic reports for various Departments and Miami-Dade County.

1998–1998 Florida Department of Transportation Miami, FL

District Permits Engineer

- In responsible charge for all District VI permit issuance for concurrency with Department Standards and statutory regulations.
 - Develop non-compliant permit request for AMRC (Access Management Review Committee) evaluation.
-

-
- Provide support to DIC (Development Impact Committee) of Miami-Dade County on Department of Transportation's requirements.
 - Supervise Staff of four (4) to ensure all permits receive due process and are maintained in PITS (Permits Information Tracking System) database.

1995-1998 Florida Department of Transportation Miami, FL

Assistant District Permits Engineer

- Review plans, traffic impact studies and documentation in response to permit request.
- Analyze P&G (paving and grading), site layout, access management, W&S (water and sewer), drainage and signalization plans for compliance.
- Provided support to the public, developers, architects and engineers with the permitting process.

1992-1995 Hi-Performance Sales, Inc. Miami, FL

President / Sole Proprietor

- Develop local, regional and export accounts for WD (warehouse distribution), wholesale (Jobber), and consumer (Retail) accounts.
- Establish a marketing and master business plan, accounts receivable/payable, advertising strategies and sales analysis.
- Maintain all business documents, records and taxes.

1987-1991 H.P.W. of Florida, Inc. Miami, FL

District Manager

- Complete managerial control of retail sector for the district.
- Maintain monthly, quarterly and annual profits and losses records and developed promotional advertising and analysis system.
- Personnel recruitment, training and productivity monitoring.
- Managed 5 locations with 15 employees.

1981-1987 Miami Parts & Springs (DBA: U-Auto Do It) (AKA: North American TBA)

General Store Manager

- In charge of general store operations.
 - Primary duties consisted of scheduling, cash register receipts and deposits, hiring/firing, employee training, inventory sales analysis and store upkeep.
 - Maintained and improved sales at 3 different locations while employed.
 - Managed two store assistants and approximately 10 employees.
-

Herbert Lester Martin, Landscape Architect
5965 Southwest 38th Street Miami, Florida 33155 (305)790-4372
LA #0001722 LC#26000404
hlmartinufiu@bellsouth.net

Landscape Architect Resume

Professional Experience

April 2010 to present

The firm of H.L. Martin, Landscape Architect, PA., was founded in April 2010.

The role of the firm is to provide landscape architectural design services to a variety of clients, including architects & general contractors. The range of projects has included residential, commercial, & educational facilities located primarily in the south Florida region. The work has involved the preparation of landscape, irrigation, lighting and tree surveys drawings for project submittal & permitting assistance.

1996 to February 2010: Dixie Landscape Company, Inc.

Employed originally as an apprentice Landscape Architect, while working to obtain the education requirements for licensure in the state of Florida.

Obtained professional licensure, in the state of Florida, November 2000

Registered Landscape Architect, LA#0001722

As a condition of license renewal, obtained required CEUs (Continued Education Units) in 2003, 2005, & 2007, 2009 & 2011.

Upon obtaining state licensure in November 2000, my professional experience included the overseeing and management of the Design Department at Dixie Landscape. The scope of projects during that 10 year time span ranged from small residential & commercial projects to resort hotels and large scale residential communities. My primary responsibility was to oversee the production of landscape & irrigation construction documents, preparation of cost estimates, obtain the required permits and review site installations. A partial project list is as follows:

- Setai Hotel, Miami Beach, Florida
- Plaza Alegra, Miami-Dade County, Florida
- Harbour Lakes Estates, Miramar, Florida
- WCI Communities, Parkland, Florida
- Doral Isles, Miami-Dade County, Florida
- Regency Resort & Spa, Hallandale Beach, Florida

- Martin's Crossing, Martin County, Florida
- Newport Isles, Port St. Lucie, Florida
- Skyridge Valley, Clermont, Florida
- Sole Condominium, Sunny Isles Beach, Florida
- Paradiso / Gansevoort South, Miami Beach, Florida
- Southern Command Headquarters, Doral, Florida
- AMC Housing, McDill AFB, Tampa, Florida.

1993-1996: Filer & Hammond Architects

Employed as an architectural draftsman. My responsibilities included the preparation of architectural construction documents for a variety of projects. The scope of work included commercial, residential, & institutional projects. Additional responsibilities included research & documentation of existing buildings and the procurement of construction permits.

1985-1993: William Cox, Architect, PA

Employed as an Intern Architect / Architectural Draftsman. My responsibilities included the preparation of architectural construction documents for a variety of projects. The scope of work included condominiums, resort hotels, and estate projects. Further experience included assisting the principal in the preparation of architectural presentations.

Education

Master of Landscape Architecture, Florida International University, December 1997

Bachelor of Design in Architecture, University of Florida, June 1986

Associate of Arts, University of Florida, August 1984

c o n t a c t

Bruce E. Ford
18700 Southwest 84th Avenue
Cutler Bay, Florida 33157
Cel. 305.495.2564
Email: bruce@oldcutlerdesign.com

e d u c a t i o n

Colonial Drive Elementary August 1978 - June 1986
Richmond Heights Junior High August 1987 - June 1989
Miami Killian Senior High August 1989 - June 1992
Florida International University August 1992 - May 1997
University of Florida August 1997- May 1999

d e g r e e s

High School Diploma June 1992, Miami Killian Senior High School
Bachelor of Design in Architectural Studies April 18, 1997, Florida International University
Masters of Architecture April 30, 1999, University of Florida

c o m p u t e r a b i l i t i e s

AutoCAD R10, 11, 12, 13, 14, 2000, 2002i, 2004, 2008, 2010, 2011, 2012, 2013
3D Studio Max, 3D Studio Viz
Adobe Photoshop, Adobe Illustrator
Adobe Acrobat
Corel Draw & Photopaint X6
Microsoft Word, Excel, Publisher & Frontpage (OpenOffice)
Windows 1.0, 3.1, 95, 98, ME, NT 4.0, 2000, XP, Vista, 7, 8
Windows Server 2003 (Not Certified)
MSDos 1.0 - 6.0

c o m m i t t e e s

American Institute of Architects, Board of Directors
Associate Director
November 1999 - 2002

Marine Life Preservation Society, Board of Directors
Director
September 1999 - 2004

Committee to Redesign Bicentennial Park - Design Committee – City of Miami
Architectural Member
September 2000-February 2001

Virginia Key Beach Civil Rights Task Force - Architectural / Engineering Subcommittee
Architectural Member
June 1999 - February 2000

Perrine Peters United Methodist Church, Board of Trustees
Chairman 2002 (January 2000 – 2002)

Chairman 2006 – 2008 (January 2006 – 2008)

South Florida Urban Ministries – Branches Planning & Development Committee
Committee Member – Planning for New Facility in Florida City, Florida
September 2007 – present (ongoing planning)

**p r o f e s s i o n a l
e x p e r i e n c e**

WHA Design, Inc.

Designer / Partner / Vice President

December 2002 – present

9867 Southwest 184th Street, Palmetto Bay, FL 33157

Supervisor: Bruce Arthur, William Arthur

Worked on various architectural projects focusing on Automotive Dealership and new Commercial structures. Project List and Examples can be furnished upon request.

Edward Lewis Architects, Inc.

Architect

June 4, 1999 – December 2002

250 Bird Road, Suite 212, Coral Gables, Florida 33146

Supervisor: Edward Lewis

Worked on various architectural projects focusing on Health Care and Commercial renovations. Duties also included developing the graphics for the marketing of the firm including the RFQ and RFP process. A web site was also designed and published allowing for the entire firm to exhibit its past experience, employee resumes, and a design-build service.

David Wann - The Ford Foundation

February 4-6, 1999

Coordinated interviews during a Sustainability Conference held in North Miami. The final goal was a video summarizing the weekend to be given to various communities as an educational tool for development.

University of Florida

August 1998 - May 1999

1130 Washington Avenue - Old City Hall 3rd Floor

Miami Beach, Florida 33139

305.337.5485

Supervisor - Daniel Williams, FAIA

Position - Graduate Research Assistant

Organized and ran the research center on Miami Beach, coordinated through Daniel Williams. Conducted research on Miami Beach on local issues including post-disaster planning. Also worked with the University of Miami in the same position, developing programs for their architecture and architecture / engineering students during the Fall 1998 semester.

Florida International University

August 1995 - May 1997

University Park Campus College of Engineering and Design, Miami, Florida

305.348.3181

Supervisor - Camilo Rosales, Associate Professor

Position - Teacher's Assistant

Accumulated research for an Architectural History class, occasionally taught the class for the professor, and oversaw the schools.

p r o j e c t e x p e r i e n c e

Daniel Williams - Daniel Williams Architect

September 1998

Assisted in the arrangement and presentation of "The South Dade Watershed Project" to be submitted to the American Institute of Architects. It was given the Silver Medal Award in 1999.

Daniel Williams - Daniel Williams Architect

December 1998 - February 1999

Developed a Web Page for the American Institute of Architects to help educate architects on the various design principles and materials for sustainability. The final product was a web page with links to resources for the various stages of design development and construction.

Professor Roger Schlutz - University of Miami & The University of Florida

November 1998

Coordinated a charette between the University of Miami and the University of Florida for the Marine Life Preservation Society's Manatee Hospital and Halfway House located at the Miami Seaquarium. The program was written and a two-day charette at the Seaquarium took place in hopes of attaining funding to pursue this project.

continued
project experience

Rene Gonzalez

February 1997 - March 1997
1632 Pennsylvania Avenue - Studio 217
Miami Beach, Florida 33139
305.672.5877
Supervisor: Rene Gonzalez, AIA
Position: Designer
Duties: Worked on an addition and presentation model for a residence on Miami Beach

Rosales & Stadthagen PA Arch

Miami, Florida
305.229.0555
Supervisor: Camilo Rosales, AIA
Position: Designer
Duties: Completed main design concept drawings for a residence and group of town houses to be built in South America.

other experience

Miles Tile and Marble, Inc.

June 1992- January 1993
3932 NW 167 Street Miami, FL 33054
305.626.9223
Supervisor: Ruel Miles, President
Donald Cook, Accountant
Position: Chief Estimator
Duties: Worked in main office preparing bids, overseeing job status, and reviewing billing and ordering procedures of materials.

exhibitions

- 1993 Festival of the Trees, Miami, FL Design 1 Professor Rene Gonzalez
- 1994 Final Review and Exhibition, Florida International University Ballrooms, Miami, FL Design 2 Prof Enrique Madia Vizcaya Baths
- 1994 Final Review and Exhibition. Florida International University Ballrooms. Miami, FL Design 3 Prof Raphael Vinoly Downtown Miami Cultural Center
- 1995 Final Review and Exhibition. Florida International University Ballrooms. Miami, FL Design 4 Prof Rene Gonzalez Monastic Retreat
- 1995 VH 2nd Floor Exhibition, Florida International University, Miami, FL Design 4 Prof Rene Gonzalez Monastic Retreat
- 1995 VH 2nd Floor Exhibition. Florida International University. Miami, FL Design 5 Prof Camilo Rosales Coconut Grove Art Museum.
- 1995 Final Review and Exhibition. Florida International University Ballrooms. Miami, FL Design 6 Prof Jaime Canaves Little Havana Housing Complex.
- 1996 Final Review and Exhibition. Florida International University Ballrooms. Miami, FL Design 7 Prof Michael Prentis Café Project

charettes

Manatee Hospital and Halfway House

Sponsored by the University of Florida, University of Miami, the Miami Seaquarium, and the Marine Life Preservation Society. This charette was organized and coordinated by myself and professor Roger Schluntz, as well as its program and final product produced by myself and students from the University of Florida.

Virginia Key Beach Civil Rights Charette

Participated as a member of the Virginia Key Beach Civil Rights Task Force's Architectural / Engineering Subcommittee which organized and coordinated the charette. The final product was a presentation design scheme to be given to the Miami City Commission.

Bicentennial Park Charette

Sponsored by the City of Miami and organized by Dover Kohl & Partners. Was an active participant helping design as well as serving as a committee member collecting and preparing information.