

RESOLUTION NO. 03-110

ZONING APPLICATION 03-12-VPB-1 (03-149)

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF EDWARD HAAS FOR ALTERNATIVE SITE DEVELOPMENT ORDER; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made applications for alternative site development order and for alternative non-use variance, as described in the Miami-Dade Department of Planning and Zoning Recommendation to 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 December 16, 2003; and,

WHEREAS, the mayor and village council finds, based on substantial competent evidence in the record, that the application for alternative site development order is consistent with the Miami-Dade County 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 hearing on the present applications was held on December 16, 2003 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 Edward Haas. The property is an existing legally non-conforming single family residence located at 17301 Old Cutler Road.
2. The applicant requests re-zoning EU-2 to EU-1C.

3. Applicant is requesting approval to permit a servant's quarters/garage addition to a single family residence setback varying from 7.51' to 12.97' from the interior side (north) property line. (The underlying zoning district regulation requires 15').
4. Applicant is requesting approval to permit a swimming pool setback 11.5' from the interior side (south) property line. (The underlying zoning district regulation requires 20').
5. Applicant requests NON-USE VARIANCE OF SUBDIVISION REGULATIONS prohibiting structures within the right-of-way; to waive same to permit an existing 6' high coral rock wall within the zoned right-of-way of Old Cutler Road.
6. The village council adopts the portions of the cover sheet to, and the county recommendation, entitled Zoning Hearings History, Comprehensive Development Master Plan (CDMP), Neighborhood Characteristics, Site and Buildings and Neighborhood Services as its findings of fact.

Section 3. Conclusions of law.

1. The village council adopts the portions of the county recommendation, entitled Pertinent Requirements/Standards-Alternative Site Development for Single Family and Duplex Dwellings, Alternative non-use variance standard and Non-Use Variances from other than Airport Regulations; and Analysis as its conclusions of law.
2. The village council further concludes that the application for alternative site development order is consistent with the Miami-Dade County comprehensive plan and complies with the applicable land development regulation, §33-311(A)(14) (Alternative Site Development Option) or §33-311 (A)(4)(b) or (c) (Alternative Non-Use Variance).

Section 4. Order.

The village council accepts the county recommendation at page 9. The application for zone change to EU-1C under §33-311(A)(8) is approved and approval of requests numbered 3, 4 and 5 listed in this document under "Findings of Fact" is granted provided that the applicant comply with all applicable conditions and requirements of the public works department; provided that the guest house/servant's quarters shall not be leased; and provided the applicant shall not subdivide the parcel and shall execute a unity of title for the property. Applicant voluntarily withdrew his original request numbered 4 in the county recommendation at Page 1.

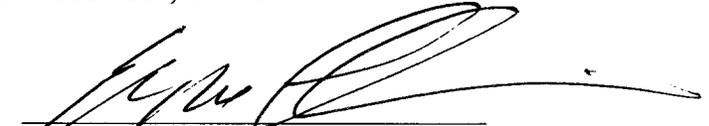
Section 5. Record.

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

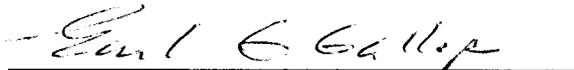
Section 6. This resolution shall take effect immediately upon approval.

PASSED and ADOPTED this 16th day of December, 2003.

Attest: 
Meighan Pier
Village Clerk


Eugene P. Flinn, Jr.
Mayor

APPROVED AS TO FORM:


Earl G. Gallop,
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Ed Feller	<u>Yes</u>
Council Member Paul Neidhart	<u>Yes</u>
Council Member John Breder	<u>Yes</u>
Vice-Mayor Linda Robinson	<u>Yes</u>
Mayor Eugene P. Flinn, Jr.	<u>Yes</u>

1. EDWARD HAAS
(Applicant)

03-12-VPB-1 (03-149)
VPB/District 8
Hearing Date: 12/16/03

Property Owner (if different from applicant) Same.

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

Disclosure of interest form attached? Yes No

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
				NONE

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

MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE VILLAGE OF PALMETTO BAY

APPLICANT: Edward Haas

PH: Z03-149 (03-12-VPB-1)

SECTION: 35-55-40

DATE: December 16, 2003

ITEM NO.: 1

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A. INTRODUCTION



REQUESTS:

- (1) EU-2 to EU-1C
- (2) Applicant is requesting approval to permit a servant's quarters/garage addition to a single family residence setback varying from 7.51' to 12.97' from the interior side (north) property line. (The underlying zoning district regulation requires 15').
- (3) Applicant is requesting approval to permit a swimming pool setback 11.5' from the interior side (south) property line. (The underlying zoning district regulation requires 20').
- ~~(4) NON-USE VARIANCE OF ZONING AND SUBDIVISION REGULATIONS requiring 100' of roadway dedication for Old Cutler Road; to waive same to permit 35' of dedication for the east half of Old Cutler Road (50' required).~~
- (5) NON-USE VARIANCE OF SUBDIVISION REGULATIONS prohibiting structures within the right-of-way; to waive same to permit an existing 6' high coral rock wall within the zoned right-of-way of Old Cutler Road.

Upon a demonstration that the applicable standards have been satisfied, approval of such requests may be considered under §33-311(A)(14) (Alternative Site Development Option) or under §33-311(A)(4)(b) or (c) (Alternative Non-Use Variance).

Plans are on file and may be examined in the Zoning Department entitled "Edward Haas Residence," as prepared by Aviñó & Associates, consisting of 2 sheets and dated 6/30/03. Plans may be modified at public hearing.

o SUMMARY OF REQUESTS:

This application will allow the applicant to change the zoning on the property from EU-2, Single Family Five Acre Estate District, to EU-1C, ~~Single Family Two and One-Half Acre Estate District~~. The requests will also permit the existing servant's quarters/garage addition to a single family residence and an existing swimming pool to remain setback closer to certain property lines than permitted, will permit a 35' dedication for the east half of Old Cutler Road, and will allow an existing 6' high coral rock wall to remain within the zoned right-of-way of Old Cutler Road.

o LOCATION:

17301 Old Cutler Road, Village of Palmetto Bay, Florida.

o **SIZE:** 3.52 Acres.

o **IMPACT:**

A zone change on this site to EU-1C will bring the zoning into conformity with the size of the existing lot and will not increase the density permitted on same. The existing setback encroachments do not visually impact the surrounding area and the actual width of existing Old Cutler Road will not change. The encroachment of the existing coral rock wall does not impact visibility or traffic along the aforementioned roadway. These requests will not impact public services and will not bring additional traffic and noise into the area.

B. **ZONING HEARINGS HISTORY:** None.

C. **COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):**

1. The Adopted 2005 and 2015 Land Use Plan designates the westerly portion of subject property as being within the Urban Development Boundary for **estate density residential**. The residential densities allowed in this category shall range from a minimum of 1.0 to a maximum of 2.5 units per gross acre. This density range is typically characterized by detached estates which utilize only a small portion of the total parcel. Clustering, and a variety of housing types may, however, be authorized.
2. The Adopted 2005 and 2015 Land Use Plan designates the easterly portion of the subject property for **environmentally protected parks**.

D. **NEIGHBORHOOD CHARACTERISTICS:**

<u>ZONING</u>	<u>LAND USE PLAN DESIGNATION</u>
<u>SUBJECT PROPERTY:</u>	
EU-2, single family residence	Residential, 1 to 2.5 dua & Environmentally Protected Park
<u>SURROUNDING PROPERTY:</u>	
NORTH: EU-2 canal	Residential, 1 to 2.5 dua & Environmentally Protected Park
SOUTH: EU-2, single family residence	Residential, 1 to 2.5 dua & Environmentally Protected Park
EAST: Biscayne Bay	Environmentally Protected Park
WEST: EU-1, single family residence	Residential, 2.5 to 6 dua

The subject property is an irregular shaped lot which juts out into Biscayne Bay. There is a canal which runs along the north property line and a similar shaped parcel to the south. The lot lies on the east side of Old Cutler Road, just north of SW 174 Street.

E. SITE AND BUILDINGS:

Site Plan Review:

Scale/Utilization of Site:	Acceptable
Location of Buildings:	Acceptable
Compatibility:	Acceptable
Landscape Treatment:	Acceptable
Open Space:	Acceptable
Buffering:	Acceptable
Access:	Acceptable
Parking Layout/Circulation:	Acceptable
Visibility/Visual Screening:	Acceptable
Energy Considerations:	N/A
Roof Installations:	N/A
Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

Section 33-311(A)(8). The Board shall hear and grant or deny applications for **district boundary changes** taking into consideration that same must be consistent with the **CDMP** with applicable area or neighborhood studies or plans, and would serve a public benefit. The Board shall take into consideration if the proposed development will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts, the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment, and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development. The Board shall consider if the development will have a favorable or unfavorable impact on the economy of Miami-Dade County, if it will efficiently or unduly burden water, sewer, solid waste disposal, recreation, education, public transportation facilities, including mass transit, roads, streets, and highways or other necessary public facilities which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, street or highways.

Section 33-311(A)(14). Alternative Site Development Option for Single Family and Duplex Dwellings:

The following standards are alternatives to the generalized standards contained in zoning regulations governing specified zoning districts:

Setbacks for a single family or duplex dwelling shall be approved after public hearing upon demonstration of the following:

- the character and design of the proposed alternative development will not result in a material diminution of the privacy of adjoining residential property; and
- the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity, taking into account existing structures and open space; and
- the proposed alternative development will not reduce the amount of open space on the parcel proposed for alternative development to less than 40% of the total net lot area; and
- any area of shadow cast by the proposed alternative development upon an adjoining parcel of land during daylight hours will be no larger than would be cast by a structure constructed pursuant to the underlying district regulations, or will have no more than a *de minimus* impact on the use and enjoyment of the adjoining parcel of land; and
- the proposed alternative development will not involve the installation or operation of any mechanical equipment closer to the adjoining parcel of land than any other portion of the proposed alternative development, unless such equipment is located within an enclosed, soundproofing structure; and
- the proposed alternative development will not involve any outdoor lighting fixture that casts light on an adjoining parcel of land at an intensity greater than permitted by this code; and
- the architectural design, scale, mass, and building materials of any proposed structure or addition are aesthetically harmonious with that of other existing or proposed structures or buildings on the parcel proposed for alternative development; and
- the wall of any building within a setback area required by the underlying district regulations shall be improved with architectural details and treatments that avoid the appearance of a "blank wall"; and
- the proposed alternative development will not result in the destruction or removal of mature trees within a setback required by the underlying district regulations, with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the same side of the lot; and
- total lot coverage shall not be increased by more than twenty percent (20%) of the lot coverage permitted by the underlying district regulations; and

- the area within an interior side setback required by the underlying district regulations located behind the front building line will not be used for off-street parking except:
 - (a) in an enclosed garage where the garage door is located so that it is not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; or
 - (b) if the off-street parking is buffered from property that abuts the setback area by a solid wall at least six (6) feet in height along the area of pavement and parking, with either:
 - (i) articulation to avoid the appearance of a "blank wall" when viewed from the adjoining property, or
 - (ii) landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement regarding its maintenance in recordable form from the adjoining landowner; and
- any structure within an interior side setback required by the underlying district regulations:
 - (a) is screened from adjoining property by landscape material of sufficient size and composition to obscure at least sixty percent (60%) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure at time of planting; or
 - (b) is screened from adjoining property by an opaque fence or wall at least six (6) feet in height that meets the standards set forth in paragraph (f) herein; and
- any proposed alternative development not attached to a principal building, except canopy carports, is located behind the front building line; and
- any structure not attached to a principal building and proposed to be located within a setback required by the underlying district regulations shall be separated from any other structure by at least three (3) feet; and
- when a principal building is proposed to be located within a setback required by the underlying district regulations, any enclosed portion of the upper floor of such building shall not extend beyond the first floor of such building within the setback; and
- the eighteen (18) inch distance between any swimming pool and any wall or enclosure required by this code is maintained; and

- safe sight distance triangles shall be maintained as required by this code; and
- the parcel proposed for alternative development will continue to provide on-site parking as required by this code; and
- the parcel proposed for alternative development shall satisfy underlying district regulations or, if applicable, prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 0002), regulating lot area, frontage and depth; and
- the proposed development will meet the following:

interior side setbacks will be at least three (3) feet or fifty percent (50%) of the side setbacks required by the underlying district regulations, whichever is greater;

interior side setbacks for active recreational uses shall be no less than seven (7) feet in an EU, AU or GU zoning district or three (3) feet in all other zoning districts to which this subsection applies.

Proposed alternative development under this subsection shall provide additional amenities or buffering to mitigate the impacts of the development as approved, where the amenities or buffering expressly required by this subsection are insufficient to mitigate the impacts of the development. The purpose of the amenities or buffering elements shall be to preserve and protect the quality of life of the residents of the approved development and the immediate vicinity in a manner comparable to that ensured by the underlying district regulations. Examples of such amenities include but are not limited to: active or passive recreational facilities, common open space, additional trees or landscaping, convenient bus stops or pick-up areas for transportation services, sidewalks (including covered improvements, linkages, or additional width), bicycle paths, buffer areas or berms, street furniture, undergrounding of utility lines, and decorative street lighting. In determining which amenities or buffering elements are appropriate for a proposed development, the following shall be considered:

- the types of needs of the residents of the parcel proposed for development and the immediate vicinity that would likely be occasioned by the development, including but not limited to recreational, open space, transportation, aesthetic amenities, and buffering from adverse impacts; and
- the proportionality between the impacts on residents of the proposed alternative development and the immediate vicinity and the amenities or buffering required. For example, a reduction in lot area for numerous lots may warrant the provision of additional common open space. A reduction in a particular lot's interior side setback may warrant the provision of additional landscaping.

Section 33-311 (A)(4)(b). Non-use variances from other than airport regulations: Upon appeal or direct application in specific cases, the Board shall hear and grant applications for **non-use variances** from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.

Section 33-311(A)(4)(c). Alternative non-use variance standard. Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a public hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.

G. NEIGHBORHOOD SERVICES:

DERM	No objection
Public Works	Objects
Parks	No objection
MDTA	No objection
Fire Rescue	No objection
Police	No objection
Schools	No comment

H. ANALYSIS:

The subject property is located at 17301 Old Cutler Road and is developed with an existing single family residence. Miami-Dade County records reflect that the existing single family residence was constructed in 1925. Although this is a legally existing non-conforming lot since it was created prior to April 12, 1974, the applicant desires to change the zoning to EU-1C to make the property legally conforming with the underlying zoning. This would ensure that the applicant would be able to re-build the single family residence in the future in the event that more than 50% of the residence was ever demolished or destroyed. As such, the applicant is seeking a district boundary change on the subject property from EU-2, Single Family Five Acre Estate District, to EU-1C, Single Family Two and One-Half Acre Estate District. EU-1C zoning permits a minimum lot area of 2½ acres, a minimum lot width of 150', and a minimum lot depth of 250'. The applicant is also seeking requests to permit the existing servant's quarters/garage addition to the existing single family residence and the existing swimming pool to remain located closer to certain property lines

than permitted. Requests are also being sought to allow a narrower dedication for the east half of Old Cutler Road than permitted and to allow a portion of an existing 6' high coral rock wall to remain within the zoned right-of-way of said roadway.

The Department of Environmental Resources Management (**DERM**) has **no objections** to this application and has indicated that it meets the Level of Service (LOS) standards set forth in the Master Plan. The **Public Works Department objects** to Request #4 to allow 35 feet of dedication for the east half of Old Cutler Road where 50 feet are required. Said Department will require the property owner to dedicate an additional 15 feet for Old Cutler Road for a total of 50 feet. Said Department has **no objections** to Request #5 to allow the existing 6' high coral rock wall to remain within the zoned right-of-way of said roadway, however, the applicant will have to comply with all requirements of said Department pertaining to same. This application does not generate any additional peak hour vehicle trips.

This application will allow the applicant to change the zoning on this site in order to make it a legally conforming lot instead of a legally existing non-conforming lot. It will also allow the applicant to maintain existing structures on the site and permit a narrower dedication for Old Cutler Road than permitted by code. The Comprehensive Development Master Plan designates the westerly portion of this site for Estate Density residential use and the easterly portion of this site for Environmentally Protected Parks. The dividing line between said designations is approximately parallel to the salinity dam located in the abutting canal to the north. The CDMP would permit a minimum of 1 unit and a maximum of 3 units on this site. EU-1C zoning would allow one single family residence on this site which is **consistent** with the minimum of one single family residence that is permitted by the CDMP.

The surrounding area consists of EU-2 zoning to the north and south. EU-1 zoning lies to the west and Biscayne Bay lies to the east. A canal and a park lie to the north of the site and a single family residence lies to the south on a lot that is also a legally existing non-conforming lot. In 1999, pursuant to Resolution CZAB13-6-99, requests were granted that permitted a property located five lots to the south of this site to have a lot area of 1.7 acres and a lot frontage of 174.59'. Additionally, there is existing EU-1C zoning located three lots to the northeast of this site. As previously mentioned, the applicant has indicated that the only intent for the rezoning of this property is for it to become a legally conforming lot. The proposed zoning will be **compatible** with the surrounding area and will not adversely impact same.

The standards in Section 33-311(A)(14) provide for the approval of a zoning application which can demonstrate at a public hearing that the development requested is in compliance with the applicable alternative site development option (ASDO) standards and does not contravene the enumerated public interest standards as established. Requests #2 and 3 can be considered under said standards. The existing servant's quarters/garage addition to an existing single family residence and swimming pool meet all of the standards for the alternative site development options for setbacks for single family residences. The requests do not increase the lot coverage by more than 20% of that permitted by the

underlying zoning district; will not depart from the aesthetic character of the immediate vicinity; the existing servant's quarters/garage addition meets at least 3' or 50% of the interior side setback required by the underlying zoning district regulations and the existing swimming pool is at least 7' (plan provides 11.5') from the interior side property line. In this regard, Requests #2 and 3 meet all ASDO standards.

Requests #4 and 5 can be analyzed under Section 33-311(A)(4)(b). Further, in addition to Requests #2 and 3 meeting the ASDO standards, said requests can also be analyzed under Section 33-311(A)(4)(b). The subject servant's quarters/garage addition and swimming pool are existing and the location of said addition and swimming pool located closer to certain property lines than permitted does not adversely impact the surrounding area. The existing swimming pool is well spaced from the adjacent single family residence and the existing servant's quarters/garage addition abuts the canal to the north. As such, said structures do not visually impact the surrounding area and are compatible with same. The request to permit a portion of the existing 6' high coral rock wall that is located within the zoned right-of-way of Old Cutler Road has no objections from the Public Works Department, does not impact visibility or traffic along Old Cutler Road, nor does it impede the visibility upon entering or existing the driveway on the subject property. The non-use variance requests (Requests #2, 3, and 5) maintain the basic intent and purpose of the zoning and land use regulations and will be **compatible** with the surrounding area. However, staff does not support Request #4 to allow a 35' wide dedication for the east half of Old Cutler Road and notes that, as previously mentioned, the Public Works Department objects to same. Staff is of the opinion that said Request would be not be in keeping with other properties in this area along said roadway. Although staff recognizes that Old Cutler Road is a historical roadway, no other properties in this area have been granted a similar request. Said Request does not maintain the basic intent and purpose of the zoning and land use regulations. If analyzed under the alternative non-use variance standard under Section 33-311(A)(4)(c), the applicant would have to prove that Requests #2 through 5 are due to an unnecessary hardship and that, should said requests not be granted, it would not permit the reasonable use of the premises. However, since the property can be utilized in accordance with current EU-2 or proposed EU-1C zoning standards, staff is of the opinion that said requests cannot be approved under the alternative non-use variance standard.

Based on all of the aforementioned, staff recommends approval of the zone change to EU-1C under 33-311(A)(8) and approval of Requests #2, 3, and 5 with a condition under Sections 33-311(A)(14) and 33-311(A)(4)(b), and denial without prejudice of Request #4.

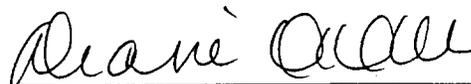
RECOMMENDATION:

Approval of the zone change to EU-1C; approval with one condition of Requests #2, 3, and 5; and denial without prejudice of Request #4.

J. **CONDITION:**

That the applicant comply with all applicable conditions and requirements of the Public Works Department.

DATE INSPECTED: 11/25/03
DATE TYPED: 12/05/03
DATE REVISED: 12/08/03
DATE FINALIZED: 12/08/03
DO'QW:AJT:MTF:JDR



Diane O'Quinn Williams, Director
Miami-Dade County Department of
Planning and Zoning

TO: Diane O' Quinn-Williams, Director
Department of Planning and Zoning

DATE: October 21, 2003

SUBJECT: C-VPB #Z2003000149-Revised
Edward Haas
17301 Old Cutler Road
DBC from EU-2 to EU-1C, Approval
to Permit an Existing SFR to Setback
less than Required and Approval to
Permit an Existing Accessory Use, to
Setback less than Required
(EU-2) (3.52 Ac.)
35-55-40

FROM: 
Alyce M. Robertson, Assistant Director
Environmental Resources Management

DERM has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of the Miami-Dade County, Florida. Accordingly, DERM may approve the application and it may be scheduled for public hearing. DERM has also evaluated the request insofar as the general environmental impact that may derive from it, and based upon the available information offers no objection to its approval.

Potable Water Supply:

Public water can be made available to this site; therefore, connection will be required.

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

Sewer Service:

Sanitary sewers are presently approximately 650 feet from this site; however, DERM has no objection that the existing residence on the subject property may continue to be served by an interim septic tank provided that the property is connected to the public water supply system. Furthermore, the existing land use complies with the sewage loading restrictions contained in Section 24-13 (3) of the Code.

Stormwater Management:

All stormwater shall be retained on site utilizing properly designed seepage or infiltration drainage structures. Drainage plans shall provide for full on-site retention of the stormwater runoff of a 5-year storm event. Pollution Control devices shall be required at all drainage inlet structures.

An Environmental Resource Permit issued by the State of Florida Department of Environmental Protection (FDEP) shall be required for the construction and operation of a surface water management plan.

Positive drainage systems or direct discharge of stormwater runoff into the neighboring canal Biscayne Bay are not permitted. Therefore, DERM will require that a berm with a top elevation of one foot above flood criteria be placed along the canal and the bay, in order to prevent discharge of stormwater runoff into the canal or the bay.

The property is adjacent to the C-100 canal, which is owned by the South Florida Water Management District (SFWMD). Accordingly, any work within the canal or its right-of-way will require review and permits from the SFWMD.

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

Site grading and development shall comply with the requirements of Chapter 11C of the Code of Miami-Dade County.

Tree Preservation:

An on-site inspection revealed the presence of specimen-sized (trunk diameter \geq 18 inches) Stangler fig (*Ficus aurea*), Gumbo limbo (*Bursera simaruba*) and Live Oak (*Quercus virginiana*) trees. Section 24-60 of the Code requires the preservation of tree resources. Consequently, DERM will require the preservation of all the specimen-sized (trunk \geq 18 inches) trees, as defined in the Code, which are on the site. A Miami-Dade County tree removal permit is required prior to the removal or relocation of any trees. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Coastal Wetlands:

Any work in, on, over or upon tidal waters or coastal wetlands including trimming or alteration of individual mangrove trees, at the subject property shall require that a Class I Permit be obtained prior to the commencement of work. Since a significant portion of the subject property borders tidal waters, jurisdictional coastal wetlands may occur at the subject site. The applicant is advised that residential development within coastal wetlands at the subject site is not consistent with Section 24-58.3 (B) of the Miami-Dade County Code.

Permits from other regulatory agencies, including the U.S. Army Corps of Engineers and the South Florida Water Management District or the Florida Department of Environmental Protection will be required if work or impacts are proposed in jurisdictional wetlands. The applicant will be required to maintain a minimum 25-foot buffer between any fill and structures and jurisdictional wetlands.

Pursuant to Section 24-27.1, Miami-Dade County Code, species listed under Policy 8I of the Conservation Element of the Comprehensive Development Master Plan may not be sold, propagated, or planted. All exotic, invasive vegetation present at the development site shall be removed prior to construction and may not be relocated, sold or transported off-site pursuant to the aforementioned Ordinance.

Freshwater Wetlands:

The subject property does not contain jurisdictional freshwater wetlands as defined by Chapter 24-3 of the Code of Miami-Dade County, Florida. Therefore, Miami-Dade County will not require a Class IV Permit for work on this application site.

Enforcement History:

DERM has reviewed the Permits and Enforcement database and the Enforcement Case Tracking System and has found no open or closed formal enforcement records for the subject properties identified in the subject application.

Concurrency Review Summary:

The Department has conducted a concurrency review for this application and has determined that the same meets all applicable Levels of Service standards for an initial development order, as specified in the adopted Comprehensive Development Master Plan for potable water supply, wastewater disposal and flood protection. Therefore, the application has been approved for concurrency subject to the comments and conditions contained herein.

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

In summary, the application meets the minimum requirements of Chapter 24 of the Code and therefore, it may be scheduled for public hearing; furthermore, this memorandum shall constitute DERM's written approval as required by the Code. Additionally, DERM has also evaluated the application so as to determine its general environmental impact and after reviewing the available information offers no objections to the approval of the request.

cc: Ruth Ellis-Myers, Zoning Evaluation-P&Z
Lynne Talleda, Zoning Hearings- P&Z
Franklin Gutierrez, Zoning Agenda Coordinator-P&Z

RECEIVED
OCT 23 2003
MIAMI-DADE COUNTY
DIRECTOR'S OFFICE
DEPT. OF PLANNING & ZONING

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Name: Edward Haas

This Department objects to this application.

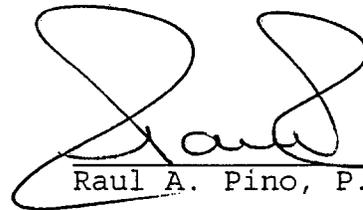
This Department objects to the variance to permit 35 feet of dedication for the east half of Old Cutler Road (50 feet required).

The property owner must dedicate an additional 15 feet for Old Cutler Road for a total of 50 feet (1/2 R/W).

This Department has no objections to the variance to permit an existing 6 foot high coral rock wall within the zoned right-of-way of Old Cutler Road, however the applicant must proffer a covenant with this Department regarding the encroachment.

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

This application does not generate any new additional daily peak hour trips, therefore no vehicle trips have been assigned. This meets the traffic concurrency criteria set for an Initial Development Order.



Raul A. Pino, P.L.S.

DEC. 08 2003

Date

TEAM METRO KENDALL OFFICE

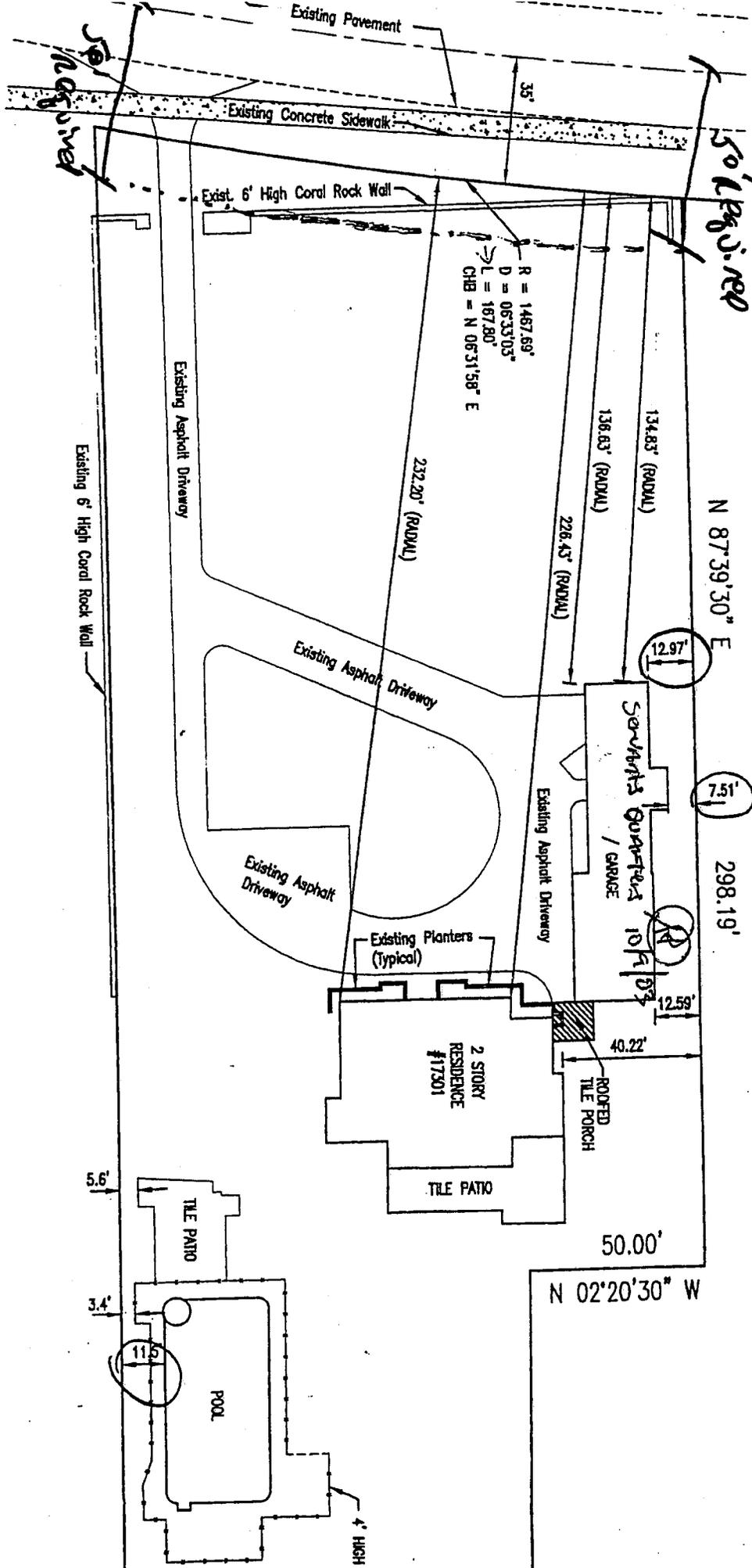
ENFORCEMENT HISTORY

Edward Haas <u>APPLICANT</u>	17301 Old Cutler Rd <u>ADDRESS</u>
12/16/03 <u>DATE</u>	03-149 <u>HEARING NUMBER</u>

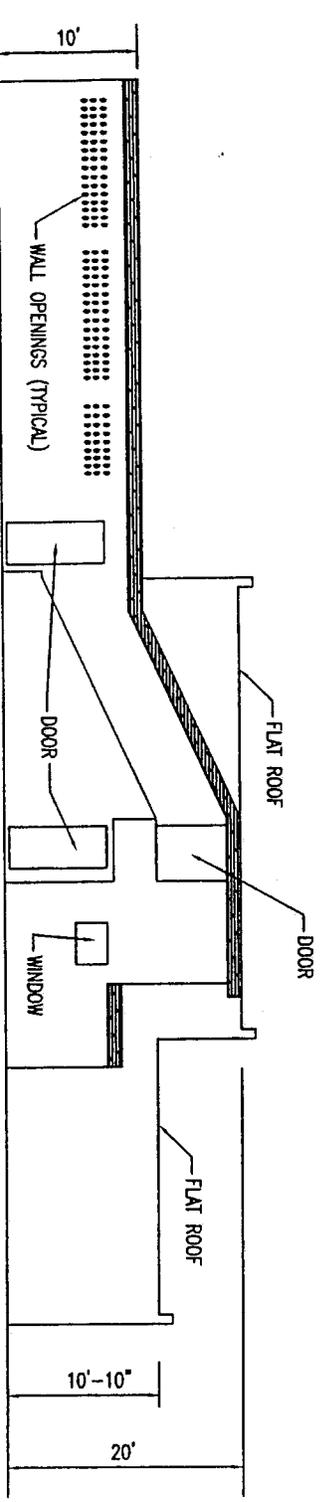
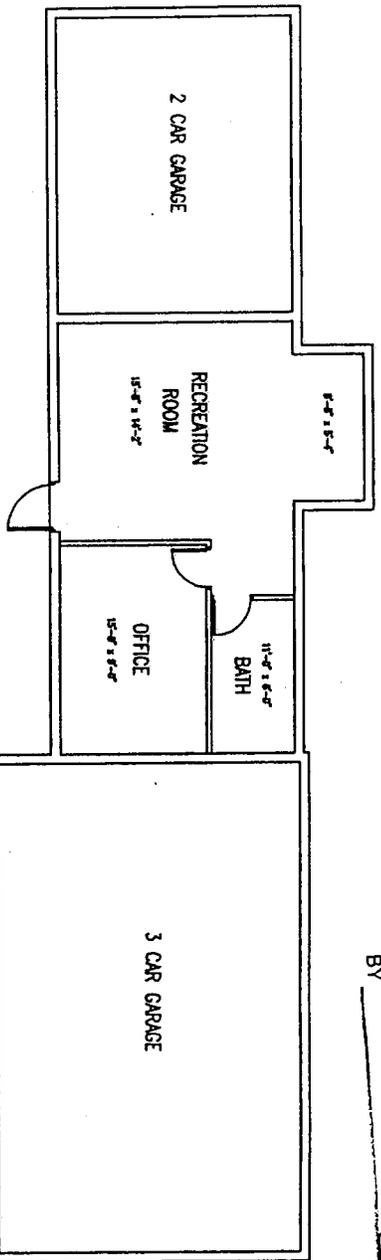
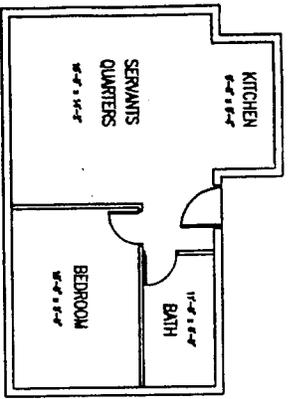
CURRENT ENFORCEMENT HISTORY:

11/25/03

An inspection revealed no current violations. No open Team Metro cases.



RECEIVED
 SEP 26 2003
 ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.
 BY _____



DATE	NO. 22/2003

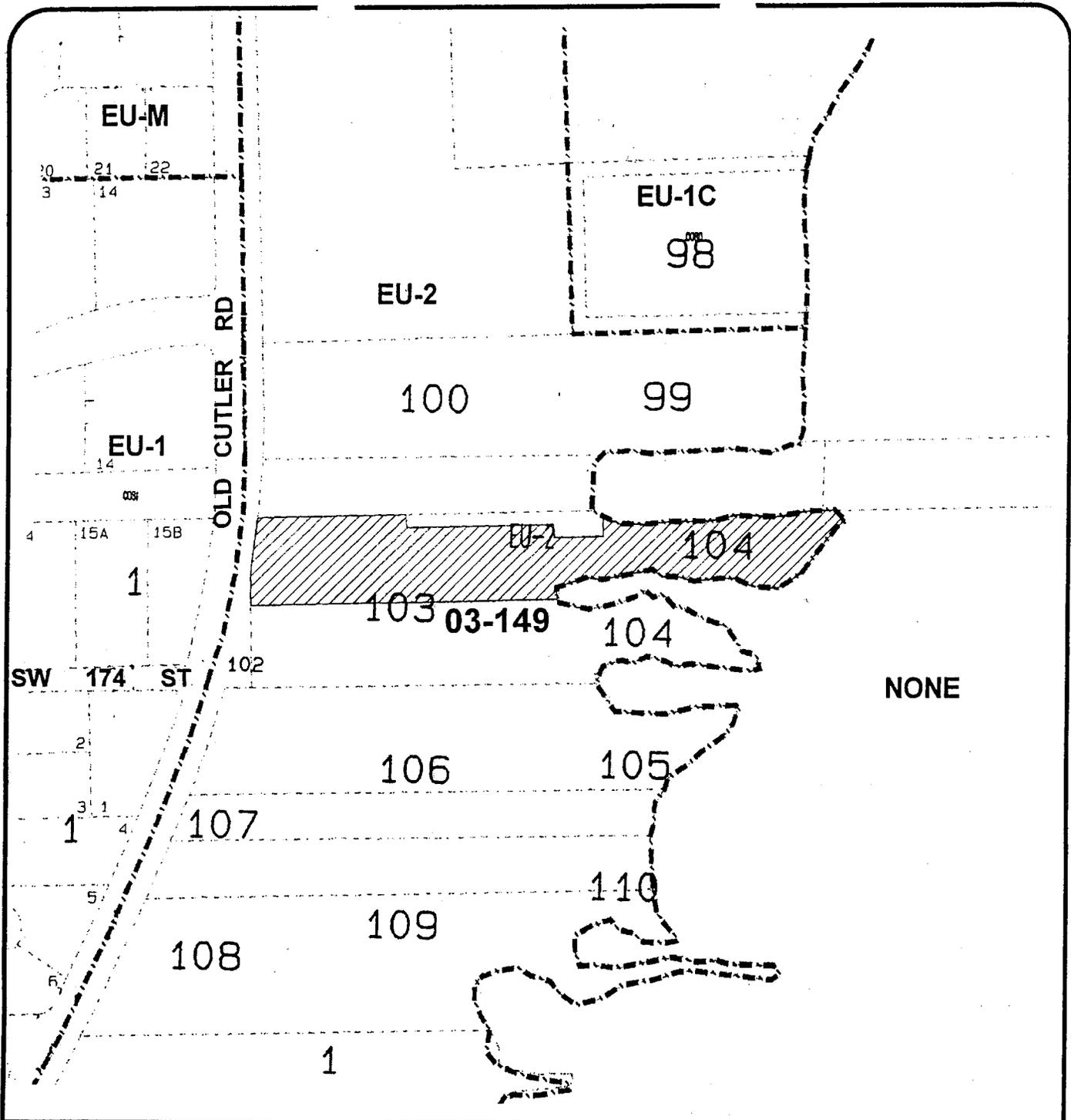
**EDWARD HAAS RESIDENCE
 FLOOR PLAN and ELEVATION**

**MR. EDWARD HAAS
 7301 OLD CUTLER ROAD
 MIAMI, FLORIDA 33187**

Avinó & Associates
 P. O. BOX 14-1694
 CORAL GABLES, FLORIDA 33114-1694
 TEL: (305) 796-6118
 FAX: (305) 569-9103
 BR 9 5098 LB 9 5098

DATE	NO. 22/2003

PROJECT: **FP-1**



**MIAMI-DADE COUNTY
HEARING MAP**

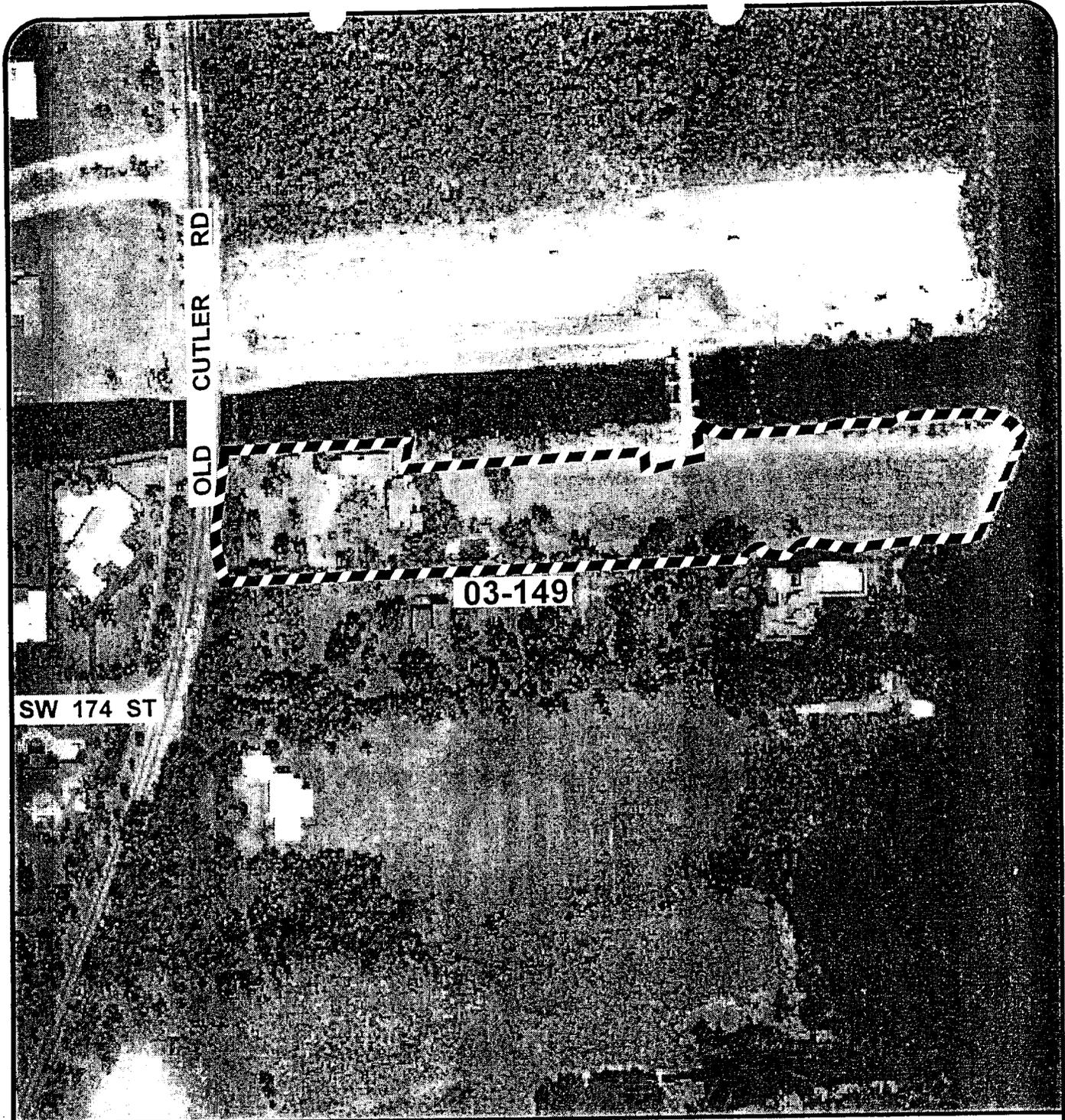
Section: 35 Township: 55 Range: 40
 Process Number: 03-149
 Applicant: EDWARD HAAS
 District Number: 08
 Zoning Board: VPB
 Drafter ID: DIONNE
 Scale: 1:300'



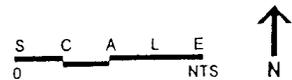
 SUBJECT PROPERTY

20





**MIAMI-DADE COUNTY
AERIAL**



**Section: 35 Township: 55 Range: 40
Process Number: 03-149
Applicant: EDWARD HAAS
District Number: 08
Zoning Board: VPB
Drafter ID: DIONNE
Scale: NTS**

