

Date: September 20, 2023

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

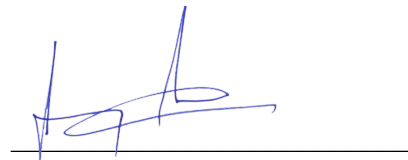
From: Daniella Levine Cava
Mayor



Supplement No. 3
Agenda Item No. 4(A)

Subject: Supplement to the Initial Recommendations Report on January 2022 Cycle Application No. CDMP20220005 to Amend the Comprehensive Development Master Plan

This third supplement contains: (Exhibit 1) a Revised Initial Recommendations Report addressing Application No. CDMP20220005 received by the Department of Regulatory and Economic Resources after the publication of the Initial Recommendations Report.



Jimmy Morales
Chief Operations Officer

<p>Revised Initial Recommendation</p> <p>Application No. CDMP20220005</p> <p>Lennar Homes, LLC</p>

APPLICATION SUMMARY

Applicant/Representative:	Lennar Homes, LLC (a.k.a. Lime Grove) / Hugo P. Arza, Esq., and Amanda M. Naldjieff, Esq., Holland & Knight LLP
Location:	Generally located between SW 336 Street and SW 344 Street and between SW 197 Avenue and SW 192 Avenue
Total Acreage:	±116.85 gross acres / ±113.85 net acres
Current Land Use Plan Map Designation:	“Estate Density Residential with One Density Increase (DI-1)” and “Low Density Residential with DI-1”
Requested Amendments to the CDMP:	<ol style="list-style-type: none"> 1. Release existing CDMP Declaration of Restrictions on the site. 2. Add the proffered, Amended, and restated Declaration of Restrictions in the Restrictions Table in Appendix A of the CDMP Land Use Element, if accepted by the Board of County Commissioners.
Amendment Type:	Standard
Existing Zoning District/Site Condition:	AU (Agricultural District) and EU-M (Estate modified)/ undeveloped

RECOMMENDATIONS

Staff Revised Recommendation	TRANSMIT (August 2022)
Staff Initial Recommendation	DENY, DO NOT TRANSMIT (June 2022)
Redland Community Council (CC-14)	NO QUORUM (June 7, 2022)
Planning Advisory Board (PAB) Acting as the Local Planning Agency:	DENY AND DO NOT TRANSMIT, AS PER STAFF RECOMMENDATION (July 11, 2022)
Transmittal Action of Board of County Commissioners	TO BE DETERMINED (September 20, 2023)
Final Action of Board of County Commissioners	TO BE DETERMINED

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Staff's revised recommendation is to **TRANSMIT** the proposed Comprehensive Development Master Plan (CDMP) amendment seeking to release and replace the existing Declaration of Restrictions (the 2007 Covenant) with a revised Amended and Restated Declaration of Restrictions, based on the following principal reasons.

Principal Reasons for Recommendation:

1. The application seeks to replace the existing CDMP Declaration of Restrictions (2007 Covenant), initially proposing to delete the commitment to provide workforce housing units on the application site but was revised to maintain this commitment while primarily seeking to apportion the relevant covenant commitments based on the current ownership of the site. Staff initially recommended the Board of County Commissioners (Board) 'Deny and Do Not Transmit' the application because the previously requested deletion of the workforce housing commitment was contrary to and inconsistent with multiple CDMP objectives and policies requiring the County to maintain, enhance, and promote the provision of affordable and workforce housing options. Given the revised application no longer proposes deletion of the workforce housing commitment, staff now recommends the Board 'Transmit' the application to release and replace the 2007 Covenant with the proffered revised Amended and Restated Declaration of Restrictions (Proffered Covenant) to the State Land Planning Agency (SLPA) and other state and regional agencies for review and comment. While the Proffered Covenant now primarily seeks to apportion the relevant covenant commitments between the current owners, staff has concerns with the changes proposed to the condition regarding improvement to SW 344 Street that warrants further review and comment, particularly by the Florida Department of Transportation (FDOT). Transmittal of the application would facilitate this review and for staff's concerns to be adequately addressed.

The 2007 Covenant condition limits development on the site to 255 residential units until the owner, at its expense, constructs or causes the construction of SW 344 Street to a four-lane divided roadway from SW 182 Avenue to SW 192 Avenue, in accordance with specifications approved by FDOT. The Proffered Covenant seeks to change the condition to instead require the owners to make a proportionate share mitigation payment to Miami-Dade County to mitigate the traffic impacts to the roadway. However, the impacted segment of SW 344 Street (between SW 182 Avenue and SW 192 Avenue) subject to the covenant condition is a State roadway and the County does not have jurisdiction to make improvements to this State roadway nor is there a mechanism or process in place for the County to collect and transfer proportionate share payments to the State for the required improvements. Proportionate share payments to the County are used for County roadway projects, and in this case, could only be used on roadway improvements in the vicinity of the application site that would provide traffic relief to the impacted segment of SW 344 Street. Accordingly, the proportionate share mitigation condition proffered by the applicant is not the appropriate means to address the proposed development's traffic impacts to SW 344 Street in place of the current requirement. Transmittal of the application would allow time for this concern to be properly addressed.

2. The application was revised in keeping with the applicant's request made to the Board of County Commissioners (Board) at its November 16, 2022 public hearing, generally maintaining the relevant conditions of the 2007 Covenant, with the exception the SW 344 Street improvement condition discussed above. Following staff's publication of the Initial Recommendation report dated June 2022, and subsequent recommendation of

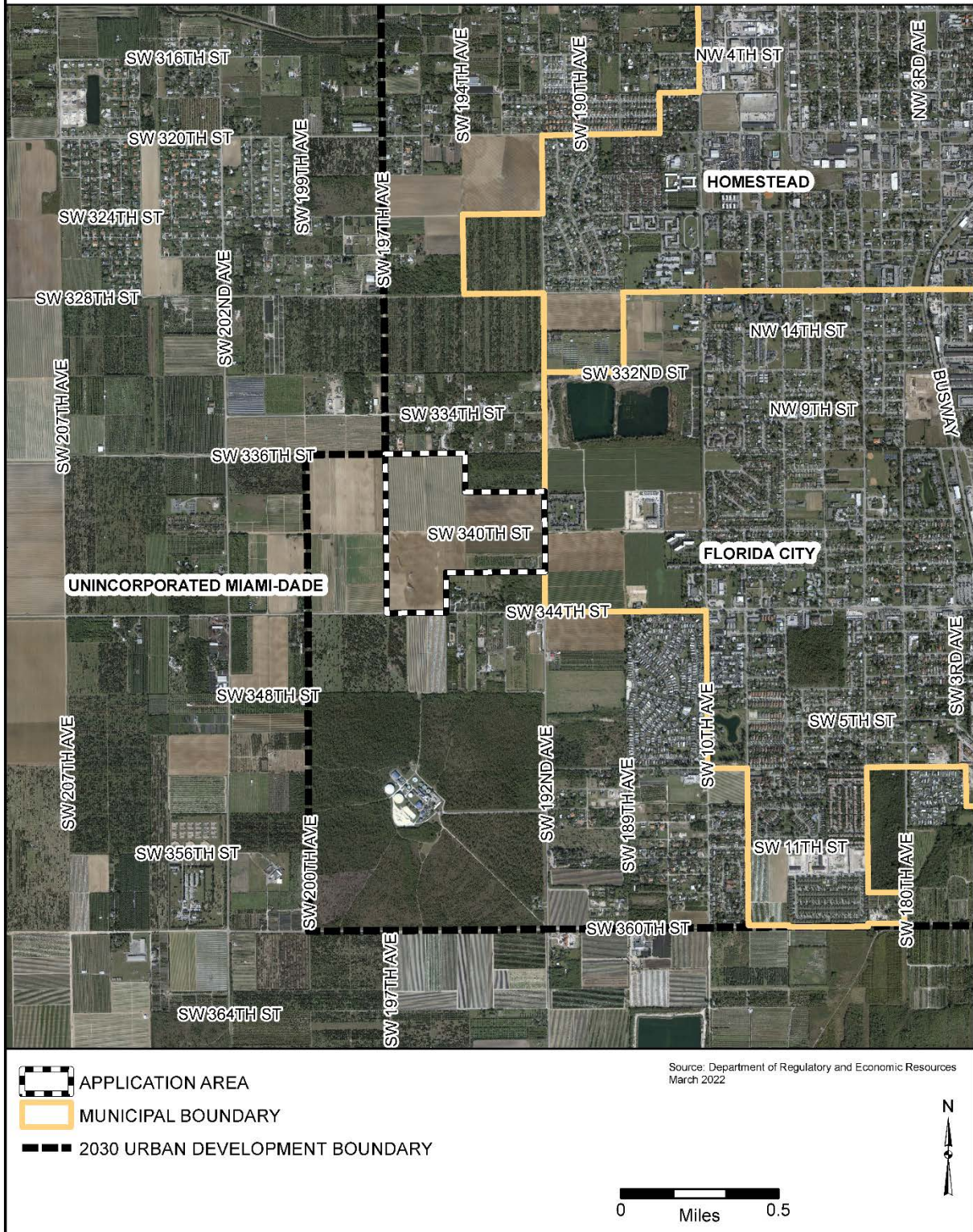
Deny and Do Not Transmit by the Planning Advisory Board at its July 11, 2022, public hearing, the applicant requested the Board defer the application indefinitely to allow time to address the concerns with the application at the Board's CDMP public hearing held on November 16, 2022. On March 20, 2023, the applicant submitted a revised Declaration of Restrictions which retains the workforce housing commitment and divides the remaining covenant obligations among the property's two owners, Empower Holdings, LLC (±76.85 acres) and Lime Grove Realty, Inc. (±40 acres). Whereas the 2007 Covenant addressed a development under unified development, the Proffered Covenant would allow the two owners of the application site to each develop their portion of the site independently.

The 2007 Covenant was accepted by the Board of County Commissioners upon adoption of Application No. 14 of the April 2006 Cycle of applications to amend the CDMP, discussed on in the Background section on page 13 herein. The existing covenant limits development on the ±117-acre application site to 940 residential units, requires a minimum 10% of the units be set aside for Workforce Housing or 20% if the site receives zoning approval for at least 90% of the allowed 940 units, and commits to transit improvements, improvements to SW 344 Street, water conservation measures, and water treatment capacity limitations. The current conditions and the proposed changes are further presented in the 'Existing 2007 Covenant Conditions and Proposed Changes' section on page 13 herein and the 2007 Covenant included as Appendix B on appendices page A-7. Staff's review finds the revised covenant conditions in the Proffered Covenant generally consistent with those of the 2007 Covenant, except the condition requiring improvement to SW 344 Street (SR 9336) as discussed above.

Staff also recommends that the Proffered Covenant under the Maximum Density condition be further revised to include minimum urban design standards that would be applied to development on the site that accesses the one density increase provision of the site's land use designation, to ensure compatibility with adjacent estate and agricultural uses. Additionally, the Workforce Housing condition in the 2007 Covenant defines Workforce Housing Units as units affordable to persons with median family incomes ranging between 65% to 140% of the median family income of Miami-Dade County, which is retained in the Proffered covenant. It is recommended that this condition be updated to reflect the current workforce housing definition and income limits of the County's Workforce Housing Program of 60% to 140% of Area Median Income.

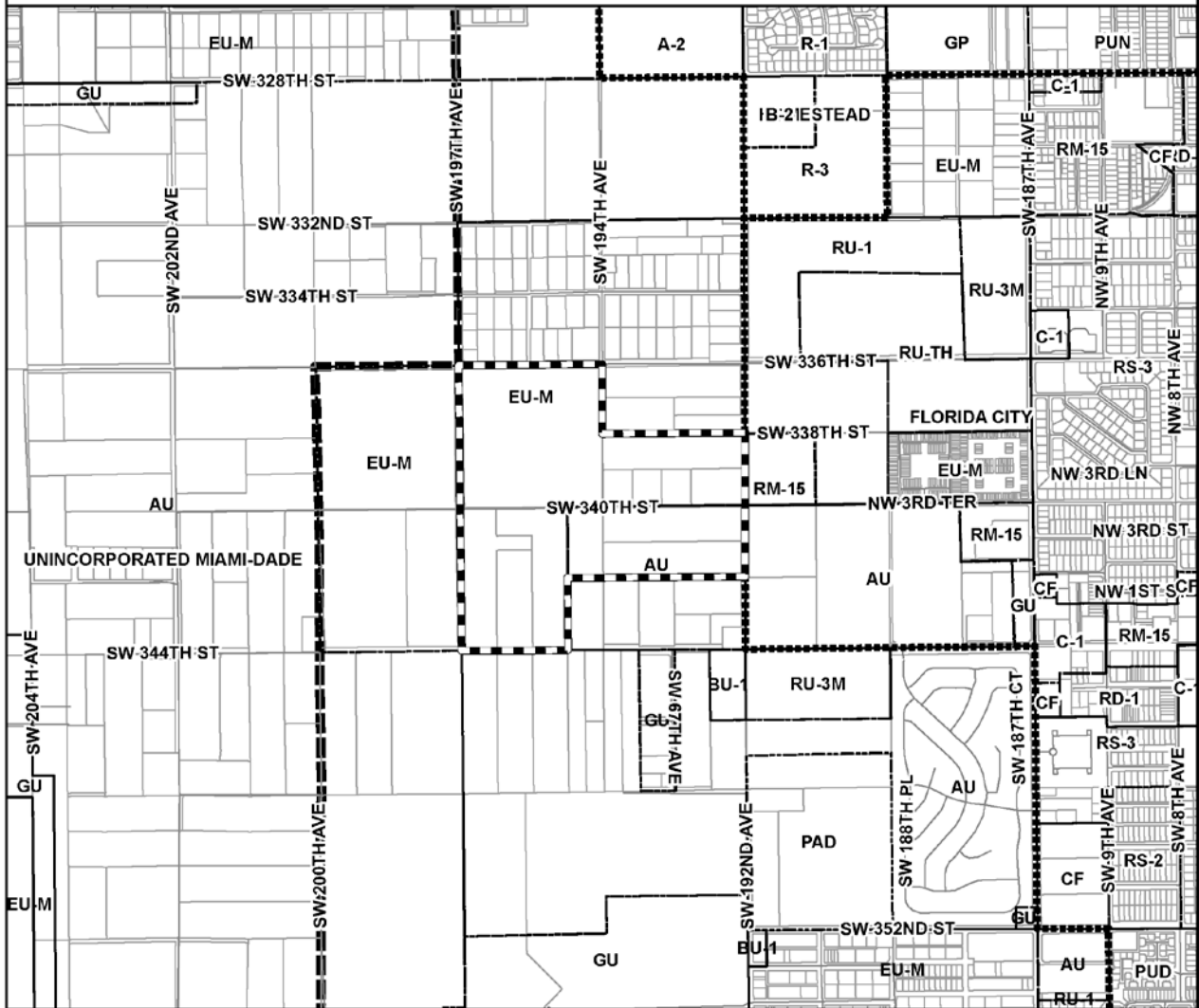
3. The proposed covenant modification would not impact or change the maximum allowable development that could be built on the application site under its current land use designations. The maximum 940 residential units allowed on the application site is not affected by the proposed release and replacement of the existing 2007 Covenant and would thereby not generate any impacts to public services and facilities beyond those previously analyzed during the approval of the development as part of Application No. 14 of the April 2006 Cycle of applications to amend the CDMP.

LENNAR HOMES, LLC. - APP. NO. CDMP20220005 AERIAL PHOTO



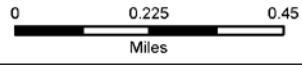
LENNAR HOMES, LLC. - APP. NO. CDMP20220005

ZONING MAP

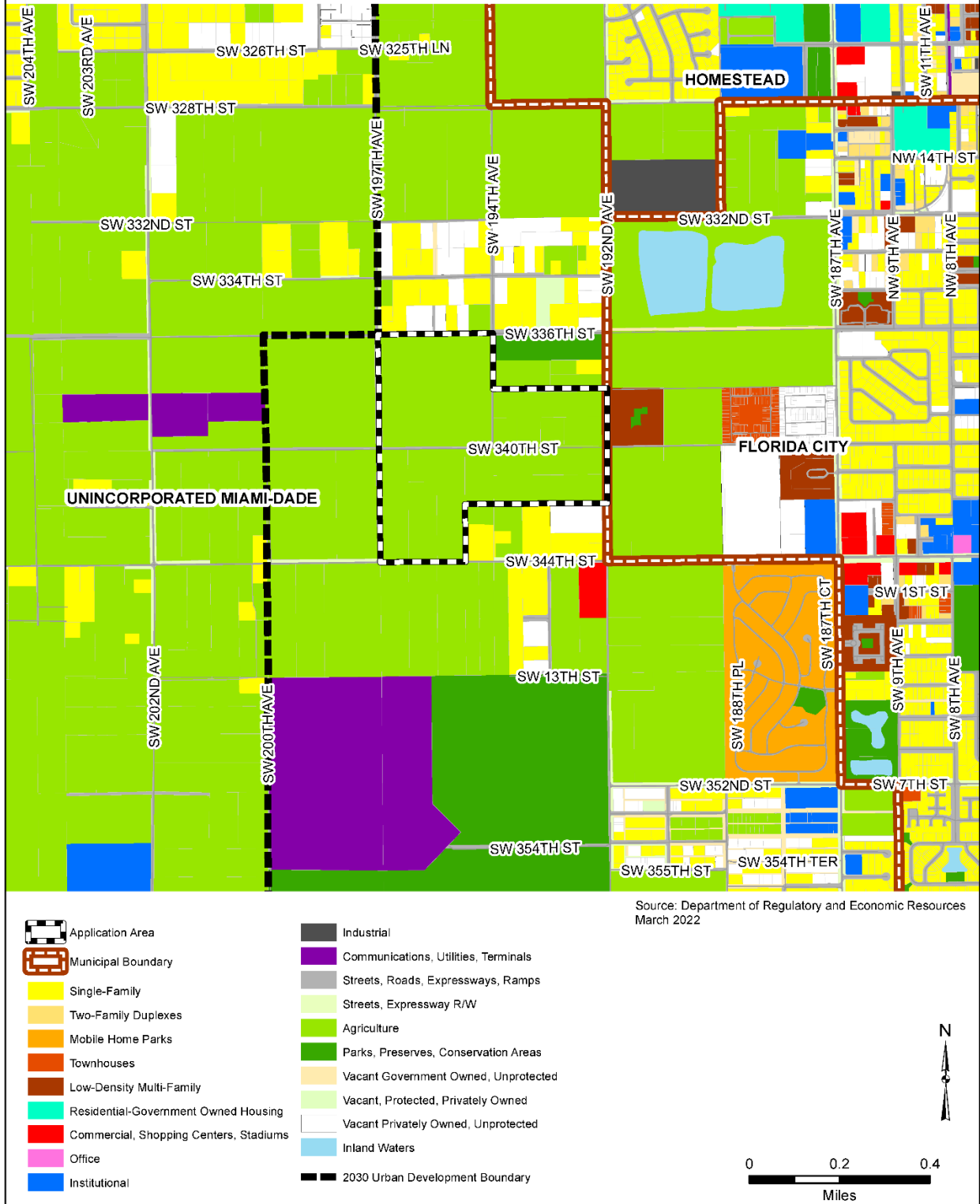


Source: Department of Regulatory and Economic Resources
April 2022

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|---|---|--|--|
| | APPLICATION AREA | | EU-M ESTATE MODIFIED |
| | MUNICIPAL BOUNDARY | | GP GOVERNMENT PROPERTY DISTRICT |
| MIAMI-DADE COUNTY ZONING DISTRICTS | | | GU GENERAL USE (INTERIM) |
| | AU AGRICULTURAL / RESIDENTIAL 5 ACRES GROSS | | PUD PLANNED UNIT DEVELOPMENT DISTRICT |
| | BU-1 BUSINESS DISTRICTS, NEIGHBORHOOD | | PUN PLANNED URBAN NEIGHBORHOOD DISTRICT |
| | EU-M ESTATES MODIFIED, SINGLE-FAMILY, MINIMUM LOT AREA 15,000 FT2 NET | | R-1 ONE FAMILY, SINGLE DISTRICT |
| | GU INTERIM DISTRICT | | R-3 MULTIPLE APARTMENTS DISTRICT |
| | RU-1 SINGLE-FAMILY RESIDENTIAL DISTRICT 7,500 FT2 NET | | RD-1 RESIDENTIAL DUPLEX DISTRICT 1 |
| | RU-3M MINIMUM APARTMENT HOUSE 12.9 UNITS/NET ACRE | | RM-15 RESIDENTIAL MULTI-FAMILY DISTRICT |
| MUNICIPALITIES ZONING DISTRICTS | | | RS-2 RESIDENTIAL SEMI-ESTATE DISTRICT |
| | A-2 ONE FAMILY, ONE-HALF ACRE ESTATES DISTRICT | | RS-3 RESIDENTIAL SINGLE-FAMILY DISTRICT 3 |
| | AU AGRICULTURAL | | RU-1 SINGLE FAMILY RESIDENTIAL |
| | B-2 RETAIL COMMERCIAL BUSINESS DISTRICT | | RU-3M MINIMUM APARTMENT HOUSE 12.9 UNITS/ NET ACRE |
| | C-1 NEIGHBORHOOD COMMERCIAL DISTRICT | | RU-TH TOWNHOUSE |
| | CF COMMUNITY FACILITY DISTRICT | | 2030 URBAN DEVELOPMENT BOUNDARY |

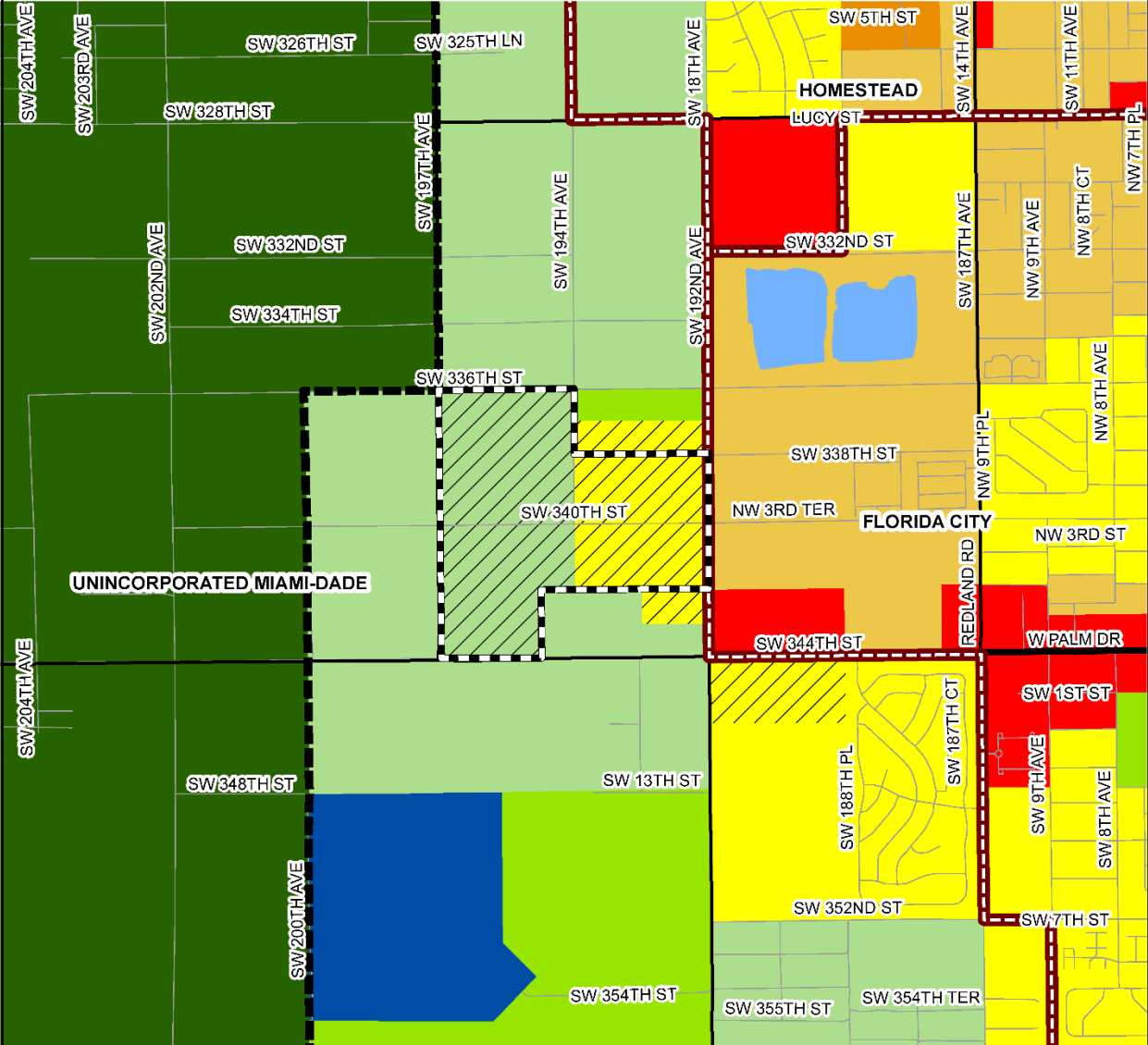


LENNAR HOMES, LLC. - APP. NO. CDMP20220005 EXISTING LAND USE



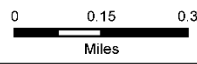
LENNAR HOMES, LLC. - APP. NO. CDMP20220005

CDMP LAND USE

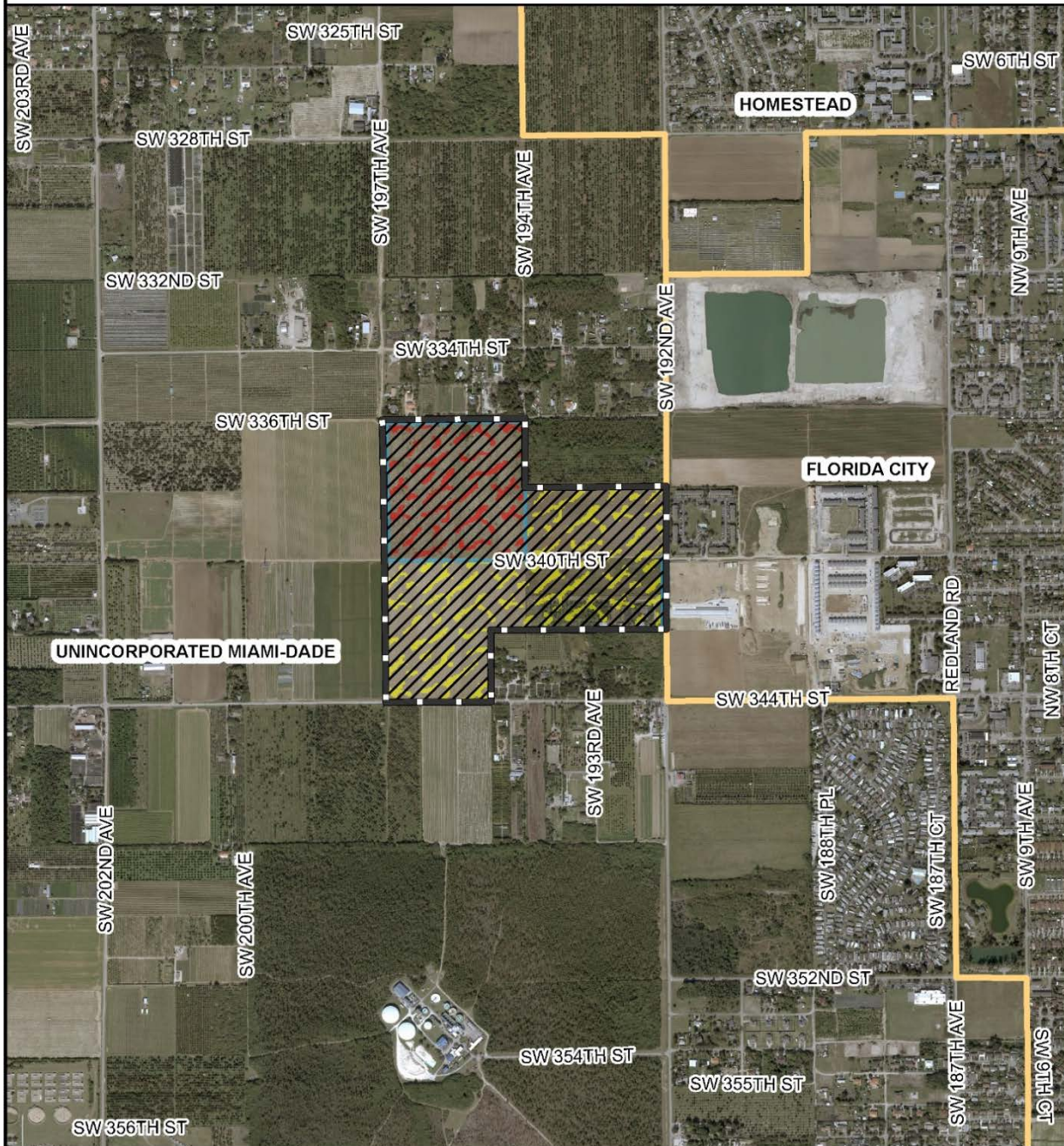



Source: Department of Regulatory and Economic Resources
March 2022

- | | | | |
|----------------------|--------------------------------------|--|---|
| | APPLICATION AREA | | BUSINESS AND OFFICE |
| | MUNICIPAL BOUNDARY | | INSTITUTIONS, UTILITIES AND COMMUNICATION |
| CDMP LAND USE | | | |
| | ESTATE DENSITY (EDR) 1-2.5 DU/AC | | AGRICULTURE |
| | ESTATE DENSITY W/ DENSITY INCREASE 1 | | ENVIRONMENTALLY PROTECTED PARKS |
| | LOW DENSITY (LDR) 2.5-6 DU/AC | | WATER |
| | LOW DENSITY W/ DENSITY INCREASE 1 | | 2030 URBAN DEVELOPMENT BOUNDARY |
| | LOW-MEDIUM DENSITY (LMDR) 6-13 DU/AC | | MAJOR ROADWAYS (3 OR MORE LANES) |
| | MEDIUM DENSITY (MDR) 13-25 DU/AC | | MINOR ROADWAYS (2 LANES) |






LENNAR HOMES, LLC. - APP. NO. CDMP20220005 PROPERTY OWNERSHIP

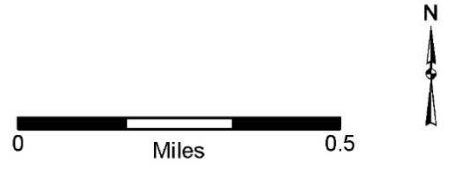


 APPLICATION AREA SUBJECT TO COVENANT MODIFICATION

PROPERTY OWNER

-  EMPOWER HOLDINGS, LLC.
-  LIME GROVE REALTY, INC.
-  MUNICIPAL BOUNDARY

Source: Department of Regulatory and Economic Resources
July 2023



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STAFF ANALYSIS

Background

The application site is a ±116.85 gross-acre property that was the subject of standard Application No. 14 of the April 2006 Cycle of Applications to amend the Comprehensive Development Master Plan (CDMP), which was adopted with acceptance of a proffered Declaration of Restrictions (2007 Covenant) on March 28, 2007 through Ordinance No. 07-52 by the Board of County Commissioners (BCC). Application No. 14 redesignated ±78 gross acres of the property west of SW 194 Avenue to “Estate Density Residential with One Density Increase” (2.5 to 6 dwelling units per gross acre) and ±41.7 gross acres of the site east of SW 194 Avenue to “Low Density Residential with One Density Increase” (6 to 13 dwelling units per gross acre). The 2007 Covenant limited the site to a maximum of 940 residential units, required a minimum 10% of the units to be set aside for workforce housing, but 20% to be workforce housing if the site receives zoning approval for at least 90% (846 units) of the maximum allowed units, and committed to roadway improvements to SW 344 Street, transit improvements, water conservation and water treatment capacity measures. (See Appendix B: Existing 2007 CDMP Declaration of Restrictions on appendices page A-7 herein.)

Application No. CDMP20220005, which is the subject of this review, was filed in the January 2022 Cycle of applications to amend the CDMP. The intent of the application was to release the 2007 Covenant and replace it with an amended and restated covenant that sought to eliminate the workforce housing requirement. All other provisions of the 2007 Covenant would remain the same. Staff found the then proposed elimination of the workforce housing condition contrary to and inconsistent with the CDMP and recommended the application be denied and not transmitted. The County’s Planning Advisory Board (PAB) also recommended denial of the application. The Redland Community Council 14 did not provide a recommendation, as it did not achieve quorum. To address the concerns that were raised by staff and the PAB, the applicant requested to defer the application indefinitely at the BCCs’ November 16, 2022, transmittal hearing for the application, and the BCC granted the request.

Subsequent to the BCC hearing on November 16, 2022, the applicant submitted a letter dated January 31, 2023, requesting to revise the original CDMP amendment application request (see Appendix A: Letter from Applicant Requesting to Revise the Application on appendices page A-3 herein). The January 2023 letter notes that while the ownership of the subject property was unified at the time Application 14 of the April 2006 Cycle was adopted, the property has since been subdivided between two separate owners who wish to develop their respective portions of the site independently. The letter also states that the two current owners: Empower Holdings, LLC (±76.85 acres) and Lime Grove Realty, Inc. (±40 acres), are now seeking to apportion all the covenant conditions, including the workforce housing commitment, based on their current ownership of the site (see Property Ownership aerial map on page 9). This Revised Initial Recommendations report provides staff’s review and assessment of the 2007 Covenant conditions as presented and or modified in the proffered Amended and Restated Declaration of Restrictions (Proffered Covenant) below.

It is important to note that the maximum potential development of the application site of 940 residential units is not affected by the proposed covenant modification, as the applicant is not requesting to increase density. Therefore, the application will not change the projected impacts to County services and infrastructure beyond that already approved for the subject property.

Existing 2007 Covenant Conditions and Proposed Changes

The changes proposed to the conditions of the 2007 Covenant as proposed in the revised Amended and Restated Declaration of Restrictions (Proffered Covenant; Appendix C, page A-33 herein) are discussed below:

- Maximum Density. The 2007 Covenant (Appendix B, page A-7 herein) limits residential development to 940 units (a maximum density of 7.85 units per acre) on the entire site and restricts units west of SW 194 Avenue to a maximum of 6 units per acre. The revised covenant condition maintains the maximum density for the entire site at 940 dwelling units, allocating the number of units between the two parcels and limiting development on each parcel, with the Lime Grove Realty, Inc., property (the Lime Grove Parcel) being allocated a maximum 231 dwelling units (5.71 units per acre) and a maximum 709 dwelling units (9.2 units per acre) for the Empower Holdings, LLC, portion of the site (the Empower Parcels).

It is noted that the revised condition would remove the maximum 6 units per acre density limit on the Empower Parcels west of SW 194 Avenue to, specified in the 2007 Covenant, but does not provide an explanation of why this restriction is proposed to be removed. The portion of the Application site located west of SW 194 Avenue is designated “Estate Density Residential with One Density Increase,” which would allow development at a density of 2.5 to 6 dwelling units per gross acre if the development incorporates sound urban design principles. However, if sound urban design principles are not incorporated into the design of the proposed development, then the maximum density would be limited 1 to 2.5 dwelling units per gross acres.

It is highly recommended that the Proffered Covenant include minimum sound urban design principles and standards to ensure compatibility with adjacent “Estate Density Residential” designated properties and agricultural uses.

- Workforce Housing. The 2007 Covenant requires a minimum of 20% of the residential dwelling units as Workforce Housing (WHU) for families with incomes ranging between 65% to 140% of the median family income of Miami-Dade County, if zoning approval is obtained for at least 90% of the maximum density of residential units allowed on the property, noting that in no event shall the WHU set-aside be less than 10% of the total units. It further requires: 1) providing 25% of the residential units to be set aside for workforce housing to persons with incomes ranging from 65% to 105% of the median family income; 2) requires the workforce housing units to remain affordable for 20 years; and 3) grants the County the right of first refusal to purchase any WHU if a “Qualified Purchaser” cannot be located within 210 days from the date the WHU is offered for sale. In such cases, the covenant requires the County to exercise the right of first refusal within 30 days of receiving notification that a Qualified Purchaser cannot be located. In the event the County opts to not purchase the units, then the WHU may be sold at market rate.

As discussed above, the applicant is no longer seeking to eliminate the workforce housing commitment, but rather proposes revision to the condition that requires each owner to comply with the requirement within their respective portion of the application site. Therefore, if the Lime Grove Parcel obtains zoning approval for at least 90% of its maximum density, then a minimum of 20% or 46 residential units would need to be set aside for workforce housing, with 25% or 11 of the workforce housing units set aside for

persons with incomes between 65% to 105% of the median family income. The Empower Parcels would be required to set aside 141 residential units for workforce housing, and 35 of those units for persons with incomes between 65% to 105% of the median family income. Each of the owners would also be responsible for complying with the other provisions of the workforce housing condition.

The condition with the proposed revision is generally consistent with the condition in the 2007 Covenant, except in the event where both properties cumulatively attain zoning approvals for 90% or more of the maximum 940 units allowed while one of the property attains approval for less than the 90% thereby not triggering the need to provide the 20% workforce housing units for that parcel.

It should be noted that the County's Workforce Housing program currently defines workforce as households with incomes between 60% to 140% of the Area Median Income (AMI), compared to the 65% to 140% of Median Family Income requirement in the 2007 Covenant. To be consistent with the current program, the income limits in the Proffered Covenant should be updated to reflect the County's current standards and definitions for workforce housing, as per the Workforce Housing Development Program.

- Transit Improvements. This condition commits to coordinate with Miami-Dade County Transit to allow encroachments onto the property, as necessary, to provide for a bus pull-out bay and bus shelter. This covenant condition remains unchanged, except that the Proffered Covenant obligates each property owner to comply with the transit condition. The proffered condition is consistent with the 2007 Covenant.
- Water Conservation Requirements. This condition requires residential dwelling units to satisfy the requirements necessary to achieve a "Florida Water Star" rating, in accordance with the "Florida Water Star Basic Qualification Checklist" (see Checklist Exhibit B in Appendix C on appendices page A-33 herein). The Proffered Covenant was amended to require each owner to comply with this condition. The proffered condition is consistent with the 2007 Covenant.

It should be noted that since the acceptance of the 2007 Covenant, the County has adopted various water conservation requirements. Therefore, in addition to this condition, the applicants will need to comply with the water use efficiency techniques for indoor water use, with the County's landscape standards, and with the sub-meter requirements for new multi-family developments, per sections 8-31 and 32-84, 18-A and 18-B, and 8-A-381 of the Code of Miami-Dade County, respectively.

- Water Treatment Capacity. The applicant proposes to eliminate this covenant condition contending it is no longer necessary. The 2007 Covenant restricts development to 299 residential units until such time as the site can be connected to a water treatment plant with sufficient capacity to provide service to the development or until City of Florida City expands its water and sewer service area to include the site.

The Miami-Dade County Water and Sewer Department (WASD) confirmed that this condition is no longer needed, noting that the application site is within WASD's water and sewer service areas. Both the South Dade Water Treatment System (WTP) and the South District Wastewater Treatment Plant (WWTP) have adequate treatment and water supply and disposal capacity to serve the site. As such, this condition may be released.

Improvements of SW 344 Street. This condition limits the issuance of certificates of occupancy in excess of 255 residential units until such time as the owner, at its expense, designs and constructs or causes the design and construction of SW 344 Street/SR 9336 as a four-lane divided roadway from SW 182 Avenue to SW 192 Avenue, in accordance with specifications approved by the Florida Department of Transportation (FDOT). In lieu of requiring the design and construction of the roadway segment, the Proffered Covenant seeks to change the requirement to a proportionate share mitigation payment to Miami-Dade County for purposes of the roadway improvement.

The segment of SW 344 Street from SW 182 Avenue to SW 192 Avenue is a designated State Road (SR 9336/Palm Drive), and, as such, is not part of the roadway network subject to the Miami-Dade County's proportionate share agreements. The County does not have the jurisdiction to make improvements to this or other State Road, nor does the County have a mechanism to collect and transfer proportionate share payments to the State for the improvement of SW 344 Street, as is proposed in the Proffered Covenant condition. Proportionate share payments made to the County to address traffic impacts from the proposed development on the impacted segment of SW 344 Street would be utilized to implement approved County roadway improvements in the vicinity of the application site that would provide traffic relief to the SW 344 Street segment and not targeted to the SW 344 Street segment as proposed in the 2007 Covenant.

The original condition requiring the applicants to improve or cause the improvement of SW 344 Street was included in the 2007 Covenant to address objections from the State Land Planning Agency (SLPA, formerly the Department of Community Affairs) to Application No. 14 of the April 2006 Cycle due to the application's projected traffic impacts on SW 344 Street. In accordance with SLPA's then recommendations to address its objections, Application No. 14 was adopted with the covenant condition that the improvement to SW 344 Street be included in the 2007 Covenant and memorialized through an amendment to the Capital Improvements Element of the CDMP, adding the roadway improvement as a developer funded project, at a cost of \$4.25 million. The Land Use Plan map was also amended to depict the aforementioned segment of SW 344 Street as a "Major Roadway".

Since the proposed 940-unit residential community has not been developed, the improvements to increase the capacity of SW 344 Street by widening it to a four-lane divided roadway have not been implemented. Today, SW 344 Street remains a congested 2-lane roadway that does not have adequate capacity available for additional vehicular traffic. To address the deficiency, FDOT has programmed a Transportation Planning project to address widening SW 344 Street (SR 9336) between SW 182 Avenue and SW 192 Avenue with the Project Development and Environmental (PD&E) study phase scheduled to start in FY 2027 (FM No. 446363-1). This project is programmed in the Miami-Dade Transportation Planning Organization's 2024 Transportation Improvement Program (2024 TIP).

Given that the 2007 Covenant condition requires mitigation of the projected traffic impacts on SW 344 Street from the proposed 940 residential unit development, that the roadway is currently congested, and that the proposed proportionate share mitigation payment cannot be used to improve the capacity of SW 344 Street, staff deems the proposed modification not consistent with the intent of the 2007 Covenant. FDOT's

comments should be obtained as to the appropriate measure for mitigating the traffic impacts to SW 344 Street to inform any change to the current covenant condition.

Though the majority of the conditions in the restated Proffered Covenant have been found generally consistent with the 2007 Covenant, staff has concerns with the proposed modification to the condition related to the improvements of SW 344 Street. To establish an appropriate mechanism for mitigating the traffic impacts to SW 344 Street, comments from the FDOT should be obtained. Staff also recommends that the maximum density condition include a commitment to comply with urban design principles to ensure compatibility with the adjacent estate residential area and agricultural uses. The workforce housing condition in the Proffered Covenant should also be revised to update the income limit to reflect the 60% to 140% of AMI income thresholds for workforce housing, consistent with the County's Workforce Housing Program.

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APPENDICES

Appendix A:	Letter from Applicant Requesting to Revise the Application	A-3
Appendix B:	Existing 2007 CDMP Declaration of Restrictions (2007 Covenant)	A-7
Appendix C:	Revised Proffered Amended and Restated Covenant received March 20, 2023 (Proffered Covenant)	A-33
Appendix D:	FDOT Letter Regarding Application No. 14 of the April 2006 Cycle, dated January 17,2007	A-59
Appendix E:	Objections, Recommendations and Comments (ORC) Report dated April 6, 2007	A-67

Documents related to the application, including third party correspondence, are available online at:

- <https://www.miamidade.gov/planning/cdmp-amendment-cycles.asp>, or
- https://energov.miamidade.gov/EnerGov_Prod/SelfService#/plan/011d9fa2-9de0-4cac-8142-445dc0f7290c?tab=attachments

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APPENDIX A

**Letter from Applicant Requesting to Revise the Application
dated January 31, 2023**

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Holland & Knight

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Holland & Knight LLP | www.hklaw.com

RECEIVED
JANUARY 31, 2023
RER-PLANNING

Amanda M. Naldjieff
(305) 789-7462
amanda.naldjieff@hklaw.com

January 31, 2023

VIA Electronic Mail

Mr, Jerry H. Bell, AICP
Assistant Director for Planning
Department of Regulatory and Economic Services
Miami-Dade County
111 NW 1st Street, 12th Floor
Miami, Florida 33128

**Re: Lennar Homes, LLC (the "Applicant") / Application No. CDMP20220005 /
Request to Amend CDMP Application / Folio No. 30-7823-000-0200**

Dear Jerry:

The purpose of this letter is to provide additional information as it relates to the updated Declaration of Restrictions being proffered in connection with the pending CDMP Application.

As you know, on March 28, 2007, the Board of County Commissioners adopted Ordinance No. 07-52 (the "CDMP Ordinance"), which, in part, re-designated a 119.7 gross acre parcel located between S.W. 336th Street and S.W. 344th Street and between S.W. 192nd Avenue and S.W. 197th Avenue from *Estate Density Residential* to *Estate Density Residential with a DI-1 Density Increase* (west of SW 194th Avenue) and *Low-Density with DI-1 Density Increase* (east of SW 194th Avenue). In connection with the re-designation of the parcel, a CDMP Declaration was proffered and accepted (the "2006 CDMP Declaration"). At the time of the 2006 CDMP Declaration, the subject property was under unified ownership. Due to various factors, including the 2009 recession, conditions and circumstances in this area have significantly changed and the ownership of the property has been subsequently fractured thereby rendering those obligations set forth in the 2006 CDMP Declaration impractical if not impossible to satisfy as originally contemplated.

As such, the current owners of the property have discussed the obligations set forth in the 2006 CDMP Declaration with staff and the Commissioner for the District and have agreed to apportion the obligations in the manner set forth in the Amended and Restated Declaration of

Mr. Jerry Bell
Request to Amend CDMP Application
CDMP20220005

Restrictions submitted herewith. Acceptance of this Amended and Restated Declaration of Restrictions would preserve the substantive obligations and restrictions set forth in the 2006 CDMP Declaration while also providing the current owners with the ability to independently pursue development approvals for their respective parcels.

Thank you for your time and continued consideration of this application. Should you have any questions, please do not hesitate to contact me at (305) 789-7462.

Sincerely,

HOLLAND & KNIGHT LLP



Amanda M. Naldjieff, Esq.

Enclosures

Cc: Hugo P. Arza, Esq.
Juan J. Mayol Jr., Esq.

APPENDIX B

Existing 2007 CDMP Declaration of Restrictions (2007 Covenant)

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RECEIVED 3/20/23
PLANNING DIVISION



CFN 20070802049
DR Bk 25853 Pgs 4394 - 4417 (24pgs)
RECORDED 08/14/2007 10:03:56
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This Instrument was Prepared by:

Name: Juan J. Mayol, Jr., Esq.
Address: Holland & Knight LLP
701 Brickell Avenue
Suite 3000
Miami, Florida 33131

(Space Reserved for Clerk of the Court)

A/1

DECLARATION OF RESTRICTIONS

WHEREAS, Palm & Tower II Investors, LLC, Palm & Tower III Investors, LLC, Palm & Tower IV Investors, LLC, Palm & Tower V Investors, LLC, and Q2 Florida City IV, LLC, Florida limited liability companies (collectively referred to as the "Owner"), hold fee simple title to that certain parcel of land in Miami-Dade County, Florida, described in Exhibit "A", attached hereto, and hereinafter referred to as the "Property";

WHEREAS, the Owner has applied for an amendment to the Miami-Dade County Comprehensive Development Master Plan that is pending as Application No. 14 in the April 2006 Cycle (the "Application");

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

WHEREAS, Owner has agreed that the CDMP designation for the portion of the Property located west of SW 194 Avenue shall be Estate Density with a DI-1 density increase with urban design and the portion of the Property located east of SW 194 Avenue shall be Low Density Residential with a DI-1 density increase with urban design.

24

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

1. **Workforce Housing.**

(a) *Commitment.* If the Property receives zoning approval for at least 90% of the Maximum Density for the Property, a minimum of 20% of the residential dwelling units shall be set aside for sale or rent as Workforce Housing Units. In no event shall less than 10% of the residential dwelling units be set aside for sale or rent as Workforce Housing Units ("WHU").

(b) *Definition.* A "Workforce Housing Unit" shall consist of residential dwelling units that are made available for sale or rent by the Owner to persons with a median family income that is 65% to 140% of the median family income in Miami-Dade County, as published annually by the U.S. Department of Housing and Urban Development (a "Qualified Purchaser").

(c) *Distribution of Workforce Housing Units.* If pursuant to Section 1(a) of this Declaration, the Owner sets aside twenty percent (20%) of the residential dwelling units as Workforce Housing Units, then the Owner shall set aside twenty five percent (25%) of such Workforce Housing Units for sale or rent to persons with a median family income that is 65% to 105% of the median family income in Miami-Dade County, as published annually by the U.S. Department of Housing and Urban Development ("Moderate WHU").

(d) *Process.* Prior to obtaining the initial building permit for the construction of any residential dwelling unit (other than model homes) for the Property, the Owner shall submit a declaration of restrictions, in a form acceptable to the County, setting forth restrictions on the re-sale of such residential dwelling units consistent with the intent of maintaining such

residential dwelling units as Workforce Housing Units for a period of twenty (20) years from the date of its initial sale. The Owner further agrees to grant to the County the right of first refusal to purchase any WHU in which a Qualified Purchaser cannot be located within two hundred and ten (210) days from the date the WHU is offered for sale, which right of first refusal must be exercised by the County within thirty (30) days of the County's receipt of notification that a Qualified Purchaser cannot be located as provided for herein. In the event a qualified purchaser cannot be located and the County does not exercise its right of first refusal, then the Owner may sell the WHU at market rate.

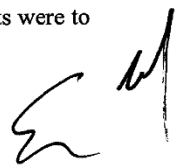
2. **Maximum Density.** Notwithstanding the approval of the Application, (i) the density of any residential development on the Property shall not exceed nine hundred forty (940) residential dwelling units (the "Maximum Density") and (ii) the density of any residential development on the Property west of 194th Avenue shall not exceed six (6) residential dwelling units per gross acre. Notwithstanding the foregoing residential density limitation, nothing in this Declaration shall limit or otherwise prevent the Owner, after zoning approvals, from developing other, non-residential, permitted uses that are consistent with the LUP designation of the Property.

3. **Transit Improvements.** In an effort to accommodate public transportation in the area, the Owner shall coordinate with Miami-Dade Transit and allow encroachments onto the Property, as necessary, to provide for a bus pull-out bay and bus shelter. The Owner's obligation under this Paragraph shall expire upon the approval of a final plat for the Property. Notwithstanding the approval of a final plat, the Owner shall cooperate with the County to allow the installation of a bus pull-out bay and/or shelter if said installation can be accomplished without altering the approved final plat for the Property.

4. **Water Conservation Requirements.** In an effort to conserve water, the Owner hereby agrees to develop the Property and construct the proposed residential dwelling units so as to satisfy the requirements necessary to achieve (but shall not be required to obtain certification as) a "Florida Water Star" rating in accordance with the "Florida Water Star Basic Qualification Checklist", a copy of which is attached to this Declaration as Exhibit "B".

5. **Water Treatment Capacity.** The Owner shall not seek a certificate of completion for any residential dwelling units in excess of two hundred and ninety-nine (299) dwelling units until (i) the Owner, at its own cost and expense, connects to a water distribution main from the South Miami Heights Water Treatment Plant (or any other similar plant with sufficient water treatment capacity to provide service to the contemplated development on the Property) at such point of connection as may be designated by the Department of Water and Sewer or (ii) the approval of the expansion of the water and sewer service area of the City of Florida City to include the Property.

6. **Improvement of S.W. 344th Street.** The Owner shall not seek a certificate of completion for any residential dwelling units in excess of the number of residential dwelling units set forth in the applicable portions of attached Exhibit "C" until such time as the Owner, at its own expense, designs or causes the design of S.W. 344th Street as a four (4) lane, divided arterial roadway from S.W. 182nd Avenue to S.W. 192nd Avenue (the "Roadway Improvements") in accordance with specifications approved by the Florida Department of Transportation, consistent with applicable design standards, and constructs or causes the construction of the Roadway Improvements at no expense to the County. Nothing herein shall prohibit the Owner from submitting an application for road impact fee credits if the Roadway Improvements were to be deemed eligible for road impact fee credits.

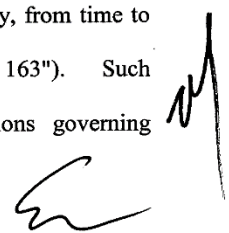


7. **Miscellaneous.**

A. **Covenant Running with the Land.** This Declaration of Restrictions on the part of Owner shall constitute a covenant running with the land and shall be recorded by the Owner, at Owner's expense, in the public records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon Owner and their heirs, successors, and assigns until such time as the same is modified or released with the approval of the County. These restrictions, during their lifetime, shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the public welfare.

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

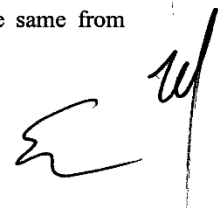
C. **Modification, Amendment, Release.** This Declaration of Restrictions may be modified, amended, or released as to the land herein described, or any portion thereof, by a written instrument executed by the fee simple owner(s) of the Property, provided that the same is also approved by the Board of County Commissioners. Any such modification, amendment or release shall be subject to the provisions governing amendments to Comprehensive Plans, as set forth in Chapter 163, Part II, Florida Statutes or successor legislation which may, from time to time, govern amendments to comprehensive plans (hereinafter "Chapter 163"). Such modification, amendment or release shall also be subject to the provisions governing



amendments to comprehensive plans as set forth in Section 2-116.1 of the Code of Miami-Dade County, or successor regulation governing amendments to the Miami-Dade comprehensive plan. Notwithstanding anything in this paragraph, in the event that the Property is incorporated within a new municipality which amends, modifies, or declines to adopt the provisions of Section 2-116.1 of the Code of Miami-Dade County, then modifications, amendments or releases of this Declaration of Restrictions shall be subject to Chapter 163 and the provisions of such ordinances as may be adopted by such successor municipality for the adoption of amendments to its comprehensive plan; or, in the event that the successor municipality does not adopt such ordinances, subject to Chapter 163 and by the provisions for the adoption of zoning district boundary changes. Should this Declaration of Restrictions be so modified, amended or released, the Director of the Planning and Zoning Department or the executive officer of the successor of said Department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

D. Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, the covenants. This enforcement provision shall be in addition to any other remedies available at law, in equity, or both.

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



F. **Severability.** Invalidation of any one of these covenants by judgment of Court shall not affect any of the other provisions which shall remain in full force and effect.

G. **Recording.** This Declaration of Restrictions shall be filed of record in the public records of Miami-Dade County, Florida at the cost of Owner's following the adoption of the Application. This Declaration of Restrictions shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the application, in its entirety, then this Declaration of Restrictions shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Planning and Zoning Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration of Restrictions is null and void and of no further effect.

[Signature Pages Follow]

A handwritten signature in black ink, appearing to be 'E. J. ...', written over a faint horizontal line.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 23 day of March, 2007.

WITNESSES:

[Signature]
Signature

Vivian Morejon
Print Name

[Signature]
Signature

Leslie Fernandez
Print Name

Palm & Tower II Investors, LLC, a Florida limited liability company

By: [Signature]

Print: Edgar J. Garcia

Title: Manager

[Handwritten mark]
3/28/07

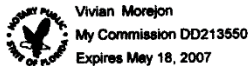
STATE OF FLORIDA)
) SS.
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 23 day of March, 2007, by Edgar Garcia, as manager of Palm & Tower II Investors, LLC, who is personally known to me or has produced [Signature] as identification, and acknowledged that he did execute this instrument freely and voluntarily for the purposes stated herein.

My Commission Expires:

[Signature]
Notary Public, State of Florida

Print Name



IN WITNESS WHEREOF, we have hereunto set our hands and seals this 23 day of March, 2007.

WITNESSES:

[Signature]
Signature

Vivian Morejon
Print Name

[Signature]
Signature

Leslie Fernandez
Print Name

Palm & Tower III Investors, LLC, a Florida limited liability company

By: [Signature]

Print: Edgaro J. Garcia

Title: Manager

[Handwritten mark]

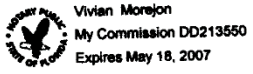
STATE OF FLORIDA)
) SS.
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 23 day of March, 2007, by Edgaro Garcia as Manager of Palm & Tower III Investors, LLC, who is personally known to me or has produced as identification, and acknowledged that he did execute this instrument freely and voluntarily for the purposes stated herein.

My Commission Expires:

[Signature]
Notary Public, State of _____

Print Name _____



IN WITNESS WHEREOF, we have hereunto set our hands and seals this 23 day of March, 2007.

WITNESSES:

[Signature]
Signature
Vivian Morejon
Print Name
[Signature]
Signature
Leslie Fernandez
Print Name

Palm & Tower IV Investors, LLC, a Florida limited liability company

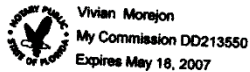
By: [Signature]
Print: Eduardo J. Garcia
Title: Manager

STATE OF FLORIDA)
) SS.
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 23 day of March, 2007, by Eduardo J. Garcia as Manager of Palm & Tower IV Investors, LLC, who is personally known to me or has produced [Signature] as identification, and acknowledged that he did execute this instrument freely and voluntarily for the purposes stated herein.

My Commission Expires:

[Signature]
Notary Public, State of _____
Print Name



IN WITNESS WHEREOF, we have hereunto set our hands and seals this 23 day of March, 2007.

WITNESSES:

Palm & Tower V Investors, LLC, a Florida limited liability company

[Signature]
Signature

Vivian Morejon
Print Name

By: [Signature]

Print: Edenro J. Garcia

[Signature]
Signature

Leslie Fernandez
Print Name

Title: Manager

[Handwritten mark]

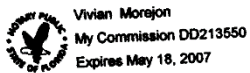
STATE OF FLORIDA)
) SS.
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 23 day of March, 2007, by Edenro Garcia as Manager of Palm & Tower V Investors, LLC, who is personally known to me or has produced as identification, and acknowledged that he did execute this instrument freely and voluntarily for the purposes stated herein.

My Commission Expires:


[Signature]
Notary Public, State of _____

Print Name

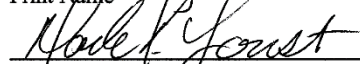


IN WITNESS WHEREOF, we have hereunto set our hands and seals this 27
day of March, 2007.

WITNESSES:



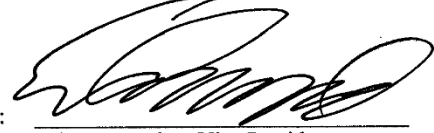
Signature
Beverly Blair

Print Name



Signature
MARK A. YOUST

Print Name

Q2 Florida City IV, LLC, a Florida limited liability company, by Reardon Levine Management, Inc., a Florida corp., its Manager

By: 

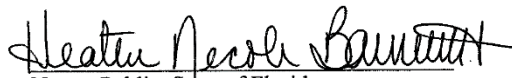
Eric T. Reardon, Vice President


3/28/07

STATE OF FLORIDA)
) SS.
COUNTY OF MIAMI-DADE)

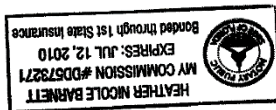
The foregoing instrument was acknowledged before me this 27 day of March, 2007, by Eric T. Reardon, Vice President of Reardon Levine Management, Inc., a Florida corp., as Manager of Q2 Florida City IV, LLC, who is personally known to me or has produced _____ as identification, and acknowledged that he did execute this instrument freely and voluntarily for the purposes stated herein.

My Commission Expires:



Notary Public, State of Florida
Heather Nicole Barnett

Print Name



JOINDER BY MORTGAGEE CORPORATION

The undersigned, Ocean Bank, a State Banking corporation and Mortgagee under that certain Mortgage from Palm & Tower II Investors, LLC, and Palm & Tower III Investors, LLC, both limited liability companies and recorded in Official Records Book 24682, Page 1481, in the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing Declaration of Restrictions, does hereby consent to the execution of this Declaration of Restrictions by Palm & Tower II Investors and Palm & Tower III Investors, LLC, both limited liability companies, and agree that in the event Mortgagee or any other party shall obtain title to the property through foreclosure or deed-in-lieu of foreclosure, this Declaration of Restrictions shall be binding upon the entity obtaining title as the then owner of such property.

IN WITNESS WHEREOF, these presents have been executed this 27 day of March, 2007.

WITNESSES:

[Signature]
Print or Type Name

Ocean Bank, a State Banking corporation
By: [Signature]
Title: Vice President
Print name: Frank Casas
Address:
3/28/07

[Signature]
PAULUX JEAN-CHARLES
Print or Type Name

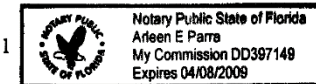
(Corporate Seal)

STATE OF FLORIDA)
COUNTY OF Miami-Dade) SS

The foregoing instrument was acknowledged before me this 27 day of March, 2007 by FRANK CASAS, Y.P., of Ocean Bank, on behalf of the corporation. He is personally known to me or has produced _____, as identification and did/did not take an oath.

[Signature]
Notary Public - State of Florida
Print Name Arlene E. Parra
My Commission Expires:

4189580_v1



JOINDER BY MORTGAGEE CORPORATION

The undersigned, Ocean Bank, a State Banking corporation and Mortgagee under that certain Mortgage from Palm and Tower IV Investors, LLC, a limited liability company, recorded in Official Records Book 24826, Page 1203, in the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing Declaration of Restrictions, does hereby consent to the execution of this Declaration of Restrictions by Palm and Tower IV Investors, LLC, a limited liability company, and agree that in the event Mortgagee or any other party shall obtain title to the property through foreclosure or deed-in-lieu of foreclosure, this Declaration of Restrictions shall be binding upon the entity obtaining title as the then owner of such property.

IN WITNESS WHEREOF, these presents have been executed this 27 day of March, 2007.

WITNESSES:

[Signature]
MERCEDES LEAL
Print or Type Name

[Signature]
Ocean Bank, a State Banking corporation
By: [Signature]
Title: Vice President
Print name: Frank Casas
Address: [Signature]

3/28/07

[Signature]
PAULUX JEAN CHARLES
Print or Type Name

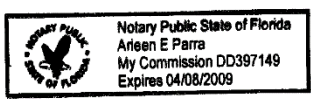
(Corporate Seal)

STATE OF FLORIDA)
) SS
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 27 day of March, 2007 by Frank Casas, V.P., of Ocean Bank, on behalf of the corporation. He She is personally known to me or has produced _____, as identification and did/did not take an oath.

[Signature]
Notary Public - State of Florida
Print Name Arlene E. Parra
My Commission Expires:

4189519_v1



JOINDER BY MORTGAGEE CORPORATION

The undersigned, Ocean Bank, a State Banking corporation and Mortgagee under that certain Mortgage from Palm and Tower V Investors, LLC, a limited liability company, recorded in Official Records Book 25160, Page 3050, in the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing Declaration of Restrictions, does hereby consent to the execution of this Declaration of Restrictions by Palm and Tower V Investors, LLC, a limited liability company, and agree that in the event Mortgagee or any other party shall obtain title to the property through foreclosure or deed-in-lieu of foreclosure, this Declaration of Restrictions shall be binding upon the entity obtaining title as the then owner of such property.

IN WITNESS WHEREOF, these presents have been executed this 27 day of March, 2007.

WITNESSES:

[Signature]
MERCEDE CEAL.
Print or Type Name

[Signature]
Ocean Bank, a State Banking corporation

By: [Signature]
Title: Emp Vice President
Print name: Frank Casas
Address:

3/28/07

[Signature]
PAULIX JEAN-CHARLES
Print or Type Name

(Corporate Seal)

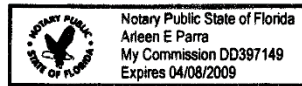
STATE OF FLORIDA)
COUNTY OF Miami-Dade) SS

The foregoing instrument was acknowledged before me this 27 day of MARCH, 2007 by FRANK CASAS, V.P., of Ocean Bank, on behalf of the corporation. He/She is personally known to me or has produced _____, as identification and did/did not take an oath.

[Signature]
Notary Public - State of Florida
Print Name Arlene E. Parra
My Commission Expires:

4402637_v1

1



JOINDER BY MORTGAGEE CORPORATION

The undersigned, Lime Grove Realty, Inc., a Florida corporation and Mortgagee under that certain Mortgage from Q2 Florida City IV, LLC, a Florida limited liability company, recorded in Official Records Book 23931, Page 2407, in the Public Records of Miami-Dade County, Florida, covering all/or a portion of the property described in the foregoing Declaration of Restrictions, does hereby consent to the execution of this Declaration of Restrictions by Q2 Florida City IV, LLC, a Florida limited liability company, and agree that in the event Mortgagee or any other party shall obtain title to the property through foreclosure or deed-in-lieu of foreclosure, this Declaration of Restrictions shall be binding upon the entity obtaining title as the then owner of such property.

IN WITNESS WHEREOF, these presents have been executed this 27 day of March, 2007.

WITNESSES:

Rosa Lage Caro
Rosa Lage Caro
Print or Type Name

Samuel Jacobson
Samuel Jacobson
Print or Type Name

Lime Grove Realty, Inc.,
a Florida corporation

By: [Signature]
Title: member
Print name: Roni JACOBSON
Address: 31 STAR Island Dr.
miami Beach, FL 33139

(Corporate Seal)

STATE OF FLORIDA)
COUNTY OF Dade) SS

The foregoing instrument was acknowledged before me this 27 day of March, 2007 by _____, of Ocean Bank, on behalf of the corporation. He/She is personally known to me or has produced _____, as identification and did/did not take an oath.

Rosa Lage Caro
Notary Public - State of Florida
Print Name Rosa Lage Caro
My Commission Expires: June 26, 2009

#4402675_v1


NOTARY PUBLIC-STATE OF FLORIDA
 Rosa Lage Caro
Commission # DD428131
Expires: JUNE 26, 2009
Bonded Thru Atlantic Bonding Co., Inc.

EXHIBIT "A"

Legal Description:

Tract 1, less the South 618.09 feet of the East 626.89 feet, of REVISED PLAT OF INGLEWOOD, according to the Plat thereof, as recorded in Plat Book 33, Page 53, of the Public Records of Miami-Dade County, Florida.

LESS & EXCEPT:

That portion of Tract 1, of the REVISED PLAT OF INGLEWOOD, according to the Plat thereof, as recorded in Plat Book 33, Page 53, of the Public Records of Miami-Dade County, Florida, more particularly described as follows:

Commenced at the SW corner of Tract 1, as the point of beginning (P.O.B.), thence run Easterly along the North right of way line of S.W. 344 Street (aka Palm Drive), a distance of 331.04 feet to a point; thence run Northerly along the boundary of said Tract 1 a distance of 617.41 feet to a point; thence run Westerly along a line parallel to the North right of way of S.W. 344 Street to a point on the West line of said Tract 1; thence run Southerly along the West line of said Tract 1 to the point of beginning.

LESS & EXCEPT:

That portion of Tract 1, of REVISED PLAT OF INGLEWOOD, as recorded in Plat Book 33, Page 53, of the Public Records of Miami-Dade County, Florida, that lies within the North 1/4 of the North 1/4 of the Southeast 1/4 of the Southwest 1/4 of Section 23, Township 57 South, Range 38 East, lying and being in Miami-Dade County, Florida.

RECORDERS NOTE
This document was received in poor condition.

AND

Lot 3, of C.M. NELSON'S SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 1, Page 163 of the Public Records of Miami-Dade County, Florida.

AND

Lot 4, of C.M. NELSON'S SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 1, Page 163 of the Public Records of Miami-Dade County, Florida.

AND

That portion of Tract 1, of REVISED PLAT OF INGLEWOOD, as recorded in Plat Book 33, Page 53, of the Public Records of Miami-Dade County, Florida, that lies within the North 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 23, Township 57 South, Range 38 East, lying and being in Miami-Dade County, Florida.

Also known as:

Lot 5, of C.M. NELSON'S SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 1, Page 163, of the Public Records of Miami-Dade County, Florida.

EXHIBIT "A"

Legal Description: (continued)

AND

The Northwest One-Quarter of the Southwest One-Quarter of Section 23, Township 57 South, Range 38 East, Miami-Dade County, Florida; less the North thirty-five feet, and the West thirty-five feet of said tract; said land lying and being in Miami-Dade County, Florida.

AND

That portion of TRACT 1 of the Revised Plat of Inglewood according to the Plat thereof recorded in Plat Book 33 at page 33 of the Public Records of Dade County, Florida, particularly described as follows:

Commence at the Southwest (SW) corner of Tract 1 as the point of beginning (p.o.b.), thence run Easterly along the north right of way line of S.W. 344 Street (a/k/a Palm Drive formerly known as Palm Avenue) a distance of 331.04 feet to a point; thence run northerly along the boundary of said Tract 1 a distance of 617.48 feet to a point; thence run Westerly along a line parallel to the north right of way line of S.W. 344 Street to a point on the west line of said Tract 1; thence run Southerly along the west line of said Tract 1 to the p.o.b.

Exhibit "B"



Florida Water StarSM
Basic Qualification Checklist

This program for new residential construction is intended to provide water-efficient housing options and help prevent water leaks. Florida Water StarSM is service marked by the St. Johns River Water Management District.

New Home Requirements

To achieve a Florida Water StarSM rating for new residential homes:

- 1) All prerequisites must be met and validated
- 2) Points must be achieved in all categories (irrigation, landscape and indoors)
- 3) Total points must accumulate to a minimum total of 75 points

In order to obtain a Florida Water StarSM rating, the home must contain sufficient efficient features such that the total score on the checklist is equal to or greater than 75, out of a total possible 100 points.

Homebuilder Information

* Name: _____

* Company: _____

* Address: _____

* City/County: _____

* Area Code/Phone: _____

Fax: _____

E-mail: _____

Home Information

Owner Name: _____

* Address: _____

* City/County: _____

Owner Area Code/Phone: _____

Owner Fax: _____

Owner E-mail: _____

Address 2: _____

Area Code/Phone: _____

of intended occupants: _____

* All fields must be completed.



Outdoors

Prerequisites

- Must meet all local and/or county codes.
- Submit landscape and irrigation design drawings prior to start of construction. Drawings shall be clearly readable, to reasonable scale, and include date, scale and legend. Irrigation designs shall specify — at a minimum — water source, meter size, design operating pressure and flow rate per zone, average application rate per zone (converting gallons per minute [gpm] to inches per hour), schedules by zone, and location and size of pipes and valves. List make, model and specification of controllers, sprinklers, and backflow prevention devices. Show elevation, electrical supply, roadways, sidewalks, structures, and other relevant site conditions.
- Irrigation systems must meet minimum design standards for automatic in-ground systems as listed below:
 - Piping system shall be free from leakage. Pipes shall be sized for appropriate gpm so velocities don't exceed 5 fps (feet per second)
 - A functioning rain sensor device shall be installed in an operable location
 - Separate irrigation zones exist for turf and landscape beds
 - Precipitation rates are matched in each zone
 - Turf zone head spacing shall not exceed 45 percent of the sprinkler's diameter of coverage for square spacing, and 50 percent of coverage for triangular spacing
 - Rotor heads and fixed pattern spray sprinklers are installed on separate zones
 - Pressure-compensating spray heads or pressure-compensating valves are installed for spray zones
 - Irrigation in planting beds should be micro-irrigation or sprays that deliver water directly to root zones rather than wetting the entire area, or hose bibs are provided for manual irrigation
 - Pop-up rotors and spray heads rise above the grass height: 4 inches for St. Augustine, zoysia and bahia; 3 inches for lower-growing species such as centipede, Bermuda and seashore paspalum
 - Narrow areas (4 feet or less) are not irrigated unless micro-irrigation is used
 - Emitters are located at least 2 feet from the house so that the structure is not wetted
 - System ensures correct spray patterns and minimizes over spray on impermeable surfaces
 - Automatic irrigation controller includes a battery backup or non-volatile memory to maintain schedule settings
 - Written operating information provided to home buyer is affixed to the controller, including irrigation schedule, controller handbook and diagram of zones
 - The controller is reset for maintenance schedule after establishment and before closing, and/or instructions are affixed on controller for home buyer to change by a certain date
 - Irrigation controller is programmed with seasonal variations based on historical rates, with a total application not to exceed 21 gallons per square foot.

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Irrigation	Points	Points Earned
No automatic in-ground irrigation system installed, if combined with site-appropriate landscape	35	
Required — Minimum design standards for automatic in-ground irrigation system	15	
High-flow irrigation (rated in gpm) covering no more than 50 percent of the landscape areas	8	
Weather-based controller	11	
Soil moisture sensor(s)	8 (for each)	
Control timer to include a minimum of three scheduling programs	4	
Check valves installed on heads in low-lying areas and in areas with poor drainage	6	
Leak detection shut-off system	6	
Total	50 (+)	

Landscape

Preservation of site vegetation	Points	Points Earned
Three or more trees greater than 4 inches dbh (diameter at breast height) preserved on lot	4	
10 percent of a lot's native shrubs and ground covers preserved	5	
Greater than 20 percent of site's native shrubs and ground covers preserved (not including permitted wetlands)	7	
Installed landscape		
Plants and turf planted no closer than 2 feet from foundation	3	
Plants grouped with similar moisture and maintenance requirements	8	
Plant selections compatible with growing conditions	8	
Totals	35	

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Indoors

Prerequisites

- All armored/metal hoses from service to appliances
- Mold-resistant materials at tub/shower enclosures
- Must meet all requirements specified in Florida Building Code

Water heater	Points	Points Earned
Equipped with leak detection shut-off valve	5	
Located within 30 feet of end use	2	
Centrally located	2	
Kitchen and bathroom faucets		
Faucet aerators or laminar flow	3	
Showers equipped with only one showerhead	6	
Toilets		
All toilets — MaP Rating of 250 gm or greater	6	
Add three points for each high-efficiency toilet (HET) (1.0–1.1 gpf), or dual flush (MaP Rating of 250 gpm or greater)	9	
Clothes and dish washers		
Manual water shut-off valves	2	
Equipped with leak detection shut-off valve	2	
ENERGY STAR® dishwasher using 6 gallons per cycle or less	5	
ENERGY STAR® washing machine with water factor less than 9.5	4	
Total	40	

Point Summary	Category Point Totals
Irrigation	
Landscape	
Indoors	
Total	

Rev. April, 2006

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Primary Certifying Agent Information

- * Name: _____
- * Company: _____
- * Address: _____
- * City/County/Zip Code: _____
- * E-mail: _____
- * Area Code/Phone: _____
- * Fax: _____

By signing below, we acknowledge that each of the measures intended to qualify the home for the Florida Water StarSM rating have been incorporated into the home's construction.

Homebuilder Signature _____

Contact Information: _____

Irrigation Validating Agent Signature: _____

Contact Information: _____

Landscape Validating Agent Signature: _____

Contact Information: _____

Plumbing Validating Agent Signature: _____

Contact Information: _____

* All fields must be completed.

Exhibit C
Permitted Number of Residential Dwelling Units

<p>If the Miami-Dade Board of County Commissioners approves only Application No. 14 (April 2006 Amendment Cycle), then the Owner will not be entitled to receive certificates of occupancy for more than 890 residential dwelling units contemplated for the Property until the completion of the design and construction of the Roadway Improvements.*</p>
<p>If the Miami-Dade Board of County Commissioners approves only Application No. 13 (April 2006 Amendment Cycle) and Application No. 14 (April 2006 Amendment Cycle), then the Owner will not be entitled to receive certificates of occupancy for more than 670 residential dwelling units contemplated for the Property until the completion of the design and construction of the Roadway Improvements.*</p>
<p>If the Miami-Dade Board of County Commissioners approves only Application No. 14 (April 2006 Amendment Cycle) and Application No. 15 (April 2006 Amendment Cycle), then the Owner will not be entitled to receive certificates of occupancy for more than 445 residential dwelling units contemplated for the Property until the completion of the design and construction of the Roadway Improvements.*</p>
<p>If the Miami-Dade Board of County Commissioners approves Applications No. 13, No. 14 and No. 15, then the Owner will not be entitled to receive certificates of occupancy for more than 255 residential dwelling units contemplated for the Property until the completion of the design and construction of the Roadway Improvements.*</p>

* The data and analysis supporting the conclusions set forth above that a certain number of residential dwelling units may be constructed prior to exceeding the adopted level of service may be found in that certain Supplemental Traffic Study prepared by Cathy Sweetapple and Associates, Inc., dated March 2, 2007, which was submitted as part of the public record in consideration of Application No. 14. A summary of the data and analysis is attached herein.

4038176_v16

APPENDIX C

**Revised Proffered Amended and Restated Covenant received March 20, 2023
(Proffered Covenant)**

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This instrument was prepared by:

Amanda M. Naldjieff, Esq.
Holland & Knight LLP
701 Brickell Avenue, Suite 3300
Miami, Florida 33131

**RECEIVED 3-20-23
Planning Division**

Folio Nos: 30-7823-000-0200, 30-7823-002-0040, -0050, -0051,
-0052, and -0053, 30-7823-004-0025 and -0020, and
30-7823-001-0011, -0020, -0030 and -0040.

(Space Reserved for Clerk)

AMENDED AND RESTATED DECLARATION OF RESTRICTIONS

This AMENDED AND RESTATED DECLARATION OF RESTRICTIONS (the "Declaration") is entered into on this ____ day of _____, 2023, by LIME GROVE REALTY, INC., a Florida profit corporation, and EMPOWER HOLDINGS, LLC, a Florida limited liability company (hereinafter referred to as the "Owner" or "Owners").

WITNESSETH THAT:

WHEREAS, the Owners collectively hold the fee simple title to those parcels of land located between S.W. 336th Street and S.W. 344th Street and between S.W. 192nd Avenue and S.W. 197th Avenue in unincorporated Miami-Dade County, as further described in **Exhibit "A"** attached hereto, (hereinafter called the "Property"), which is supported by the Opinion of Title; and

WHEREAS, for purposes of this Amended and Restated Declaration, the parcel owned by Lime Grove Realty, Inc., as more particularly described in Exhibit "A-1" to this Declaration, shall be referred to as the "Lime Grove Parcel," and the parcel owned by Empower Holdings, LLC, as more particularly described in Exhibit "A-2," shall be referred to as the "Empower Parcel"; and

WHEREAS, the Property was the subject of Miami-Dade County Comprehensive Development Master Plan ("CDMP") Amendment Application No. 14 of the April 2006 Cycle (the "2006 CDMP Application"); and

WHEREAS, the 2006 CDMP Application changed the Property's land use designation for (i) the portion of the Property located west of S.W. 194th Avenue from "Estate Density Residential" to "Estate Density Residential with a DI-1 density increase" with urban design and (ii) the portion of the Property located east of S.W. 194th Avenue from "Estate Density Residential" to "Low Density Residential with a DI-1 density increase" with urban design; and

WHEREAS, on November 20, 2006, the Miami-Dade County Board of County Commissioners (the "Board") approved the 2006 CDMP Amendment and accepted a Declaration of Restrictions proffered by the then owners of the Property, which is recorded in Official Records Book 25853 at Pages 4394 through 4417 of the Public Records of Miami-Dade County, Florida (the "2006 Declaration"); and

WHEREAS, conditions and circumstances have significantly changed in this area of the County since the acceptance of the 2006 Declaration; and

WHEREAS, since the acceptance of the 2006 Declaration, ownership of the Property has been fractured and it is now owned by two separate legal entities, which bifurcation of ownership has made it virtually impossible to perform the obligations in the 2006 Declaration in the manner originally contemplated; and

WHEREAS, the purpose of this Amended and Restated Declaration of Restrictions is to preserve the substantive obligations and restrictions in the 2006 Declaration while facilitating the Owners' performance and the County's enforcement of the 2006 Declaration, as herein amended and restated; and

WHEREAS, the Owners submitted CDMP Application No. CDMP20220005 in the January 2022 Amendment Cycle (the "2022 CDMP Application") in order to amend and restate the 2006 Declaration, as provided herein; and

WHEREAS, in order to assure the Miami-Dade County that the representations made by the Owners during the consideration of the 2022 CDMP Application will be abided by, albeit in the modified manner set forth herein, the Owners freely, voluntarily and without duress make the following Amended and Restated Declaration of Restrictions covering and running with the Property.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the receipt and sufficiency of which are hereby acknowledged, the Owners hereby agree as follows:

1. The Parties agree that the foregoing recitals are true and correct and by this reference are fully incorporated herein.

2. **Workforce Housing**

(a) Commitment. If the Lime Grove Parcel receives zoning approval for at least 90% of the Maximum Density for such parcel (as defined below), a minimum of 20% of the residential dwelling units within the parcel shall be set aside for sale or rent as Workforce Housing Units ("WHU"). If the Empower Parcel receives zoning approval for at least 90% of the Maximum Density for such parcel (as defined below), a minimum of 20% of the residential dwelling units within the parcel shall be set aside for sale or rent as Workforce Housing Units ("WHU"). In no event shall less than 10% of the residential dwelling units within each parcel be set aside for sale or rent as WHU.

(b) Definition. A "Workforce Housing Unit" shall consist of residential dwelling units that are made available for sale or rent by the Owners to persons with a median family income that is 65% to 140% of the median family income in Miami-Dade County, as published annually by the U.S. Department of Housing and Urban Development (a "Qualified Purchaser").

(c) Distribution of Workforce Housing Units. Pursuant to Section 2(a) of this

Declaration, the Owners shall each set aside twenty percent (20%) of the residential dwelling units as WHU, then the Owners shall each set aside twenty five percent (25%) of such WHU for sale or rent to persons with a median family income that is 65% to 105% of the median family income in Miami-Dade County, as published annually by the U.S. Department of Housing and Urban Development ("Moderate WHU").

(d) Process. Prior to each Owner obtaining the initial building permit for the construction of any residential dwelling unit (other than model homes) on their property, the Owner shall submit a declaration of restrictions, in a form acceptable to the County, setting forth restrictions on the re-sale of such residential dwelling units consistent with the intent of maintaining such residential dwelling units as Workforce Housing Units for a period of twenty (20) years from the date of its initial sale. The Owners further agree to grant to the County the right of first refusal to purchase any WHU in which a Qualified Purchaser cannot be located within two hundred and ten (210) days from the date the WHU is offered for sale, which right of first refusal must be exercised by the County within thirty (30) days of the County's receipt of notification that a Qualified Purchaser cannot be located as provided for herein. In the event a Qualified Purchaser cannot be located and the County does not exercise its right of first refusal, then the Owners may sell the WHU at market rate.

3. Maximum Density for each Parcel. The density for the overall residential development on the Property shall not exceed 940 units. Specifically, the density of any residential development on the Lime Grove Parcel shall not exceed 231 dwelling units and the density of any residential development on the Empower Parcel shall not exceed 709 dwelling units.

4. Transit Improvements. In an effort to accommodate public transportation in the area, prior to the approval of a final plat for each parcel, the Owner of such parcel shall coordinate

with Miami-Dade Transit and allow encroachments onto the parcel, as necessary, to provide for a bus pull-out bay and bus shelter. Each Owner's obligation under this Paragraph shall expire upon the approval of a final plat for its parcel. Notwithstanding the approval of a final plat, the Owners shall cooperate with the County's Department of Transportation and Public Works (DTPW) during their respective site plan approval processes to allow the installation of a bus pull-out bay and/or bus shelter if said installation can be accomplished without altering the approved final plat for their parcels.

5. **Water Conservation Requirements.** In an effort to conserve water, the Owners hereby agree to develop the Property and construct the proposed residential dwelling units so as to satisfy the requirements necessary to achieve (but shall not be required to obtain certification as) a "Florida Water Star" rating in accordance with the "Florida Water Star Basic Qualification Checklist", a copy of which is attached to this Declaration as **Exhibit "B"**.

6. **Improvement of S.W. 344th Street.** In accordance with the provisions of Section _____, Florida Statutes, and Chapter 33G of the County Code, prior to the approval of a final plat for each parcel, the Owner of such parcel shall enter into a proportionate share mitigation agreement with the County to provide a proportionate share mitigation payment to address the impacts of the development of its parcel on S.W. 344th Street, east of S.W. 192nd Avenue, which payment shall be credited against the amount of the roadway impact fees that will be assessed by the County under Chapter 33E of the Code against the development of each parcel.

7. **Covenant Running with the Land.** This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is

modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. The Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

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

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

be subject to Chapter 163 and the provisions of such ordinances as may be adopted by such successor municipality for the adoption of amendments to its comprehensive plan; or, in the event that the successor municipality does not adopt such ordinances, subject to Chapter 163 and by the provisions for the adoption of zoning district boundary changes. It is provided, however, that in the event that the successor municipality approves a modification or deletion of this Declaration of Restrictions, such modification or deletion shall not be effective until approved by the Board of County Commissioners, in accordance with applicable procedures. Should this Declaration be so modified, amended, or released, the Director of the Department of Regulatory and Economic Resources or the executive officer of a successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her absence, shall execute a written instrument effectuating and acknowledging such modification, amendment, or release.

10. Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

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

12. Authorization for Miami-Dade County (or Successor Municipality) to Withhold

Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County (or successor municipality) is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

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

14. Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County (or successor municipality), and inspections made and approval of occupancy given by the County (or successor municipality), then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

15. Severability. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion.

16. Recordation and Effective Date. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner following the approval of the Application by the Board of County Commissioners. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the Application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the

denial of the Application, in its entirety, and upon written request, the Director of the Department of Regulatory and Economic Resources or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

17. **Acceptance of Declaration.** The Owner acknowledges that acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners retains its full power and authority to deny each such application in whole or in part and decline to accept any conveyance.

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

[SIGNATURE PAGES FOLLOW]

H&K Draft 3.14.2023

SIGNED, WITNESSED, EXECUTED AND ACKNOWLEDGED ON THIS ____ DAY OF _____, 2023.

IN WITNESS WHEREOF, LIME GROVE REALTY, INC. has caused these presents to be signed in its name by its proper officials.

WITNESSES:

LIME GROVE REALTY, INC., a Florida profit corporation

Signature

Printed Name

By: _____
Name: _____
Title: _____
Address: _____

Signature

Printed Name

STATE OF _____)
COUNTY OF _____) SS:

The foregoing instrument was acknowledged before me by physical presence or online notarization this ____ of _____, 2023 by _____, as _____ of **LIME GROVE REALTY, INC.**, a Florida profit corporation, who is personally known to me or has produced _____ as identification.

Notary Public Signature

Printed Name

[SEAL]

SIGNED, WITNESSED, EXECUTED AND ACKNOWLEDGED ON THIS ____ DAY OF _____, 2023.

IN WITNESS WHEREOF, EMPOWER HOLDINGS, LLC has caused these presents to be signed in its name by its proper officials.

WITNESSES:

EMPOWER HOLDINGS, LLC, a Florida limited liability company

Signature

Printed Name

By: _____

Name: _____

Title: _____

Address: _____

Signature

Printed Name

STATE OF _____)

COUNTY OF _____) SS: _____)

The foregoing instrument was acknowledged before me by physical presence or online notarization this _____ of _____, 2023 by _____, as _____ of **EMPOWER HOLDINGS, LLC**, a Florida limited liability company, who is personally known to me or has produced _____ as identification.

Notary Public Signature

Printed Name

[SEAL]

EXHIBIT "A"

SUBJECT PROPERTY

H&K Draft 3.14.2023

EXHIBIT "A-1"
LIME GROVE PARCEL

H&K Draft 3.14.2023

EXHIBIT "A-2"
EMPOWER PARCEL

H&K Draft 3.14.2023

EXHIBIT "B"

FLORIDA WATER STAR BASIC QUALIFICATION CHECKLIST

H&K Draft 3.14.2023

**Florida Water StarSM Residential Criteria and Qualifications Checklist
Silver and Gold Certifications**



floridawaterstar.com

This checklist is for determining the Florida Water StarSM Silver or Gold rating of new and existing single-family residential homes. The requirements in this checklist shall be validated by a Florida Water StarSM accredited inspector.

Florida Water StarSM certification may be awarded at a Silver or Gold level.

- Silver — Each criterion identified below for landscape, irrigation and indoor must be complied with and supported by documentation.
- Gold — In addition to complying with each criterion below, accompanied with supporting documentation, minimum points shall be achieved in the categories of landscape (45 points), irrigation (35 points) and indoor (20 points).

Refer to the Florida Water StarSM Technical Manual for additional information on the criteria and practices.

General Information			
Home Information		Inspector Information	
Owner's name		Inspector's name	
Company		Company	
Address		Address	
City		City	
Zip		Zip	
Phone		Phone	
Email		Email	

Required Supporting Documentation			
	Yes	No	NA
Certificate of occupancy			
Landscape drawing			
Irrigation drawing			
Landscape affidavit			
Irrigation affidavit (if there is a permanent in-ground irrigation system)			
Schedule of indoor fixtures and appliances, including performance specifications			

Page 1 of 9
Inspector's initials _____

revised 8 February 2018
Inspection Agency Reviewer's initials _____

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Landscape				
		Yes	No	NA
LC 1	No invasive exotic plant species are in the landscaped area.			
LC 2	Root balls are at least 2.5 feet on center from the foundation of the structure.			
LC 3	A minimum of 90% of plant selections is compatible with site-specific conditions such as sunlight, soil types and salinity.			
LC 4	A minimum of 90% of plants is grouped with similar moisture and maintenance requirements.			
LC 5	Trees will provide shade to 30% of the total landscaped area at maturity.			
LC 6	Organic mulch is used and applied to a depth of 2 to 4 inches, leaving a 2-inch space around the base of plant.			
LC 7	All plants are installed according to the <i>Florida Friendly Best Management Practices for Protection of Water Resources</i> by the Green Industries. The landscape installer must attest to this in an affidavit.			

Irrigation				
General Design		Yes	No	NA
IRC 1	High-volume irrigation does not irrigate more than 60% of the total landscaped area (Silver).			
	High-volume irrigation does not irrigate more than 50% of the total landscaped area (Gold).			
IRC 2	If irrigation is used for landscaped beds, micro-irrigation is used and is correctly installed.			
IRC 3	Irrigation zones for turfgrass and landscaped beds are separate.			
IRC 4	Irrigated areas less than four feet wide are irrigated with correctly designed and installed micro-irrigation.			
IRC 5	Sprinklers and emitters are located at a minimum of two feet from structures.			
IRC 6	The irrigation system is free from leaks.			
IRC 7	Sprinklers in low-lying areas have check valves.			
Distribution Uniformity		Yes	No	NA
IRC 8	Sprinklers rise above turfgrass height: • A minimum of 6-inch pop-up for spray heads and 4-inch pop-up for rotor heads for St. Augustine, Zoysia and Bahia grasses • A minimum of 4-inch pop-up for spray and rotor heads for Centipede, Bermuda and Seashore Paspalum grasses			
IRC 9	Application occurs in proper spray patterns, minimizing overspray on impervious surfaces.			
IRC 10	Pipes are sized to prevent velocities higher than five feet/second.			

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Inspector's initials _____

revised 8 February 2018
Inspection Agency Reviewer's initials _____

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CRITERIA (Silver and Gold)

Irrigation				
		Yes	No	NA
IRC 11	Precipitation rates for all sprinklers within a zone are matched.			
IRC 12	All sprinkler heads with spray nozzles (non-rotary) are pressure-regulated at the head or zone valve.			
IRC 13	Head spacing does not exceed 50% of the nozzle throw diameter. (head to head spacing)			
Scheduling		Yes	No	NA
IRC 14	A device with rain shut-off capabilities is installed in an operable location and is functioning.			
IRC 15	Each of the following items has been provided to the homeowner: <ul style="list-style-type: none"> • Controller handbook/operating instructions • As-built zone diagram, including location and size of components, and soil moisture sensor probe location if applicable • Precipitation rates for each zone • Schedule run times, winter and summer 			
IRC 16	If the home is owner-occupied, the homeowner has been trained in how to change the controller schedule for maintenance and for changes in local water rules.			
Indoor				
		Yes	No	NA
INC 1	All fixture and appliance water supply connections are reinforced.			
INC 2	All toilets are high-efficiency (1.28 gallons/flush with a UNAR MaP rating above 350 grams/flush). WaterSense®-labeled toilets comply.			
INC 3	Single showerhead with a flow rate of 2 gallons/minute or less, or WaterSense®-labeled.			
INC 4	All lavatory sink faucets have flow rates of 1.5 gallons/minute or less or WaterSense®-labeled.			
INC 5	If the applicant chooses to install clothes washers and dishwashers, they must meet current ENERGY STAR® performance criteria.			

**Applicants for Silver certification proceed to landscape and irrigation affidavits.
To achieve Gold certification, points must be earned in addition to meeting the preceding criteria.**

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Inspector's initials _____

revised 8 February 2018
Inspection Agency Reviewer's initials _____

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GOLD CRITERIA			
Landscape			
Applicant must achieve 45 points		Points Possible	Points Earned
LP 1	30% or more of the lot area remains undisturbed and in a natural state with no supplemental irrigation.	15	
	20% or more of the lot area remains undisturbed and in a natural state with no supplemental irrigation.	10	
	10% or more of the lot area remains undisturbed and in a natural state with no supplemental irrigation.	5	
LP 2	Trees will provide shade up to 50% of the total landscaped area at maturity (cannot include trees from LP 1 above).	20	
	Trees will provide shade up to 40% of the total landscaped area at maturity (cannot include trees from LP 1 above).	15	
LP 3	Unirrigated drought-tolerant turf grass or ground cover is used.	Up to 25	
LP 4	Landscape beds are designed to have no permanent irrigation system (all extensions/lateral lines to these areas from an existing irrigation system are permanently disabled).	Up to 20	
LP 5	Landscape maintenance instructions with recommended fertilizer and pesticide applications are permanently posted near the irrigation controller.	5	
LP 6	Organic soil amendments incorporated into top 8 inches of existing soil (amendment of at least 5% of the soil weight recommended).	10	
LP 7	All downspouts are directed to pervious areas — outfall is two feet or more from the foundation.	5	
LP 8	Innovative landscape water conservation is used.	Up to 10	
Property Bordering a Water Body (10 additional points needed)		—	
LP 9	A minimum 10-foot border of unirrigated, site-appropriate plants is created parallel to the shoreline/seawall.	Up to 10	
LP 10	Non-irrigated vegetated terraces, swales or berms are used to prevent stormwater from entering the water body (A letter of modification to an environmental resource permit may be required by the applicant to achieve these points).	Up to 10	
TOTAL:		120+	

Page 4 of 9
Inspector's initials _____

revised 8 February 2018
Inspection Agency Reviewer's initials _____

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GOLD CRITERIA			
Irrigation			
Applicant must achieve 35 points		Points Possible	Points Earned
IRP 1	100% of the landscape has no inground irrigation.	35	
	75% of the landscape has no inground irrigation.	30	
	50% of the landscape has no inground irrigation.	25	
	25% of the landscape has no inground irrigation.	20	
IRP 2	The landscape has no high-volume irrigation	30	
	High-volume irrigation covers 30% of the irrigated area.	20	
	High-volume irrigation covers 31-40% of the irrigated area.	15	
	High-volume irrigation covers 41-50% of the irrigated area.	10	
IRP 3	Pressure-regulating valves control all zones.	5	
IRP 4	A master in-line pressure regulator at the water source, adjusted to maximize efficient irrigation equipment operation is used.	5	
IRP 5	Soil moisture sensor (SMS) controller with multiple SMS probes is correctly installed, using burial grade connectors in the valve box, and is functioning correctly.	20	
	SMS controllers with one SMS probe is correctly installed, using burial grade connectors in the valve box, and is functioning correctly.	15	
IRP 6	ET (evapotranspiration), smart or weather-based controller is installed correctly, programmed and functioning.	20	
IRP 7	Leak detection/flow-sensing system is installed by homeowner or utility.	5	
IRP 8	Irrigation supplied by rainfall harvesting system (designed and sized in accordance with <i>Tampa Bay Water BMP manual</i>).	Up to 35	
TOTAL:		125+	

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Inspector's initials _____

revised 8 February 2018
Inspection Agency Reviewer's initials _____

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Indoor			
Applicant must achieve 20 points		Points Possible	Points Earned
INP 1	High-efficiency toilet (maximum 1.0 gallon/flush with a UNAR MaP rating above 350 grams/flush). WaterSense®-labeled toilets comply.	2 per toilet	
INP 2	Lavatory sink faucets have flow rates of 1 gallon/minute or less.	2 per faucet	
INP 3	All kitchen faucets have flow rates of 1.5 gallons per minute or less or are WaterSense®-labeled faucets.	4 per fauce	
INP 4	The dishwasher uses less than 4.25 gallons per cycle (ENERGY STAR® models qualify).	3	
INP 5	Clothes washer has a water factor of 6 gallons or less (ENERGY STAR® models qualify).	15	
INP 6	Centrally located hot water tank/manifold plumbing system is used.	6	
	A point-of-use or on-demand water heater supplies the kitchen fixtures and appliances.	6	
INP 7	Rainwater or gray water is used to flush all toilets.	6	
INP 8	Innovative indoor water conservation is used.	Up to 10	
TOTAL:		63+	

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 Inspector's initials _____

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 Inspection Agency Reviewer's initials _____

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INSPECTOR AFFIDAVIT			
If Gold, Criteria Points Met by:			
	Possible Points	Minimum Points Required	Points Earned
Landscape	120+	45	
Irrigation	125+	35	
Indoor	63+	20	
TOTAL:		100	

If the above Gold Criteria table is blank, then Gold level has not been achieved.

I hereby attest that all of the above items were completed and validated by the undersigned or under the supervision of the undersigned person.

Signature

Date

Company name

Phone

Project address

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Inspector's initials _____

revised 8 February 2018
Inspection Agency Reviewer's initials _____

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IRRIGATION AFFIDAVIT

If a permanent in-ground irrigation system has been installed, it must have been installed per the design drawings and in accordance with the irrigation criteria. The irrigation system installer must attest and confirm by signing this document that the following items have been successfully completed.

Item	Completed
Sprinklers in low-lying areas (heads that are lower than the valve box) have check valves.	
Pipes have been sized to prevent velocities higher than 5 feet per second.	
Precipitation rates for all sprinklers within a zone are matched.	
A device with rain shut-off scheduling capabilities has been installed in an operable location and is functioning.	
Each of the following items has been provided to the homeowner: <ul style="list-style-type: none"> • Controller handbook/operating instructions • As-built zone diagram, including location and size of components, and soil moisture sensor probe location if applicable • Precipitation rates for each zone • Schedule run times, winter and summer 	
If the home is owner-occupied, the homeowner has been trained in how to change the controller schedule for maintenance and for changes in local water rules.	

I hereby attest that all of the above items were completed by the undersigned or under the supervision of the undersigned person.

Signature

Date

Company name

Phone

Project address

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Inspector's initials _____

revised 8 February 2018
Inspection Agency Reviewer's initials _____

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LANDSCAPE AFFIDAVIT

Landscape materials must be installed in accordance with the *Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries*. The landscape installer must attest and confirm by signing this document that the following practices have been followed.

Practice	Completed
Organic mulch was used and applied to a depth of 2 to 4 inches, leaving a 2-inch space around the base of the plant.	
A site evaluation was conducted.	
Right plant, right place — plants were selected with attributes specific to site conditions.	
Plants were chosen that will not outgrow their allotted space.	
The soil was prepared correctly before planting to ensure establishment.	
If compacted, soil was tilled.	
LP 6 (if selected), organic soil amendments have been added into the top 8 inches of soil.	
When planting trees and shrubs, each root ball was inspected, and all soil removed from above the topmost root.	
When planting trees and shrubs, each planting hole was prepared correctly.	

I hereby attest that all of the above practices were completed by the undersigned or under the supervision of the undersigned person.

Signature

Date

Company name

Phone

Project address

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Inspector's initials _____

revised 8 February 2018
Inspection Agency Reviewer's initials _____

APPENDIX E

**FDOT Letter Regarding Application No. 14 of the April 2006 Cycle
dated January 17,2007**

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Florida Department of Transportation

11 RW
1/23/07

CHARLIE CRIST
GOVERNOR

District Six
Planning & Environmental Management Office
1100 NW 111 Avenue, Miami, FL 33172

STEPHANIE KOPELOUSON
INTERIM SECRETARY

January 17, 2007

Mr. Ray Eubanks
Community Program Administrator
Florida Department of Community Affairs
2555 Shumard Oaks Boulevard
Tallahassee, Florida 32399-2100

Dear Mr. Eubanks:

SUBJECT: Miami-Dade County April 2006 Application to Amend the Comprehensive Development Master Plan (DCA #07-1)

In accordance with your request, and the provisions of Chapter 163, Part II, Florida Statutes and Chapter 9J-5, Florida Administrative Code, this office has completed a review of the Miami-Dade County April 2006 Application to Amend the Comprehensive Development Master Plan.

Proposed Amendment package #07-1 to the Miami-Dade Comprehensive Plan contains seven proposed amendments: six changes to the Future Land Use Map and one text change to the Capital Improvements Element. The Future Land Use Map amendments were reviewed for conflicts with the FDOT work program.

A summary of the proposed amendments in this package is listed below. For purposes of this review, the amendments retain their county amendment numbers.

Amendment #6

Application

Proposed amendment #6 would change the land use designation from Low-Medium Density Residential to Office/Residential on a 7.8 acre site located northwest of the University of Miami and adjacent to the western edge of the City of Coral Gables.

Location Description

Primary access to Application 6 is provided off of SW 57 Avenue/Red Road/SR 959 which is a State Historical Highway. This site is located close to the intersection of SW 57 Avenue and US-1/ SR 5. The site is located on the block bounded by SW 57 Avenue on the east; SW 60 Street on the south; SW 58 Avenue on the west and SW 58 Terrace on the north.

Comments:

Current FDOT data indicates that SW 57 Avenue/SR 959, from US-1 to SW 64th Street, is operating at LOS D, and from SW 64 Street to Bird Road/SR 976, is operating at LOS F. Furthermore, the County projects that in 2015, SW 57 Avenue between SW 56 Street and US-1 will operate at LOS F with or without this project. This application is located within a Transportation Concurrency Exception Area, thus concurrency approval for transportation purposes could be granted for a project at this site. Future road widening to serve the application site is limited due to the fact that this segment of Red Road/SW 57 Avenue between SW 8 and SW 72 Streets was declared in 1989 as a State Historic Highway. Therefore it is recommended, in accordance with SB 360 Growth Management legislation, that the County require this development to support and fund mobility within this designated exception area, including alternative modes of transportation, and to demonstrate how they will provide mobility other than the traditional addition of lane capacity. The County should collect proportionate fair-share payments for this purpose.

Recommendations:

The Department has no objections to this application. There were no capacity projects found in the work program and the Long Range Transportation Plan that would affect this application and this proposed project would not conflict with any projects listed in the work program.

Amendment #7

Application

Proposed amendment #7 would change the land use designation from Low Density Residential to Business and Office on a 8.9 acre site located on the north side of SW 152 Street/Coral Reef Drive/SR 992 .

Location Description

Primary access to Application 7 is provided off of SW 152 Street/Coral Reef Drive/SR 992 and along the east and west sides of theoretical SW 97 Avenue and bounded on the north side by the C-100 canal.

Comments:

Current FDOT traffic count data indicates that Coral Reef Drive from HEFT to US-1 is operating at LOS F and US-1 is operating at LOS F from SW 136 Street to SW 186 Street. The estimated additional trips to the roadways associated with this land use amendment could be as high as 434 if the site is developed as a shopping center. On the low side, the land use amendment could result in an additional 6 trips if the site is developed as residential.

The MPO's Long Range Transportation Plan contains two Planned Priority III transportation improvements 1) Coral Reef Drive from HEFT to US-1/SR 5 - Widen from 4 to 6 lanes; and 2) Premium transit planned for US-1. It should be noted that Long Range Transportation Plan improvements should not be relied on to solve any concurrency issues due to the timing of the projects.

Primary access to Applications 13, 14 and 15 is provided off of SW 344 Street, extending approximately 1.5 miles west from US-1 to SW 192 Avenue. SW 344 Street is a State Road from US-1 to SW 192 Avenue. SW 344 Street is a 4-lane divided roadway from US-1 to SW 182 Avenue and it narrows to a 2-lane undivided roadway west of SW 182 Avenue. SW 192 Avenue is a State Road south of SW 344 Street.

Comments:

Current FDOT traffic count data indicates that SW 344/SR 9336 is operating at LOS C and it is anticipated to deteriorate to LOS F by 2015 with the adoption of these three amendments. Additionally, US-1 from Card Sound Road to SW 344 Street is operating at LOS D and at LOS E south of Card Sound Road. Finally, Krome Avenue, from US 1 to SW 328 Street, is operating at LOS C, and north of SW 328 is operating at LOS F. Generally, this area of the County is experiencing a large amount of traffic congestion, however, there are numerous projects in the planning stages to relieve the current problems. These are outlined as follows:

FDOT Work Program

The FDOT Work Program identified 2 projects in the vicinity of these proposed land use amendments. These projects are also listed in the County's adopted 2007 Transportation Improvement Program. The proposed applications would not conflict with either of the following projects listed in the work program:

1. 405575-3 Krome Avenue/SR 997 from US-1/SR 5 to SW 328 Street/Lucy Street – Widen from 2 lanes to 4 lanes in FY 2010
2. 416473-1 US-1/SR 5 auxiliary lane from Card Sound Road to SW 344 Street – Add auxiliary lanes in FY 2009.

The following summarizes additional projects identified in the County's adopted 2007 Transportation Improvement Program:

- SW 328 Street from US-1 to SW 162 Avenue – Widen to 4 lanes (PE and Construction)
- SW 328 Street from SW 162 Avenue to 152 Avenue – Widen to 4 lanes (Construction)
- SW 328 Street from SW 152 Avenue to 137 Avenue – Widen to 4 lanes (PE and Construction)
- SW 312 Street from SW 187 Avenue to SW 177 Avenue – Widen to 5 lanes (PE)
- South Dade Busway Extension to Florida City – Premium transit (Construction Underway)

Long Range Transportation Plan

While the Long Range Transportation Plan contains planned projects in the vicinity of these applications, it should be noted that these improvements should not be relied on to solve any concurrency issues due to the timing of the projects.

Planned Priority I and II transportation improvements from the Long Range Transportation Plan in the project area are listed as follows:

Priority I

SW 320 Street from SW 187 Avenue to US-1 – Widen to 3 lanes

Priority II

SW 177 Avenue from SW 328 Street to SW 296 Street – Widen to 4 lanes

Recommendations:

The Department has no objections to this application. There are no work program projects adjacent to the project site and this proposed project would not conflict with any projects listed in the work program.

Amendment #8

Application

Proposed amendment #8 would change the land use designation from Estate Density Residential to Medium-High Density Residential on a 5.37 acre site.

Location Description

Primary access to Application #8 is provided at SW 127 Avenue at the intersection of SW 104 Street.

Comments:

SW 127 Avenue between SW 88 and SW 104 Streets are currently operating at LOS F which is below the adopted LOS D. and SW 88 Street/SR 94 is currently operating at LOS F in the vicinity of this project site. It is estimated that if this land use application were approved and multi-family residential unites were developed at this site, it would result in an additional 98 trips on the roadways.

The MPO's Long Range Transportation Plan contains two Planned Priority I transportation improvements which are also included on the County's adopted 2007 Transportation Improvement Program: 1) SW 127 Avenue from SW 88 Street to SW 120 Street - Widen from 2 lanes to 5 lanes and; 2) SW 104 Street from SW 147 Avenue to SW 137 Avenue - Widen from 4 lanes to 6 lanes. It should be noted that Long Range Transportation Plan improvements should not be relied on to solve any concurrency issues due to the timing of the projects.

Recommendations:

The Department has no objections to this application. No projects were found in the work program in the vicinity of this site and this proposed project would not conflict with any projects listed in the work program.

Amendments #13, #14, #15

Applications

Proposed amendments #13, #14, #15 would change the land use designation from Estate Density Residential to Low-Medium Residential for #13 and #14 and from Low Density Residential to Low-Medium Residential for application #15. Application #13 consists of 9.89 acres, #14 consists of 119.7 acres and #15 consists of 20.7 acres.

Location Description

While these are three separate applications they are located close to each other and will have the same impact on the surrounding roadway network. Application numbers 13 and 14 are located on the north side of SW 344 Street/S.R. 9336, to the west of SW 192 Avenue. Application number 15 is located on the south side of SW 344 Street, to the east of SW 192 Avenue.

Developer Sponsored

In addition to the FDOT Work Program and the Long Range Transportation Plan improvements, the developer has proffered to construct roadway improvements in the project vicinity as well. The Year 2015 link analysis for Application 14 and the cumulative analysis for all three applications demonstrate the need to widen SW 344 Street from 2 to 4 lanes, from SW 192 Avenue to SW 182 Avenue. The current 4 lane section ends at SW 182 Avenue. A portion of the four lane section would be a subdivision improvement obligation for Application 15, however each of the three applications would benefit from an expansion of SW 344 Street to 4 lanes from SW 182 Avenue to SW 192 Avenue.

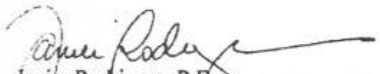
The applicant has proffered a covenant that limits the property owner from seeking certificate of occupancy until the owner, at its own expense, improves SW 344 Street to a four lane divided arterial from SW 182 Avenue to SW 192 Avenue. The owner's obligation is subject to the availability of right-of-way or necessary easements and the receipt of all necessary governmental approvals, including necessary approval from FDOT.

Recommendations:

The Department recommends denial of these applications. The widening of SW 344 Street is not included in the Transportation Element of the County's Comprehensive Plan. At this time FDOT does not have any programmed improvements or preliminary studies in support of the widening of SW 344 Street. Any potential widening of a State Road requires coordination with FDOT, including investigation of right-of-way availability. Many of the parcels adjacent to SW 344 Street have not been platted, therefore the right-of-way necessary for a road widening has not been dedicated. In some segments FDOT has only a maintenance right-of-way which is approximately 30 feet wide. The total right-of-way width necessary to widen the road to four lanes would be a minimum of 80 feet, with a preference for 100 feet. It is suggested that the County should consider increasing the zoned right-of-way for this corridor. The proposed amendment for higher density residential should be accompanied by a corresponding amendment to provide the services and facilities (roadways) necessary to support the development.

Please contact David Korros, AICP at 305-470-5840 or Scarlet Tenen, AICP at 305-594-0735 if you have any questions concerning our response.

Sincerely,


Javier Rodriguez, P.E.
Director of Transportation Development

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APPENDIX F

Objections, Recommendations and Comments (ORC) Report dated April 6, 2007

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APPENDIX C

**Department of Planning and Zoning (DP&Z)
Revised Response to the Florida Department of Community Affairs (DCA)
Objections, Recommendations and Comments (ORC) Report
DCA No. 07-1 Addressing the April 2006 Cycle
Applications to Amend the Comprehensive Development Master Plan (CDMP)**

April 6, 2007

This report contains the revised responses of the Department of Planning and Zoning (Department), to the objections contained in the referenced Objections, Recommendations and Comments (ORC) Report issued by the Florida Department of Community Affairs (DCA) dated February 15, 2007. The DCA issued objections to all seven (7) applications transmitted for review and comment by the Miami-Dade County Board of County Commissioners.

In the following presentation, the DCA's Objection and corresponding Recommendation are presented, followed by a response of the Department of Planning and Zoning. Immediately after the Objection number, notations are provided indicating which Applications that the Objection and Recommendation address. The issuance of the responses contained herein does not preclude the issuance of other future responses by the Department. Moreover, the responses issued by the Department are not necessarily those of the applicants, Local Planning Agency (Planning Advisory Board), or Board of County Commissioners, which may offer their own responses.

DCA Objection #1: Non-Availability of Potable Water Supply (Applies to Applications No. 6, 7, 8, 13, 14, and 15)

The County has not demonstrated that the proposed land uses in Future Land Use Map (FLUM) Amendments (Applications) 6, 7, 8, 13, 14, and 15 will be supported by an adequate potable water supply. All of the proposed map amendments would result in greater potential water consumption, ranging from 2,250 gpd (Application 6) to 284,350 gpd (Application 14). According to the information provided by the County, the total potential increase in potable water demand is 379,700 gallons per day (gpd). The South Florida Water Management District estimates a higher potable water demand of approximately 0.7 mgd from the new FLUM changes.

Until the County is able to demonstrate that it has an available potable water supply to serve the increase demand from the proposed land use amendments, it would be inappropriate to approve any such changes to the comprehensive plan which increase potential future water consumption.

The County has not, per s. 163.3167(13), Florida Statutes (F.S.), addressed in its comprehensive plan the water supply sources necessary to meet and achieve the projected water use demand for the established planning period, considering the additional potential demand which would be added to the future land use map by the proposed map amendments. Note that, per s.

C-1

163.3177(6)(a), the future land use plan is to be based upon surveys, studies, and data regarding the area, including the availability of water supplies

The 6-year schedule of capital improvements in the proposed update of the Capital Improvements Element (CIE) in Amendment 07-1 contains several water supply facility projects which appear to address future alternative sources of potable water. However, the 6-year schedule of capital improvements does not tie the future water supply projects to specific future water supply demand. According to s. 163.3177(3)(a), F.S., the CIE is to include a component which outlines principles for correcting existing public facility deficiencies which are necessary to implement the comprehensive plan and a delineation of when the facilities will be needed. The CIE is to include standards to ensure the availability of public facilities and the adequacy of those facilities including acceptable levels of service.

Additional requirements for potable water facilities to satisfy the data and analysis requirements for the Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water, and Natural Groundwater Aquifer Recharge Element are given in Florida Administrative Code (F.A.C.) Rule 9J-5.011(1)(d). These requirements are not satisfied in the present amendment. In short, the proposed amendment does not clearly identify additional new alternative water supply projects to adequately serve the proposed amendments.

In addition to the non-availability of a water supply source, Application 14 will require outlays for water supply facilities in order to be served by an adequate public water supply. Application 14 is located within the Miami-Dade County water and sewer Department (WASD) water franchise area; however, the site is not currently served by WASD. The projected additional demand for potable water resulting from this amendment is 284,350 gpd. To supply the required amount of water would cause the two applicable WASD water treatment plants to exceed their adopted LOS standard of 2 percent capacity above average daily demand. Thus the two water treatment plants which would be expected to serve this site do not have sufficient capacity. There is no indication in the amendment package that the County has budgeted for the additional potable water supply facilities that would be necessary to serve Application 14.

DCA Recommendation:

The County should not adopt the proposed land use changes until it can demonstrate the necessary coordination of land use approvals with an assured supply of potable water. Revise the amendments to demonstrate coordination of the proposed land use changes with the planning and provision of potable water supplies. Identify any needed facility improvements for the 6- and 10-year planning time frame. These improvements should be coordinated with the Water, Sewer, and Solid Waste Element and the Capital Improvements Element, including implementation through the 6-year schedule of capital improvements for any facilities needed during that time frame.

DP&Z Response:

The following narrative addresses the Department of Community Affairs (DCA) objection on the basis of water supply to all adopted standard Land Use Plan (LUP) map amendments (Applications Nos. 6, 7, 8, 13, 14, and 15) as filed during the April 2006 CDMP Amendment cycle. **(Note: Application No. 6 was withdrawn prior to the Board of County Commissioners' (BCC) hearing on March 28, 2007 and Application Nos. 8, 13, 14 and 15 were approved by the BCC on March 28, 2007 with modifications and restrictive covenants that impacted water use.)**

Objections from the Department of Community Affairs (DCA) have indicated several points of discrepancy between the Miami-Dade County Department of Planning and Zoning and other agencies or statutes. These include: 1) the lack of data and analysis showing how the increased water demand from these six proposed land use map amendments will be addressed by water supply sources; 2) the lack of ties between proposed water supply projects in the 6-year capital improvements element (CIE) and future water demands; and, 3) the lack of water supply facilities to address deficiencies caused by Application 14. Each of these points is discussed below.

1. Water Supply Demand Projections

The DCA is partially correct in stating that insufficient data and analysis accompanied the plan amendment transmittal as it relates to demonstrating that the County's comprehensive plan has not addressed the water supply sources necessary to meet and achieve the projected water use demand for the established planning periods (2015 and 2025). This is due in part to the County's on-going negotiations with the South Florida Water Management District (SFWMD) regarding the type and magnitude of water supply projects that should be considered for the Lower East Coast (LEC) Water Supply Plan and thus serve as the basis for the County's 20-year water use permit or consumptive use permit. The LEC Water Supply Plan was only recently adopted on February 15, 2007. The adoption of this plan provides the service area population projections to be used for water supply planning and also identifies projects that the SFWMD and the County could use to resolve any potential water shortages for the County.

Appendix 1 of this report contains DCA Table 1, which provides additional water supply and demand data and analysis. Specifically, this table shows by year from 2006 through 2030: 1) the population service area projections of the County, as agreed to by the SFWMD; 2) the projected average daily demand of water based upon a consumption rate of 155 gallons per capita day; 3) the amount of finished water allocated from the Biscayne Aquifer; 4) the water to be obtained through alternative water supply projects including water conservation, the Floridan aquifer reverse osmosis plant, Floridan aquifer blending, and reuse/reclaimed projects; 5) the available average demand water supply; and 6) the contingency or surplus water projected for the County. The alternative water supply projects that are listed in this table are also projects identified in the LEC Water Supply Plan; these projects were adopted by the Board of County Commissioners (BCC) into the April 2006 Capital Improvements Schedule of Projects (CIE) attached to Application No. 16, on March 28, 2007. Footnotes on DCA Table 1 reference Table and Project numbers in the adopted April 2006 CIE (see Application No. 16). The projects selected will also be identified in the County's 20-year Water Use Permit, anticipated in November 2007.

A review of DCA Table 1 indicates that the Alternative Water Supply Projects identified by the County, including an aggressive Conservation Plan that anticipates additional reductions in unaccounted for water, will provide a projected annual surplus in the County’s water supply for the next 23 years. This is due in large part to the development of approximately 81.7 MGD of alternative water supply projects and their adoption into the CIE. These projects include a three phase 53 MGD reuse project for ground water recharge, the first phase (18 MGD) of which will come on line in 2014 (See Application 16, CIE Schedule of Improvements, Table 8 Sewer Facilities, Projects 31, 32 and 33), and the New Upper Floridan Aquifer Reverse Osmosis Water Treatment Plant with an ultimate capacity of 17.5 MGD by 2028 to be completed in three phases with the first 10 MGD completed by 2011 (See Application 16, CIE Schedule of Improvements, Table 12 Water Facilities, Projects 20.D, 22 and 23). DCA Table 1 also shows that beginning in 2007, the Floridan Aquifer Blending project will provide 7.4 MGD of water resulting in an available water supply surplus of approximately 0.42 MGD in 2007 and 4.63 MGD in 2008. This surplus demonstrates there is more than sufficient water supply to serve any potential increased demand from the proposed land use amendments in the April 2006 cycle (DCA 07-1), as well as the potential demand from the remaining amendments of the April 2005 cycle (DCA 06-1) that are still pending settlement [Case No. 06-235GM, 06-1-NOI-1301-(A)-(N)]. The Miami-Dade County Water and Sewer Department recently prepared a report to the Board of County Commissioners dated March 13, 2007. This report, attached as Appendix 2, describes the progress that the County has made in identifying and evaluating alternative water supply options and provides timelines and costs to design and construct the various identified projects. As with DCA Table 1, the chart included as Exhibit A - “MDWASD Finished Water Demand and Water Supply Projections” of the report illustrates that based upon the implementation of the identified reuse and alternative water supply projects, the projected water use demands for the County will be met on an annual basis for the period between 2007 and 2030. The chart included in Appendix 3 revises the Exhibit A “MDWASD Finished Water Demand and Water Supply Projections” chart provided in the Appendix 2 report by including funding sources for the eight proposed alternative water supply projects.

2. Water Supply and Capital Improvement Coordination

As stated above, the adopted April 2006 CIE, Six Year Schedule of Improvements (FY2007-2012), Tables 8 (Sewer Facilities) and Table 12 (Water Facilities) have been modified to include the alternative water supply and reuse projects identified in DCA Table 1, and as described in the report to the Board of County Commissioners (Appendix 2). Funding of these water supply and reuse projects is estimated at \$422.7 million dollars between 2007 and 2011 with an additional \$1.267 billion dollars appropriated between 2012 and 2028, for a total of over \$1.689 billion dollars. Adoption of the April 2006 six year CIE, as modified, identifies and funds the individual water supply projects necessary to meet the current and future water demands of the County. The six year CIE specifically provides for 25.2 MGD of alternative water supply projects through 2012 that would be available for use and identifies an additional 53 MGD reclaimed water from the three South Dade Wastewater Treatment Plant Reuse Projects, with Phase I (18 MGD) showing construction during the six period with Phase II and III (35 MGD) showing as Future Years projects beyond the six year schedule. Also included in the Future Years projects are the Biscayne Bay Coastal Wetland Re-hydration Project (Table 8, project 34), a \$621 million dollar commitment to reuse which may or may not create alternative water

credits, but will increase wastewater reuse in keeping with CDMP and State Comprehensive Plan policies. This project along with other non-credit projects are cross referenced in the Appendix 3 revised chart under Note 2.

The Department believes that the appropriate time to develop a level of service (LOS) standard for water supply is during the development and adoption of the 10-year Water Supply Facilities Work Plan, which, according to S. 163.3177(c), Florida Statutes (F.S.) must be adopted within 18-months of adoption of the regional water supply plan (for South Florida this is the LEC Water Supply Plan). As previously noted the LEC Water Supply Plan was officially adopted on February 15, 2007. The County will prepare a 20-year Water Supply Facilities Work Plan (Work Plan) per s. 163.3177 F.S., instead of the minimum required 10-year plan, and evaluate the necessity of a water supply LOS for inclusion into the CDMP for consideration in its April 2007 CDMP Amendment cycle. The longer-term Work Plan will better correspond to the County's 20-year consumptive use permit, anticipated to be approved by the SFWMD in November 2007, and will tie longer range water supply projects to both the Capital Improvements Element and the Water and Sewer Sub-element. Additionally, both the consumptive use permit and the LEC Water Supply Plan will be reviewed every 5 years, a timing that corresponds well not only to the Work Plan but to updates of the County's Water Facilities Master Plan and the County's Wastewater Facilities Master Plan, both of which are 20-year plans.

3. Water Facility Needs for Application No. 14

As stated in the Initial Recommendations Report, the two wellfields that would serve Application No. 14 are nearing their treatment facility capacity. The Newton wellfield, originally intended to primarily serve the FPL Turkey Point facility and the Everglades Labor Camp (Everglades) wellfield, originally intended to serve the prison and labor camp, are both older, isolated wellfields. The interconnection between these wellfields is old and undersized. According to information from WASD, because of the piping, the majority of the water supply would come from the Everglades wellfield; however, some minimal amount could be supplied from the Newton wellfield. Currently no water facility projects regarding interconnection of the Everglades wellfield to other wellfields exist or are planned through the Capital Improvements Schedule. However, WASD may include, as a future project to the CIE Schedule of Improvements, a connection between the South Miami Heights Wellfield and the Everglades wellfield that would begin in the 2009-2010 fiscal year and be completed by the end of 2011 when the South Miami Heights Wellfield is anticipated to come on-line.

On March 28, 2007, Application Nos. 13, 14, and 15 were approved with changes by the Board of County Commissioners. Covenants submitted with each of these Applications restrict the number of units that could be built until potable water, beyond the current water allocated through the Everglades Labor Camp Wellfield, is available to this area. Application No. 13 would be restricted to 24 units; Application No. 14 would be restricted to 299 units; and, Application No. 15 would be restricted to 124 units. These numbers were based upon the number of units allowed with the existing land use. The restrictions provided in these covenants will be added to the newly adopted covenants table in the Land Use Element. Presented below is an evaluation of the water needs based upon the limited number of units as covenanted for each

of the three amendments and assuming that the allowed units will be developed as single family residential units.

	Rated Capacity (in MGD)	Annual Average Daily Flow (in MGD)	Allowable Units	Estimated Demand (in MGD)	Cumulative Projected Annual Ave. Daily Flow (in MGD)
Everglades Labor Camp Wellfield	0.96	0.7			
Newton Wellfield	2.16	2.015			
Totals	3.12	2.715			2.715
Projects Under Construction			220 beds 300 sf units	0.119	2.834
Application 13			24 SF	0.008	2.842
Application 14			229 SF	0.104	2.946
Application 15			124 SF	0.043	2.989
Allowable LOS					3.0576

As noted above, the land uses as restricted by covenant will not cause the LOS of the Newton and Everglades wellfields to be exceeded. These proposed developments will be evaluated for water facility concurrency when applying for water service agreements; a process required prior to receiving a building permit. The Department of Water and Sewer is currently developing a water allocation system to properly track all pending development. This system is anticipated to be in place prior to issuance of the County’s 20-year permit.

DCA Objection #2: Impact on Public Transportation Facilities (Applies to Applications No. 13, 14, and 15)

The Department objects to Applications 13, 14, and 15, because the County fails to coordinate the transportation system with the proposed future land use map changes and ensure that proposed population densities, housing and employment patterns, and land uses are consistent with the transportation modes and services proposed to serve these areas. The amendments do not demonstrate that adopted level of service standards will be maintained through the 6-year planning time frame with the development allowed in the proposed land use changes. Development of FLUM Applications 13, 14 and 15 will cause level of service on a segment of Southwest 344 Street/State Road 9336 to fall below the adopted LOS standard of C for this segment (in Florida City) by 2012. Southwest 344 Street from SW 192 Avenue/Tower Road east to SW 182 Avenue runs along the southern city limits of Florida City, which has an adopted LOS standard of C for all roads within the city.

In addition, the development allowed under Applications 13, 14, and 15 is projected to lower the LOS on the segment of SW 344 Street between SW 187 Avenue and SW 192 Avenue to F by 2015, which is below the adopted LOS standards for Miami-Dade County and Florida City for this

roadway, and will lower the LOS on the segment of SW 344 Street between SW 187 Avenue and SW 182 Avenue to E by 2015, below the adopted LOS standard of C for Florida City.

The Miami-Dade County Transportation Element does not include the widening of SW 344 Street/SR 9336 which would be needed if these applications were to be approved. At this time the Florida Department of transportation does not have any programmed improvements or preliminary studies in support of widening SW 344 Street.

The applicant for Application 14 has proffered a covenant that limits the property owner from seeking certificates of occupancy for development on the property until the applicant improves SW 344 Street/SR 9336 to a four-lane divided arterial from SW 182 Avenue to SW 192 Avenue. The owner's obligation is subject to the availability of right-of-way or necessary easements and the receipt of all necessary governmental approvals, including necessary approval from FDOT. The applicant for Application 15 has proffered a covenant requiring the applicant to dedicate right of way for improvement of SW 344 Street as a four-lane divided arterial roadway. In order to be accepted by the Department of Community Affairs as a binding commitment, these restrictive covenants must be incorporated into the comprehensive plan according to the mechanism approved in the remedial amendment for adopted Miami-Dade County Amendment 06-01. The present amendment does not propose this action.

FDOT recommends that the proposed amendment for higher density residential land use should be accompanied by a corresponding amendment to provide the services and facilities (roadways) necessary to support the development.

DCA Recommendations:

Provide the necessary improvements in the CIE-6 year schedule of capital improvements to SW 344 Street to accommodate the development that would be allowed in Applications 13, 14, and 15. If the proffered covenants from the applicants for Applications 14 and 15 regarding improvement of SW 344 Street/SR 9336 are to be relied upon as part of the necessary improvements to SW 344 Street, they must be adopted into the comprehensive plan according to the mechanism adopted into the comprehensive plan in remedial amendment 06-01. Note that any potential widening of a State Road, as would be provided in the proffered restrictive covenant, requires coordination with FDOT, including investigation of right-of-way availability.

Alternatively, do not adopt the proposed FLUM designation for Application 14; or adopt a lower density FLUM designation for Application 14 such that the trips generated by development of Application 14 do not cause a degradation of level of service on SW 344 Street/SR 9336.

DP&Z Response:

Objections from the Department of Community Affairs (DCA) have indicated several points of discrepancy between the Miami-Dade County Department of Planning and Zoning (DP&Z) and other agencies or statutes. These include: 1) the amendments do not demonstrate that the adopted level of service (LOS) will be maintained through the 6-year planning time frame, specifically on SW 344 Street/SR 9336; 2) The Miami-Dade County Comprehensive

Development Master Plan (CDMP) transportation Element does not include the widening of SW 344 Street/SR 9336, and Florida Department of Transportation (FDOT) has no programmed improvements or preliminary studies in support of the widening; and, 3) the covenants submitted by the applicant for applications 14 and 15 must be incorporated into the CDMP in order to be accepted by DCA. Each of these points is discussed below.

1. Maintenance of Adopted LOS standard

The DCA has stated that the proposed amendments do not demonstrate that the adopted level of service (LOS) will be maintained through the 6-year planning time frame, specifically on SW 344 Street/SR 9336. SW 344 Street is a part of the Florida Intrastate Highway System and the Department recognizes FDOT's adopted level of service standard "D" for this roadway.

It should be noted that the County's analysis of CDMP amendment applications considers traffic impacts on the roadways adjacent to each application site and includes those roadways that provide primary north-south and east-west access. This analysis examines existing traffic conditions, an evaluation of concurrency conditions for the next 3 years, and a projection of the future conditions. As presented in the DP&Z's Initial Recommendations Report, each application was analyzed individually but cumulative impacts on the surrounding roadways were not presented for Applications 13, 14, and 15. Future traffic conditions projected to the year 2015 demonstrated that SW 344 Street between SW 182 and SW 192 Avenues, with the impact of Application 14, would require improvement to maintain the adopted level of service. Consequently, the applicant proffered a Declaration of Restrictions, which included a conditional commitment to the improvement of SW 344 Street. The Declaration of Restrictions, approved by the Board of County Commissioners on March 28, 2007, caps residential development on the application site to a maximum 255 residential units until the applicant completes the design and construction of SW 344 Street as a 4-lane, divided arterial roadway from SW 182 Avenue to SW 192 Avenue. The acceptance of this Declaration of Restriction insures that the LOS will be maintained on SW 344 Street through the 2015 time-horizon.

2. Widening of SW 344 Street

The DCA has correctly stated that the widening of SW 344 Street is not included in the County's Transportation Element and would need to be included if these applications were to be approved; and that FDOT has no programmed improvement or preliminary study in support of the widening.

In conjunction with the approval of the application, the Board of County Commissioners adopted into the CDMP's Transportation Element and Capital Improvement Element the applicant's proposed improvement to widen SW 344 Street to four lane and the associated costs. This project was added to Table 10, Traffic Circulation, of the Capital Improvements Schedule as Project No. 210. Costs indicate a total of \$4.25 million dollars to be paid by the developer, \$550,000 to be paid in fiscal year 2009-2010 and \$3.7 million dollars to be paid in fiscal year 2010-2011. It should be noted that the Declarations of Restrictions states all improvements will be at the Owner's expense with no expense to the County or FDOT. Therefore, should adjustments to the Capital Improvements Schedule may be necessary to reflect increased construction costs, the revenue code, 507-Developer Fees/Donations, will not change.

3. Proffered Declaration of Restrictions (covenant)

The DCA has indicated that in order to be considered a binding commitment, covenants accepted by the Board of County Commissioners with regard to individual land use plan map amendment applications must be incorporated into the CDMP in accordance with the mechanism approved in the Remedial Amendments for Miami-Dade County Amendment 06-1. However, the Remedial Amendments for Application No. 5, April 2005 Cycle, Miami-Dade County 06-1 has been challenged and therefore is not in effect. To remedy this objection, the Board of County Commissioners, at its hearing on March 28, 2007, adopted into the CDMP Land Use Element a table whereby "Restrictions" associated with Land Use Plan map amendments could be incorporated. This table was noted in the April 2006 Cycle Revised Recommendations Report as Appendix A. Adoption of this "Restrictions Table" provides the appropriate mechanism for incorporating these restrictive covenants into the CDMP as required by DCA. Acceptance of the restricted covenants for Application Nos. 13, 14 and 15 will be included into the CDMP's Restrictions Table and therefore should be viewed as binding commitments.

DCA Objection #3: Capital Improvements Element (Applies to Application No. 16)

The Department objects to the proposed update of the Capital Improvements Element because it does not link data and analysis indicating existing deficiencies and projected needs (over the next 6 years) in achieving and maintaining adopted level of service standards for public facilities and services (concurrency facilities and services) with a financially feasible strategy or plan, including applicable capital improvements in the 6-year schedule of capital improvements, for achieving and maintaining adopted the level of service standards.

DCA Recommendation:

Provide data and analysis indicating existing deficiencies in achieving and maintaining adopted level of service standards for public facilities and services (concurrency facilities and services).

Provide data and analysis indicating projected needs in achieving and maintaining adopted level of service standards for public facilities and services (concurrency facilities and services) over the next 6 years.

For each identified existing deficiency or projected need the CIE should indicate a financially feasible strategy or plan for satisfying the deficiency, which is linked, as applicable, to needed capital improvements listed in the 6-year schedule of capital improvements. Financially feasible capital improvements are those for which sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5. Privately funded projects, which are necessary to ensure that adopted level of service standards are achieved and maintained shall be included in the 6-year schedule of capital improvements. For privately funded capital improvements, financial feasibility shall be demonstrated by being guaranteed in an enforceable development agreement or interlocal agreement or other enforceable agreement. The 6-year schedule of capital improvements shall also include transportation improvements included in the Miami-Dade County Metropolitan Planning Organization's Transportation Improvement

Program to the extent that such improvements are relied upon to ensure concurrency and financial feasibility.

DP&Z Response:

The Department has been providing the DCA its Capital Improvements Element (CIE) Update on an annual basis since 1988. The Capital Improvements Element and the 6-year Schedule of Improvements provide the data required by 9-15 of the Florida Administrative Code regarding the identification of deficiencies, planning for growth and funding strategies. The following responds to the recommendations provided by DCA.

1. The DCA indicated that the existing deficiencies in achieving and maintaining adopted level of service standards for public facilities and services (concurrency facilities and services) should be identified.

Objective CIE-1 of the Capital Improvement Element states that the CIE will provide for “replacement of existing facilities, upgrading of facilities when necessary to maintain adopted level of service (LOS) standards, and for new facility investments, which are needed and affordable in the future”. Policies under this objective address the Six-Year Schedule of Improvements as to the minimum cost of a project to be included in the Schedule, the mix of projects to be included (upgrades and replacements vs. new growth), the debt ratio and the expansion of revenue sources. Additionally, Policy CIE-3C states “The 6-Year Schedule of Improvements will incorporate the identified capital investments from each functional element and will be based on the ...level of service standards: ...”. In accordance with that policy, County departments that have responsibility for maintaining the adopted LOS standards submit on a yearly basis, those capital projects necessary to remedy existing deficient LOS conditions. The CIE Schedule of Improvements has been formatted to identify the purpose of each project through a number code (1 = existing deficiency, 2 = future growth, and 3 = combination). Projects listed as a 1 or 3 address existing LOS deficiencies.

Additionally, Policy CIE-3A of the CDMP states: “Service and facility impacts of new development must be identified and quantified so that sufficient public facilities will be planned and programmed to be available when needed. All development orders authorizing new, or significant expansion of existing urban land uses, shall be contingent upon the provision of services at levels, which meet or exceed the adopted LOS standards except as otherwise provided in the "Concurrency Management Program" section of the CIE”. Adherence to this policy not only allows the County to monitor the new growth and plan projects accordingly but insures that new development will not outpace facility and service improvements.

2. DCA has requested that the projected needs in achieving and maintaining adopted level of service standards for public facilities and services (concurrency facilities and services) over the next 6 years be identified.

As noted above, County departments having responsibility for the functional areas considered in the CIE annually budget for capital projects to remedy existing deficiencies. However, the Departmental Plans and Levels of Service portion of the Implementing Programs text of the

CDMP also states: “County Departments having responsibility for the functional areas considered in the CIE usually have some type of formalized plan which they follow.” For instance, WASD maintains a 20-year facilities master plan for both water facilities and sewer facilities. The Parks and Recreation Department is currently in the process of updating its 20-year Open Space Master Plan. Through these long-range plans, the departments can anticipate the facilities needs of the County and plan improvements accordingly. Projects that improve facilities and maintain the LOS beyond its current conditions are included into the Six-year Capital Schedule of Improvements. Although the long-range plans may vary among County departments in their scope, and time horizons, the current practices ensure that public facilities do not deteriorate to a state of inadequacy.

As with projects addressing deficiencies, the individual County departments submit projects on a yearly basis to be funded through the Capital Plan that address future conditions. Such projects are assigned a purpose of 2 – Future Growth or 3-Combination (existing deficiency and future growth). It should be noted that the designation of “future growth” is assigned to those capital projects, which only address anticipated deficiencies caused by anticipated growth and therefore these projects are not addressing a current deficiency.

3. The DCA has suggested that for each identified existing deficiency or projected need the CIE should indicate a financially feasible strategy or plan for satisfying the deficiency, which is linked, as applicable, to needed capital improvements listed in the 6-year schedule of capital improvements.

As noted above, the purpose of each project in the CIE Schedule of Improvements is categorized as correcting a deficiency, accommodating future growth or a combination of both. All projects listed in the CIE Schedule of Improvements are from committed funds with no reliance of future bonds or uncommitted grant dollars. Both expenditures and revenues are identified in the CIE Schedule of Improvements as well as the funding source. Policy CIE-4A states: “Appropriate funding mechanisms will be adopted and applied by Miami-Dade County in order to assure the fiscal resources to maintain acceptable levels of service. Such funding mechanisms may include special tax districts, municipal taxing service units, local option taxes, user fees, local gas tax, general obligation bonds, impact fees, special purpose authorities, and others as appropriate and feasible.” This has and continues to be the County’s strategy

4. DCA has noted that privately funded projects, which are necessary to ensure that adopted level of service standards are achieved and maintained shall be included in the 6-year schedule of capital improvements.

The only capital facility improvement projects included in the CIE Six-Year Schedule of Improvements as privately funded are usually the result of Development Order (D.O.) conditions requiring such projects associated with Developments of Regional Impacts (DRI). The adopted D.O. conditions may include required roadway improvements or water and sewer line improvements or other similar facility improvements. Such privately funded projects are identified in the Six-Year Schedule of Capital Improvements under revenue source 507 Developer Fees/Donation. This category does not include other fees or funding sources provided by the private sector, such as impact fees (CIE Funding Codes 500 and 501) or utility connection

fees (CIE Funding Codes 520 and 521). Other private or developer funded capital facility improvements included in the CIE Schedule of Improvements may be the result of a Declaration of Restrictions (covenant) accepted by the Board of County Commissioners in relation to the adoption of a land use plan map amendment. Such capital facility improvements would be assigned a CIE Funding Code of 507. In addition, the County anticipates the adoption of its transportation proportionate fair share mitigation ordinance in the near term. Upon adoption, those developers who chose to enter into a development agreement in accordance with this mechanism will have their dedicated funds entered into the CIE Schedule of Improvements under the 507 Developer Fees/Donation revenue source.

5. DCA has stated that the 6-year schedule of capital improvements shall also include transportation improvements included in the Miami-Dade County Metropolitan Planning Organization's Transportation Improvement Program to the extent that such improvements are relied upon to ensure concurrency and financial feasibility.

The Department will be filing its update of the CIE Six Year Capital Schedule of Improvements in the April 2007 Amendment Cycle. The Miami-Dade County Metropolitan Planning Organization's Transportation Improvement Program projects will be included at that time with the full update anticipated for adoption by the Board of County Commissioners in October 2007.