PETITION OF APPEAL FROM DECISION OF
MIAMI-DADE COUNTY COMMUNITY ZONING APPEALS BOARD
TO THE BOARD OF COUNTY COMMISSIONERS

CHECKED BY SBR AMOUNT OF FEE $399.00

RECEIPT # I200307166

DATE HEARD: 2/25/03

BY CZAB # 14

App #
RECEIVED
Z02-302
MAR 17 2003
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY BC
DATE RECEIVED STAMP

****

This Appeal Form must be completed in accordance with the "Instruction for Filing an Appeal" and in accordance with Chapter 33 of the Code of Miami-Dade County, Florida, and return must be made to the Department on or before the Deadline Date prescribed for the Appeal.

RE: Hearing No. Z2002-0302

Filed in the name of (Applicant) AVOCADOS ACRE HOMES DEVELOPMENT CORPORATION

Name of Appellant, if other than applicant Richard M. Brenner, President

Address/Location of APPELLANT'S property:

Southeast corner of SW 157th Avenue and SW 272nd Street

Application, or part of Application being Appealed (Explanation):

Denial of application for district boundary change (AU to EU-S)

Appellant (name): AVOCADO ACRE HOMES DEVELOPMENT CORPORATION
hereby appeals the decision of the Miami-Dade County Community Zoning Appeals Board with reference to the above subject matter, and in accordance with the provisions contained in Chapter 33 of the Code of Miami-Dade County, Florida, hereby makes application to the Board of County Commissioners for review of said decision. The grounds and reasons supporting the reversal of the ruling of the Community Zoning Appeals Board are as follows:
(State in brief and concise language)

This application met all requirements and standards provided in the Miami-Dade County Code for district boundary changes, resulted in no change to levels of service standards, and is consistent with the CDMP, and compatable with the surrounding area. The County's professional staff, on this basis, recommended approval. The decision of the CZAB was not supported by substantial competent evidence.

APPELLANT'S AFFIDAVIT OF STANDING
(must be signed by each Appellant)

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

Before me the undersigned authority, personally appeared RICHARD M. BRENNER (Appellant) who was sworn and says that the Appellant has standing to file the attached appeal of a Community Zoning Appeals Board decision.

The Appellant further states that they have standing by virtue of being of record in Community Zoning Appeals Board matter because of the following:

(Check all that apply)

___1. Participation at the hearing
X 2. Original Applicant
___3. Written objection, waiver or consent

Appellant further states they understand the meaning of an oath and the penalties for perjury, and that under penalties of perjury, Affiant declares that the facts stated herein are true.

Further Appellant says not.

Witnesses:

Signature

Noelia Perez
Print Name

Signature

Johana Nuñez
Print Name

Appellant's signature

RICHARD M. BRENNER
Print Name

Sworn to and subscribed before me on the 12 day of March, year 2003.

Appellant is personally know to me or has produced _____ as identification.

Notary
(Stamp/Seal)

ERICA CAMMARERI
MY COMMISSION # DD 068300
EXPIRES: October 30, 2005
Bonded Thru Notary Public Underwriters

Commission Expires:

APPELLANT MUST SIGN THIS PAGE

Date: 12 day of March, year: 2003

Signed _____

_____
Print Name

_____
Mailing Address

_____ _____
Phone Fax:

REPRESENTATIVE'S AFFIDAVIT
If you are filing as representative of an association or other entity, so indicate:

Representing
AVOCADO ACRE HOMES DEVELOPMENT CORPORATION

_____
Signature

RICHARD M. BRENNER
Print Name

21 S.E. 1ST AVENUE, SUITE 800
Address

MIAMI FL 33131
City State Zip

(305) 372-8899
Telephone Number

Subscribed and Sworn to before me on the 12 day of March, year 2003

_____
Notary Public

ERICA CAMMARERI
MY COMMISSION # DD 068300
EXPIRES: October 30, 2005
Bonded Thru Notary Public Underwriters

(stamp/seal)

Commission expires:

33	56	39
Sec.	Twp.	Range

ZONING HEARING APPLICATION
MIAMI-DADE COUNTY
DEPARTMENT OF PLANNING & ZONING

RECEIVED
OCT 07 2002
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY _____
Date Received

LIST ALL FOLIO #S: **30-6933-000-0551 and 30-6933-000-0552**

NAME OF APPLICANT (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

Avocados Acre Homes Development Corporation, a Florida corporation

APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: **21 S.E. 1st Avenue, Suite 800**

City: **Miami** State: **FL** Zip: **33131** Phone#: **305-372-8899**

OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): Mailing Address: **Same As Above**

City: _____ State: _____ Zip: _____ Phone#: _____

CONTACT PERSON'S INFORMATION:

Name: **Juan J. Mayol, Jr., Esq.** Company: **Akerman Senterfitt, P.A.**

Mailing Address: **One Southeast Third Avenue**

City: **Miami** State: **Florida** Zip: **33131**

Phone#: **305-374-5600** Fax#: **305-374-5095** E-mail: **jmayol@akerman.com**

LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets as needed. In addition to paper version it is requested that lengthy metes and bounds description be provided on disquette or compact disc in Microsoft Word or compatible software.)

See Attached Exhibit A

ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc.)

The property is generally located on the southeast corner of the intersection of SW 157th Avenue and SW 272nd Street

SIZE OF PROPERTY **(irregular)** ' x _____ ' (in acres): **34.57**
(divide total sq. ft. by 43,560 to obtain acreage)

	DATE property ☒ acquired ☐ leased: August 28, 2002 (month & year)	**Lease term:** _____ years

IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S), provide complete legal description of said contiguous property. (See notes related to item 5.)

N/A

Is there an option to purchase ☐ or lease ☐ the subject property or property contiguous thereto? ☒ no ☐ yes (If yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

PRESENT ZONING CLASSIFICATION: **AU**

APPLICATION REQUESTS (Check all that apply and describe nature of the request in space provided)

☒ District Boundary Changes (DBC) [Zone class requested]: **EU-S**
☐ Unusual Use: _____
☐ Use Variance: _____
☐ Non-use Variance: _____
☐ Alternative Site Development: _____
☐ Special Exception: _____
☐ Modification of previous resolution/plan: _____
☐ Modification of Declaration or Covenant: _____
☐ _____

Has a public hearing been held on this property within the last year & a half? ☒ no ☐ yes. If yes, provide applicant's name, date, purpose and result of hearing, and resolution number:

Is this application as a result of a violation notice? ☒ no ☐ yes. If yes, give name to whom the violation notice was served: _____ and describe the violation:

Describe structures on the property: **N/A**

Is there any existing use on the property? ☐ no ☒ yes. If yes, what use and when established?

Use: **Avocado Grove** Year: _____

APPLICANT'S AFFIDAVIT

(SELECT APPROPRIATE AFFIDAVIT AND NOTARIZE BELOW)

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (1)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(we are) the ☐ owner ☐ tenant of the property described and which is the subject matter of the proposed hearing.

	(see notary below)	
Signature		Signature

CORPORATION AFFIDAVIT

(I)(WE), **Avocados Acre Homes Development Corporation**, being first duly sworn, depose and say that (I am)(we are) the ☒ President ☐ Vice-President ☐ Secretary ☐ Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the ☐ owner ☐ tenant of the property described herein and which is the subject matter of the proposed hearing.

Attest:		
		Authorized Signature
(Corp. Seal)		**Richard M. Brenner**, President

PARTNERSHIP AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(we are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the ☐ owner ☐ tenant of the property described herein which is the subject matter of the proposed hearing.

				(Name of Partnership)		
By		%		By		%
By		%		By		%

ATTORNEY AFFIDAVIT

I, _____, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

		Signature	
Sworn to and subscribed to be me this ____ day of _____, _____.		Notary Public:	
		Commission expires:	

DISCLOSURE OF INTEREST*

202-302

If a **CORPORATION** owns or leases the subject property, list principal, stockholders and percent of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

CORPORATION NAME: **Avocados Acre Homes Development Corporation**

NAME AND ADDRESS		Percentage of Stock
Richard M. Brenner		**100%**

If a **TRUST** or **ESTATE** owns or leases the subject property, list the trust beneficiaries and percent of interest held by each. [Note: Where beneficiaries are other than natural persons, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

TRUST/ESTATE NAME: _____

NAME AND ADDRESS		Percentage of Interest

If a **PARTNERSHIP** owns or leases the subject property, list the principals including general and limited partners. [Note: Where partner(s) consist of other partnership(s), corporation(s), trust(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interests].

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

NAME AND ADDRESS		Percentage of Ownership

45

202-302

If there is a **CONTRACT** r [illegible] **RCHASE** by a Corporation, Trust [illegible]ership, list purchasers below including principal c [illegible]ers, stockholders, beneficiaries or pa[illegible]rs. [Note: Where principal officers, stockholders, beneficiaries or partners consist of other corporations, trusts, partnerships or similar entities, further disclosure shall be made to identify natural persons having ultimate ownership interests].

NAME OF PURCHASER: _____

NAME AND ADDRESS (if applicable)		Percentage of Interest

Date of contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership or trust:

_____
_____
_____
_____
_____

NOTICE: For changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required.

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

Signature: _____
(Applicant)

Sworn to and subscribed before me this 3 day of October, 2002. Affiant is personally known to me or has produced _____ as identification.

_____
(Notary Public)

ERICA CAMMARERI
MY COMMISSION # DD 068300
EXPIRES: October 30, 2005
Bonded Thru Notary Public Underwriters

My commission expires _____

*Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership and where no one (1) person or entity holds more than a total of five per cent (5%) of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.

46

RESPONSIBILITIES OF THE APPLICANT

I AM AWARE THAT:

1. The Public Works Department, the Department of Environmental Resources Management (DERM), and other County agencies review and critique zoning hearing applications which may affect the scheduling and outcome of my hearing. These reviews may require additional hearings before DERM's Environmental Quality Control Board (EQCB), or other County boards, and/or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM or Public Works conditions and advise this office in writing if my application will be withdrawn.

2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Applications withdrawn within 60 days of the filing are eligible for a refund of 50% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fees must be paid promptly.

3. I am responsible for obtaining any required permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use (C.U.) must be obtained for the use of the property after it has been approved at Zoning Hearing. Failure to obtain the required permits and/or C.U., Certificates of Completion (C.C.) or Certificate of Occupancy (C.O.) will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.

4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.

5. In Miami-Dade County v. Omnipoint Holdings, Inc., Case No. 3D01-2347 (Fla. 3rd DCA 2002), the 3rd District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of conditions and covenants. The County Attorney's Office is seeking review of the decision in the Florida Supreme Court, as well as a stay of the decision's effect. While the case is pending, the decision is in effect and binding on all parties. Its impact is to suspend consideration of zoning applications for most special exceptions, unusual uses, non-use variances, and modification of conditions and covenants. In the interim, County staff have developed and proposed to the Board of County Commissioners certain ordinances that would provide interim standards for limited categories of applications. If these standards are enacted, certain applications may be able to proceed to hearing. However, absent a reversal by the courts or enactment of revised regulations, pending applications will not be able to proceed to hearing until the disposition of the pending litigation.

6. Any covenant to be proffered must be submitted to the Department's Legal Advisor, on County form, at least 1 month prior to the hearing date. The covenant will be reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. Legal Advisor can advise as to additional requirements applicable to foreign corporations. Documents submitted to Legal Advisor must carry a cover letter indicating subject matter, application number and hearing date. Legal Advisor may be reached at (305) 375-3075

(Applicant's Signature)

Richard M. Brenner

(Print Name)

Sworn to and subscribed before me this 3 day of October, 2002. Affiant is personally known to me or has produced _____ as identification.

Erica Cammarari

(Notary Public)

My commission expires _____

ERICA CAMMARERI
MY COMMISSION # DD 068300
EXPIRES: October 30, 2005
Bonded Thru Notary Public Underwriters

OWNERSHIP AFFIDAVIT
FOR
CORPORATION

STATE OF FLORIDA Public Hearing No. _____

COUNTY OF MIAMI-DADE

Before me, the undersigned authority, personally appeared Richard M. Brenner, hereinafter the Affiant(s), who being duly sworn by me, on oath, deposes and says:

1. Affiant is the president, vice-president or CEO of the **Avocado Acre Homes Development Corporation**, with the following address: **21 S.E. 1st Avenue, Suite 800, Miami, Florida 33131**

2. The Corporation owns the property, which is the subject of the proposed hearing.

3. The subject property is legally described as:

   See Attached Exhibit A

4. Affiant is legally authorized to file this application for public hearing.

5. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning granted at public hearing.

Witnesses:		
Signature		Affiant's signature
Print Name		Print Name
		Richard M. Brenner
Signature		
Print Name		

Sworn to and subscribed before me on the 3 day of October, 2004. Affiant is personally known to me or has produced _____ as identification.

Erica Cammareri
Notary Public-State of Florida

My Commission Expires:_____

ERICA CAMMARERI
MY COMMISSION # DD 068300
EXPIRES: October 30, 2005
Bonded Thru Notary Public Underwriters