

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc.)
NW corner of SW 42 Street and SW 149 Avenue

7. SIZE OF PROPERTY (in acres): 10.79 (divide total sq. ft. by 43,560 to obtain acreage)

8. DATE property acquired leased: 12/2000 (month & year) 9. Lease term: _____ years

10. IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S), provide complete legal description of said contiguous property.

N/A

11. Is there an option to purchase or lease the subject property or property contiguous thereto? no yes (If yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)
Spear Management Group, Inc.

12. PRESENT ZONING CLASSIFICATION: BU-1A

13. APPLICATION REQUESTS (Check all that apply and describe nature of the request in space provided)
(DBC requires special exception to permit site plan approval unless rezoning 3 acres or less to residential categories)

District Boundary Changes (DBC) [Zone class requested]: RU-3M

Unusual Use: _____

Use Variance: _____

Alternative Site Development: _____

Special Exception: _____

Modification of previous resolution/plan: See Attached

Modification of Declaration or Covenant: See Attached

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

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

16. Describe structures on the property: None

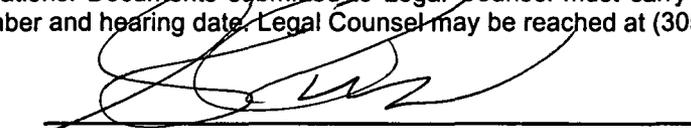
17. Is there any existing use on the property? no yes. If yes, what use and when established?

Use: _____ Year: _____

RESPONSIBILITIES OF THE APPLICANT

I AM AWARE THAT:

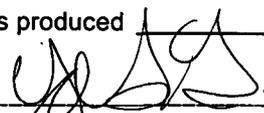
1. The Public Works Department, the Department of Environmental Resources Management (DERM), and other County agencies review and critique zoning applications which may affect the scheduling and outcome of applications. These reviews may require additional public hearings before DERM's Environmental 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. The South Florida Building Code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and that a building permit will probably be required. I am responsible for obtaining permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use and Occupancy must be obtained for the use of the property after it has been approved at Zoning Hearing, and that failure to obtain the required permits and/or Certificates of Completion or of Use and Occupancy 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 covenants. This is not a final decision and the County Attorney's Office is seeking further review. In the interim, the County Attorney's Office is working with the Planning and Zoning Department's professional staff to develop new standards that will address the Court's concerns. While the new standards are being developed, applicants are advised that any non-use variance, special exception, unusual use, new use requiring a public hearing or request for modification of covenants granted under the existing standards are subject to being reversed in the courts. An applicant wishing to avoid the substantial legal risks associated with going forward under the existing standard may seek a deferral until the new standards are developed..
6. Any covenant to be proffered must be submitted to the Department's Legal Counsel, 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. And that Legal Counsel can advise as to additional requirements applicable to foreign corporations. Documents submitted to Legal Counsel must carry a cover letter indicating subject matter, application number and hearing date. Legal Counsel may be reached at (305) 375-3075



(Applicant's Signature)
Graham C. Penn

(Print Name)

Sworn to and subscribed before me this 18 day of June, 2003. Affiant is personally known to me or has produced _____ as identification.



(Notary Public)
My commission expires _____



Yanet Godoy
Commission # DD000157
Expires Jan. 31, 2006
Aaron Notary
1-800-350-5161

APPLICANT'S AFFIDAVIT

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

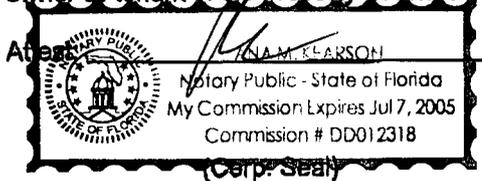
(I)(WE), _____, being first duly sworn, depose and say that (I am)(we are) the owner tenant of the property described and which is the subject matter of the proposed Modification.

Signature
Sworn to and subscribed to before me this ____ day of, _____.

Signature
Notary Public: _____
Commission Expires: _____

CORPORATION AFFIDAVIT

(I)(WE), Allen R. Greenward, 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.



Authorized Signature
Office Held _____
Notary Public: _____
Commission Expires: _____

Sworn to and subscribed to before me this 17th day of June, 2003

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 _____ %

Sworn to and subscribed to before me this ____ day of, _____.

Notary Public: _____
Commission Expires: _____

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.

Sworn to and subscribed to before me this ____ day of, _____.

Notary Public: _____
Commission Expires: _____

DISCLOSURE OF INTEREST*

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: 149 Bird, LLC

<u>NAME AND ADDRESS</u>	<u>Percentage of Stock</u>
<u>Allen Greenwald</u>	<u>38.91</u>
<u>Eric Schwartz</u>	<u>22.21</u>
<u>Barney Ecker</u>	<u>27.77</u>
<u>Gary Brown</u>	<u>11.11</u>

1320 S. Dixie Highway, Suite 781, Coral Gables, Florida 33146 (same address for all)

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: _____

<u>NAME AND ADDRESS</u>	<u>Percentage of Interest</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

RECEIVED
203795
AUG 02 2003

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY: [Signature]

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: _____

<u>NAME AND ADDRESS</u>	<u>Percent of Ownership</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If there is a **CONTRACT FOR PURCHASE** by a corporation, Trust or Partnership, list purchasers below, including principal officers, stockholders, beneficiaries or partners. [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: Spear Management Group, Inc.

NAME ADDRESS AND OFFICE (if applicable)	Percentage of Interest
<u>Jeff Spear</u>	<u>33.33</u>
<u>David Spear</u>	<u>33.33</u>
<u>L. William Spear</u>	<u>33.33</u>

3721 SW 47 Avenue, Suite 307 Ft. Lauderdale, Florida 33314 (same address for all)

Date of contract: May 13, 2003

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

RECEIVED
203-195
AUG 02 2003

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY [Signature]

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 his application to the best of my knowledge and belief.

Signature: [Signature]
(Applicant)

Sworn to and subscribed before me this 18 day of June, 2003. Affiant is personally known to me or has produced _____ as identification.

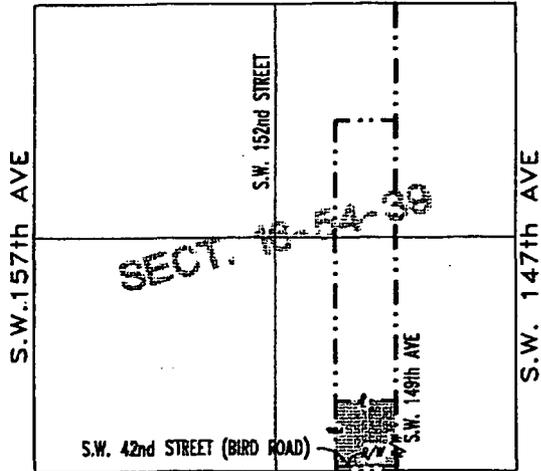
[Signature]
(Notary Public)

ANA M. KEARSON
Notary Public - State of Florida
My Commission Expires Jul 7, 2005
Commission # 00012318

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 a other 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 percent (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.

S.W. 26th ST.



LOCATION MAP

SCALE: N.T.S.

LEGAL DESCRIPTION

Overall Site:

The South 790 feet of the East $\frac{1}{2}$ of the South $\frac{1}{4}$ of the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of Section 16 Township 54 Range 39 East Less the South 50 feet and the East 25 feet, thereof; lying and being in Miami-Dade County Florida.



SCALE: 1"=150'

LEGEND:

- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- P.O.T. POINT OF TERMINATION
- ⊕ CENTER LINE
- P.B. PLAT BOOK
- PG. PAGE
- O.R.B. OFFICIAL RECORDS BOOK
- ⊔ PROPERTY LINE
- R/W RIGHT-OF-WAY

EXHIBIT

Sheet 1 of 1

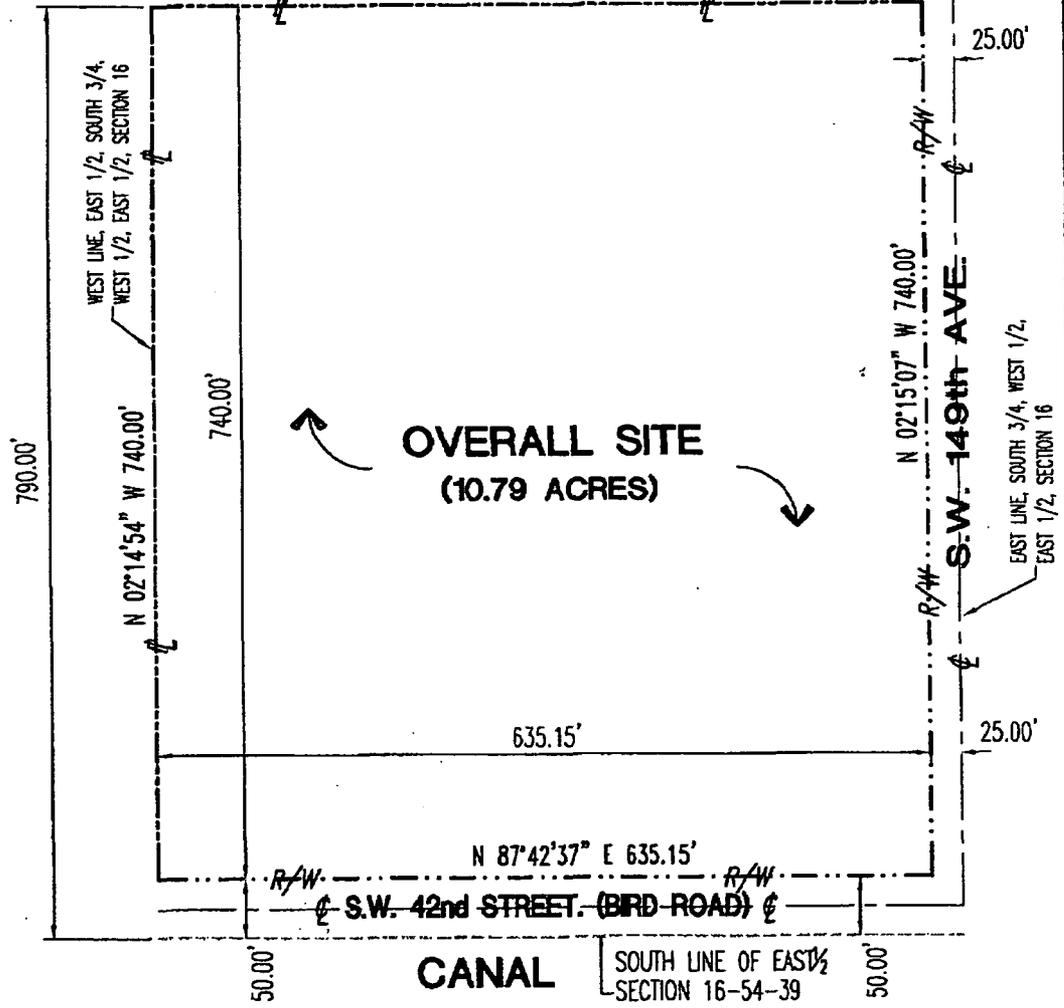


Revised: June 18, 2003
 K:\165439\Boundary Survey.dwg

SCHWEBKE-SHISKIN & ASSOCIATES, INC. LB #87

LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025
 PHONE No.(954)435-7010 FAX No. (954)438-3288

N 87°42'37" E 635.11'



OVERALL SITE (10.79 ACRES)

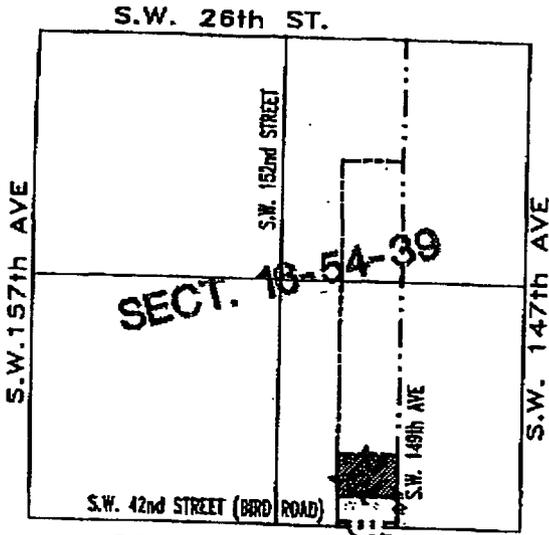
CANAL

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

ORDER NO. 188166-C
 DATE: 06-18-03

PREPARED UNDER MY SUPERVISION:
 ALFONSO C. TELLO, SECY. TREASURER
 FLA. PROF. LAND SURVEYOR N° 2978

THIS IS NOT A "BOUNDARY SURVEY"



LOCATION MAP

SCALE: N.T.S.

LEGAL DESCRIPTION:

Parcel "A" (Residential)

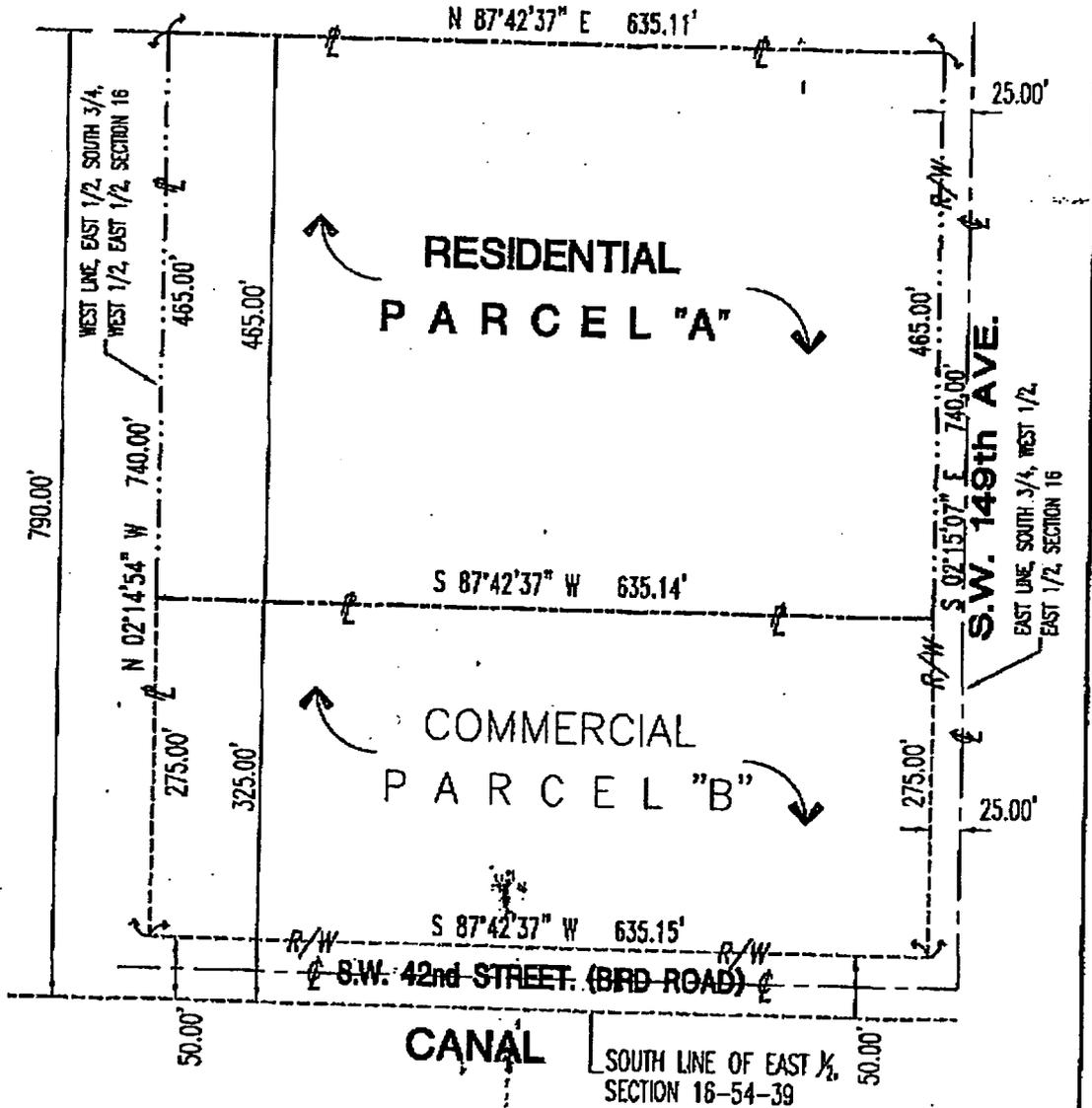
The North 465 feet of the South 790 feet of the East 1/2 of the South 1/4 of the West 1/2 of the East 1/2 of Section 16, Township 54, Range 39 East, Less the East 25 feet thereof; lying and being in Miami-Dade County, Florida.

SCALE: 1"=150'



LEGEND:

- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- P.O.T. POINT OF TERMINATION
- +— CENTER LINE
- P.B. PLAT BOOK
- PG. PAGE
- O.R.B. OFFICIAL RECORDS BOOK
- P— PROPERTY LINE
- R/W RIGHT OF WAY



SKETCH TO ACCOMPANY LEGAL DESCRIPTION



SHEET 1 OF 1

Revised: June 12, 2003
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SCHWEBKE-SHISKIN & ASSOCIATES, INC. LB #87

LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025
PHONE No.(954)435-7010 FAX No. (954)438-3288

ORDER NO. 188166-A

DATE: 06-04-03

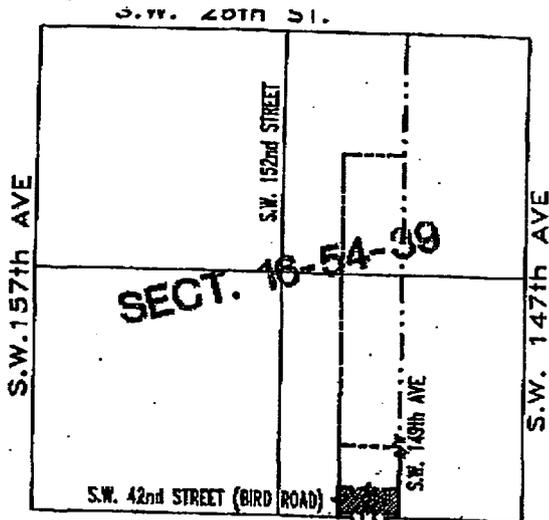
PREPARED UNDER MY SUPERVISION

ALFONSO C. TELLO
FLA. PROF. LAND SURVEYOR N

SECY/TROSURER

2978

THIS IS NOT A "BOUNDARY SURVEY"

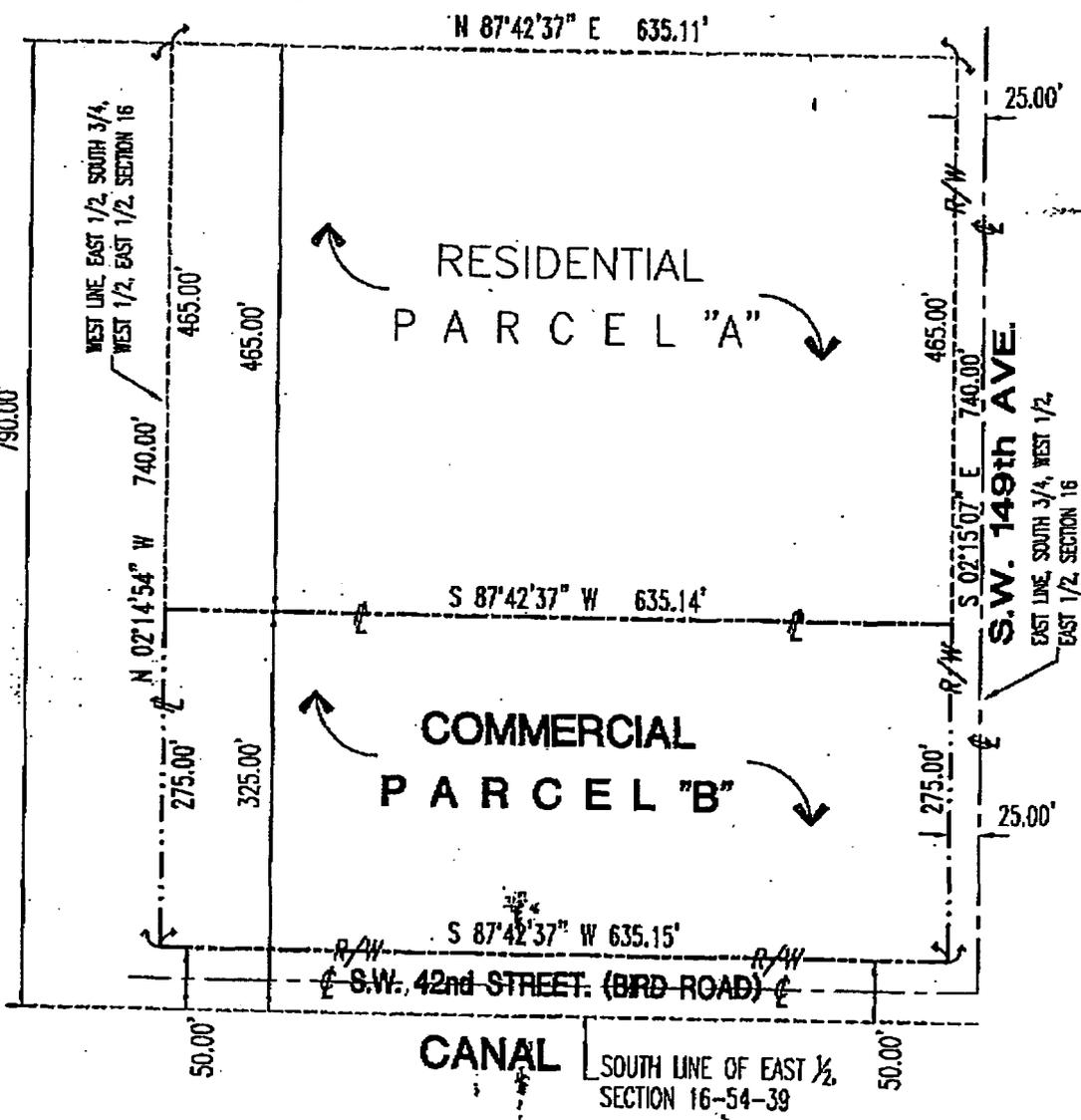


LEGAL DESCRIPTION:

Parcel "B" (Commercial)

The North 275 feet of the South 325 feet of the East 1/2 of the South 3/4 of the West 1/2 of the East 1/2 of Section 16, Township 54 South, Range 39 East, Less the East 25 feet thereof, lying and being in Miami-Dade County, Florida,

SCALE: 1"=150'



SKETCH TO ACCOMPANY LEGAL DESCRIPTION



- LEGEND:**
- P.O.C. POINT OF COMMENCEMENT
 - P.O.B. POINT OF BEGINNING
 - P.O.T. POINT OF TERMINATION
 - ⊕ CENTER LINE
 - P.B. PLAT BOOK
 - PG. PAGE
 - O.R.B. OFFICIAL RECORDS BOOK
 - P — PROPERTY LINE
 - R/W RIGHT-OF-WAY

Revised: June 12, 2003
K:\165439\Boundary Survey.dwg

SCHWEBKE-SHISKIN & ASSOCIATES, INC. LB #87
LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025
PHONE No.(954)435-7010 FAX No. (954)438-3288

ORDER NO. 188166-B
DATE: 06-04-03
PREPARED UNDER MY SUPERVISION:
ALFONSO GONZALEZ SECY/TREASURER
FLA. PROF. LAND SURVEYOR N° 2978
THIS IS NOT A "BOUNDARY SURVEY"



DEPARTMENT OF PLANNING AND ZONING

MAIN OFFICE
111 NW 1 STREET, SUITE 1210
MIAMI, FLORIDA 33128
(305) 375-2800

PERMITTING AND INSPECTION OFFICE
11805 S.W. 26 Street
MIAMI, FLORIDA 33175

- IMPACT FEE SECTION
(786) 315-2670 • SUITE 145
- ZONING INSPECTION SECTION
(786) 315-2660 • SUITE 223
- ZONING PERMIT SECTION
(786) 315-2666 • SUITE 106
- ZONING PLANS PROCESSING SECTION
(786) 315-2650 • SUITE 113

May 27, 2003

Jeffrey Bercow, Esq.
Bercow and Radell, P. A.
Wachovia Financial Center
200 South Biscayne Boulevard
Suite 200
Miami, Florida 33131

Subject: Comprehensive Development Master Plan (CDMP) Letter of Interpretation for the northwest corner of SW42 Street (Bird Road) and SW 149 Avenue with Property Identified as Real Property Folio No. 30-4916-000-0570.

Dear Mr. Bercow:

This letter is provided in response to your letter dated May 8, 2003 seeking confirmation of the above referenced property's future land use designation as depicted on the Miami-Dade County Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map. You are also requesting confirmation as to the allowable residential density if the subject property were developed for a residential use.

The subject property identified in your letter and accompanying boundary and improvement survey, is a vacant parcel of approximately 9.91 acres that is located at the northwest corner of Bird Road (SW 42 Street) and SW 149 Avenue (Exhibit A). Existing land uses surrounding the site are dominated by single-family homes to the north, east, and south, many of which are on small lots. The adjacent property to the west is vacant. The property is situated in an area with both business and residential zoning districts. The subject site was zoned BU-1A in 1987 pursuant to Resolution No. Z-12-87. The adjacent property to the west is also zoned BU-1A. The adjacent property to the east is zoned RU-1MA, and the adjacent property to the north is zoned RU-1. Another similarly sized parcel further to the east located at the northwest corner of Bird Road and SW 147 Avenue is also zoned BU-1A. Urban services and infrastructure are generally available to the subject property.

The subject property is located inside the adopted 2005 Urban Development Boundary (UDB), as delineated on the CDMP LUP map. Properties abutting to the north are designated "Low Density Residential Communities" (2.5 to 6.0 dwelling units per gross acre), and properties to the south across Bird Road are similarly designated "Low Density Residential." The adjoining property to the west is designated "Business and Office". The adjoining property to the east is designated "Office/Residential." You have produced a letter issued by the Department of Planning and Zoning dated October 1, 1999, in which the subject property was found to be

designated on the LUP map as "Business and Office" (Exhibit G). Upon review of the adopted 2005 and 2015 LUP 1" to 1 mile scale map it appears that the subject property and the adjoining property to the west are shown to be at the same approximate depth, as well as a parcel further to the east of the subject property at the corner of northeastern corner of Bird Road and SW 147 Avenue, which in this case appears to be the typical 660 foot depth norm for strip commercial development. However, in reviewing the zoning district boundaries for the three BU-1A zoned sites fronting on Bird Road between SW 147 and 152 Avenues, all three sites appear to have been approved at slightly varying depths ranging from 790 feet to 620, inclusive of the Bird Road 110 foot right-of-way dedication. In this instance I have determined that the intent of the CDMP was to reflect the "Business and Office" designation for the entire subject tract of land.

The CDMP Land Use Element text on pages I-35 and 36 describes the "Business and Office" LUP map category, and other applicable provisions in the text of this land use category provide guidance concerning the consistency of uses and zoning not specifically depicted on the LUP map and are pertinent to the use of the subject property:

"...Residential uses, and mixing of residential use with commercial, office and hotels are also permitted in Business and Office areas provided that the scale and intensity, including height and floor area ratio of the residential or mixed use development, is not out of character with that of adjacent or adjoining development and zoning, and it does not detrimentally impact, and it provides a sensitive well designed transition to any adjacent or adjoining residentially developed or designated areas of different development intensity. Where these conditions are met residential development may be authorized to occur in the Business and Office category at a density up to one density category higher than the LUP-designated density of the adjacent or adjoining residentially designated area on the same side of the abutting principal roadway, or up to the density of any such existing residential development, or zoning if the adjacent or adjoining land is undeveloped, whichever is higher. If there is no adjacent or adjoining residential use existing, zoned or designated on the same side of the roadway, the maximum allowable residential density will be that which exists or which this plan allows across the roadway...

Strips and Nodes. The plan recognizes existing strip commercial development along many roadways. However, commercial development in newly developing areas is designated as nodes at major intersections....

The depth of the ribbon is more generalized... In general, the depth should be limited to the norm for the strip, but may be approved at such other depth necessary to ensure compatibility with, and liberal permanent buffering of adjacent residential uses, or transition to adjacent commercial uses in keeping with the Plan's policies...

Uses and Zoning Not Specifically Depicted. Some existing lawful uses and zoning are not specifically depicted on the LUP map. However, all such existing lawful uses and zoning are deemed to be consistent with this Plan as provided in the section of this chapter titled "Concepts and Limitations of the Land Use Plan Map." The limitations referenced in

this paragraph pertain to existing zoning and uses. All approval of new commercial locations must be consistent with LUP map or the specific exceptions provided in the various LUP map categories, and objectives and policies of this Plan.”

The following Land Use Policies are also pertinent to the subject property:

- 4A. When evaluating compatibility among proximate land uses, the County shall consider such factor as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.
- 4C. Residential neighborhoods shall be protected from intrusion by uses that would disrupt or degrade the health, safety tranquility, character, and overall welfare of the neighborhood by creating such impacts as excessive density, noise, light, glare, odor, vibration, dust or traffic.
- 4D. Uses which are supportive but potentially incompatible shall be permitted on sites within functional neighborhoods, communities or districts only where proper design solutions can and will be used to integrate the compatible and complementary elements and buffer any potentially incompatible elements.

In conclusion and based on the relevant provisions of the CDMP, I find that the entire subject property is designated “Business and Office” on the CDMP LUP map. While the depth of this parcel is slightly deeper than the standard 660 feet typically shown on the CDMP LUP map for similar strip commercial type parcels, I believe that the intent of the CDMP was to show the actual 1987 zoned BU-1A depth. With regards to your request for confirmation that residential development may be authorized on the property up to one density category higher, or up to 13 dwelling units per gross acre, I find that residential development may be approved on the subject property consistent with the provisions of the “Business and Office” category. Since the adjoining property to the north of the subject property is designated on the CDMP LUP map as “Low Density Residential” and is located on the same side of Bird Road, the maximum gross density that could be approved on the site would be at the “Low-Medium Density Residential” (5 to 13 dwelling units per gross acre) category. The maximum number of dwelling units in a residential project on the entire site could not exceed 128. A private Land Use Plan map amendment would be required if the developer proposes to construct more than the 128 units of residential on the 9.91-acre site. In conclusion, I would also note the CDMP’s compatibility factors noted in Land Use Policies 4A, 4B and 4C and requirements for proper design should be carefully considered in any non-residential or higher density residential development proposals for the subject property relative to the adjacent single-family residences to the north.

This review was based on public documents and the information provided in your letter. This interpretation should not be construed as the position of this Department on any pending or future CDMP amendment application or request for zoning action pertaining to the subject

Mr. Jeffrey Bercow, Esq.
May 27, 2003
Page 4

property. If you have any further questions about this matter feel free to call me at 375-2840, or Mr. Mark R. Woerner, Chief, Metropolitan Planning Section, at 375-2835.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane O'Quinn Williams".

Diane O'Quinn Williams
Director

DOQW: CLR: MRW: FLM