

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

RECEIVED
04-067
OCT 26 2004

Checked by C Demp Amount of Fee \$1452.20

Receipt # I200414081

Date Heard 10/5/04

By CZAB # 02

PLANNING AND ZONING DEPT.
HEARINGS SECTION
MIAMI-DADE COUNTY COMMUNITY ZONING DEPT.
OCT 25 2004
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. 04-10-CZ2-2 (04-67)

Filed in the name of (Applicant): BMS -OJUS LLC

Name of Appellant, if other than application: OJUS HOMEOWNERS ASSOCIATION, INC.
by Howard F. Scott, Esq., 10800 Biscayne Boulevard, Suite 610, Miami, Florida 33161.

ADDRESS/LOCATION OF APPELLANT'S PROPERTY: Properties lying between Ives Dairy Road on the North and Greynolds Park on the South; FEC Railroad track on the East and the Oleta River on the West.

APPLICATION, OR PART OF APPLICATION BEING APPEALED (EXPLANATION):
Appealing rezoning of the southern one-half of the subject property from RU-3M to IU-1 instead of rezoning said parcel to BU-2 the same as the northern one-half of the subject property and rezoning the southern one-half of the subject property from RU-3M to IU-1 without a height restriction to three stores to be consistent with the Ojus Charrette.

APPELLANT (NAME): Ojus Homeowners Association, Inc. 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:

HISTORY AND PERSPECTIVE

THE FACTS:

The Master Plan of the Ojus Charrette provides for the North District, where the Applicant's property is located, that there shall be :

1. **NO INDUSTRIAL LAND USE**
2. **BUSINESS AND OFFICE BUILDINGS**
3. **THREE STORY BUILDING HEIGHT**

On September 3, 2003 the Applicant presented a request to the Northeast Community Council #2 for an amendment to the CDMP to change the land use for the subject property to industrial to permit construction of a proposed "five story" warehouse (which, in fact, is actually to be 64 feet, 9 inches or 6 1/2 stories). This requested land use change was represented by the Applicant as being consistent with the Ojus Charrette. (See Exhibit VI)

On the facts, it is clearly not consistent with the Ojus Charrette.

Moreover, the Miami-Dade County Department of Planning and Zoning recommended to the Community Council that it deny the request for an industrial land use designation for the Applicant's property as incompatible with the Ojus Charrette. (See Exhibit I)

Notwithstanding the facts, the recommendation of the Department of Planning and Zoning, and the wishes of the public in attendance, the Community Council approved the Applicant's request.

And, notwithstanding the facts, the recommendation of the Department of Planning and Zoning, and the increasing vocal opposition of the Ojus community as it became more aware of the Applicant's plans, the PAB and then the Board of County Commissioners, with the Applicant continuing to represent the requested industrial land use was consistent with the Ojus Charrette, approved the Applicant's request. (The Applicant was supported at the November 5, 2003 County Commission by Commissioner Sally Heyman who mistakenly advised the Commission the Miami investor's request for an industrial land use designation for the Sun Haven Trailer Park property was consistent with the Master Plan of the Ojus Charrette report, stating

"both on Page 38 and Page 40 of the Charrette, the proposed vision, it has light industry and it is part of the Master Plan proposal, the vision of the Ojus Charrette, it is central to this area, it is in the area of dialogue here today."

and

"the light industrial use that was proposed is consistent with the Charrette."

Page 38 and Page 40 of the Charrette cited by Commissioner Heyman to support her endorsement of the Miami investor's application and her motion to approve the Miami investor's requested industrial land use designation in the North District do not apply, however, to the North District.

Page 38 and Page 40 of the Charrette apply to and provide for light industry in the Central District.

WHAT DOES THIS MEAN?

It means that the industrial land use obtained by the Applicant on the subject property never should have been granted. With that understanding, the Applicant's request for a zoning change to IU-1 on the subject property should be denied outright or granted only with conditions and restrictions on height and appearance as needed to make the proposed self-storage warehouse as consistent as possible with the Master Plan of the Ojus Charrette.

The Miami-Dade County Department of Planning & Zoning Recommendation to Community Council No. 2 on the Applicant's request for a zoning change to IU-1 on the southern half of the subject property noted that the Applicant "has attempted to conform to the general intent of the Ojus Charrette by moving the building forward, relocating party areas to the side and adding aesthetic treatments to the façades to more closely conform to the urban elements of the Ojus Charrette."

Since (i) the proposed industrial use, (ii) the proposed 6 ½ story height, and the proposed warehouse facility are all clear violations of the specific, stated intent of the Master Plan of the Ojus Charrette, it is disingenuous to suggest that relocating some parking and adding some aesthetic treatments to the warehouse structure's façade is an attempt to comply with the general intent of the Ojus Charrette Master Plan or should be given any value as such.

The Recommendation further states that the Applicant "has submitted line-of-sight documentation indicating that the town house project proposed for the adjoining RU-3M-zoned property to the west of the subject site will buffer the view of the proposed self-storage facility from the existing single-family residences to the west."

The Applicant has, however, not offered any covenant that it will build the proposed townhouses and there is, accordingly, no assurance they will ever be built. In fact, the Applicant itself has no plans to construct said townhouses and, since the market is questionable at best, if it exists at all for townhouses built in front of a 6 ½ story self-storage warehouse facility, operating from 6:00 A.M. to 10:00 P.M., 7 days a week, renting trucks, servicing commercial as well as residential customers, selling moving supplies, renting office space and a meeting center, it is unlikely townhouses will soon, if ever be built.

Furthermore, since "proposed" townhouses offer no buffer and since the Applicant has not committed to build the proposed townhouses, there is not now and will not be in the foreseeable future, any buffer between the residential homes on Enchanted Lake and self-storage proposed warehouse. Moreover, while the "proposed" townhouses if ever built might buffer the view of the warehouse for the residences on Enchanted Lake, they will only buffer a small portion of the view of the warehouse. The proposed 6 ½ story high warehouse would still tower over even a two story townhouse by 4 ½ stories. And, of course, there is nothing to buffer the view of this mammoth 6 ½ story football field sized warehouse from the rest of the Ojus Community. It's immense height and size will loom over the entire community and be visible from the entire Ojus Community, as well as Aventura, Skylake and Highland Oaks – as the Applicant intends.

In sum, these two notes by the Department of Planning and Zoning in support of the Applicant's rezoning request can at best be described as "damned by faint praise." Upon analysis they offer no substantive basis or support for granting the Applicant's request.

The Department noted in Paragraph F of its Recommendation to Community Council #2 that "the Board shall hear and grant or deny applications for **district boundary changes** taking into consideration that same must be consistent with the CDMP, with applicable area or neighborhood studies or plans, and would serve a public benefit. "

On July 21, 1998 the County Commission petitioned the County Manager to commence a study on the Ojus area. In January 1999, a steering committee was established by the Miami-Dade County Department of Planning and Zoning to begin the study. After almost two years, and thousands of man hours of study and work, the Ojus Charrette Report setting forth a "Master Plan" for development of the Ojus area was finally completed on May 18, 2001. The Master Plan was a cooperative effort by professional architects, landscape architects, marketing and economic planners, designers and engineers with the added input of local historians. The Master Plan, as stated in the Charrette, was "the result of collaboration among many entities and individuals, including the Miami-Dade Board of County Commissioners; Northeast Community Council (2); Miami-Dade County Departments of Planning and Zoning, Parks and Recreation, Police, Team Metro, Miami Dade Public Schools, South Florida Regional Planning Council, area chambers of commerce, business and homeowners associations, Friends of the Oleta River, and most importantly, the people who live study, work and shop in Ojus". The final 88 page "Ojus Charrette Report" was prepared by The Miami-Dade County Department of Planning and Zoning, Marlin Engineers, Traffic Engineers, Albert R. Perez Associates, P.A. Landscape Architects and Planners, and Judson and Partners, Architects, Planners and Interior Designers.

The purpose of the Master Plan of the Ojus Charrette was to "guide development and redevelopment in a manner that protects and enhances the unique characteristics of Ojus", to "protect the environmental treasures of Ojus" (Enchanted Lake, Oleta River, Greynolds Park, etc.) and to "preserve the historic character" of the Ojus community. The attached **Exhibit II** sets forth quotes from the Ojus Charrette Report regarding its purpose and intent. Included in these and stated as among the highest priorities were: **(EXHIBIT II, Page 11)**

"Preserving the historic design characteristics and the eclectic nature of the small businesses along West Dixie Highway"; and

"Ensuring new development conforms to the historic character of the community."

The Charrette specifically provided for a **3 story limit** on development in the North and Central District: **(EXHIBIT II, Pages 2 & 3)**

"Buildings should be tall enough to create a sense of enclosure and urban character. Mixed-Use retail and office uses should be limited to 3 stories on Main Street, from Miami Gardens Drive to N.E. 192nd Street. Mixed-Use office with retail on the ground floor should allow **3 stories only**."

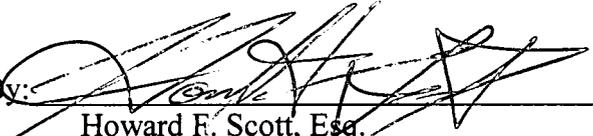
"The West Dixie retail corridor should be extended to connect the commercial center proposed for the area of what is now the mobile home park. The street profile should be similar to West Dixie or Main Street" **(EXHIBIT II, Page 23)**

On February 4, 2004 the Charrette and its recommendations were accepted by the County Commission with a directive to move toward amendments to the Miami-Dade Counting Zoning Code to implement its provisions.

On June 10, 2004 Community Council #2, noting that “the concepts of the Charrette were embraced by the community, and subsequently by the Northeast Community Council, Board of County Commissioners and the Planning Advisory Board “adopted a resolution directing that a report be prepared on those aspects of the Master Plan of the Ojus Charrette reasonable for implementation.”

Given the history of the Ojus Charrette, from its inception through the work and effort of all the organizations, agencies, professionals and community members, to its ultimate acceptance by the Board of County Commissioners, it is clear the Ojus Charrette constitutes a “neighborhood study or plan” as contemplated by the Department’s recommendations. Accordingly, Community Council #2, acting both as the Zoning Appeals Board and as the representatives of the people should have rejected the Applicant’s rezoning request as clearly not consistent “with applicable area or neighborhood plans”, the standard noted by the Department.

OJUS HOMEOWNERS ASSOCIATION, INC.

By: 
Howard F. Scott, Esq.

APPELLANT MUST SIGN THIS PAGE

Date: 26 day of October, year: 2004

Signed

[Handwritten Signature]

HOWARD F. SCOTT

Print Name

10800 BISCAYNE BLVD #610

Mailing Address

MIAMI, FL 33161

305-892-4534

Phone

305-892-4580

Fax

REPRESENTATIVE'S AFFIDAVIT

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

Representing

OTIS HENRIEWAONS ASSOCIATION, INC.

Signature

[Handwritten Signature]

HOWARD F. SCOTT

Print Name

ESQUINO

10800 BISCAYNE BLVD #610

Address

MIAMI

City

FL

State

33161

Zip

305 892 4534

Telephone Number

Subscribed and Sworn to before me on the 26th day of October, year 2004

[Handwritten Signature]

Notary Public



DIANNE HOUGH

MY COMMISSION # DD 154631

EXPIRES: December 6, 2006

Bonded Thru Budget Notary Services

(stamp/seal)

Commission expires: 12/6/06

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 HOWARD F. SCOTT, ESQ. on behalf of the OJUS HOMEOWNERS ASSOCIATION, INC. (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
- 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:

OJUS HOMEOWNERS ASSOCIATION, INC.

[Signature]
Signature

By: *[Signature]*
Howard F. Scott, Esq.

Lilian M. Blanco
Print Name

[Signature]
Signature

JOAN ROYCE
Print Name

Sworn to and subscribed before me on the 26th day of October, year 2004.

Appellant is personally known or has produced _____ as identification.

[Signature]
Notary
Commission Stamp:  Nivia Green
My Commission DD280164
Expires January 11, 2008

RECEIVED
204-67
MAR 10 2004

Sec. Twp. Range

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

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY [Signature]

LIST ALL FOLIO #S: 30-2203-005-0020 Date Received

1. 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).

Trinity Properties of Aventura, Inc.

2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: c/o Michael W. Larkin, Esq./Jeffrey Bercow, Esq., 200 S. Biscayne Blvd., # 850
City: Miami State: Florida Zip: 33131 Phone#: (305) 374-5300

3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): Trinity Properties of Aventura, Inc.
Mailing Address: c/o Michael W. Larkin, Esq./Jeffrey Bercow, Esq., 200 S. Biscayne Blvd., # 850
City: Miami State: Florida Zip: 33131 Phone#: (305) 374-5300

4. CONTACT PERSON'S INFORMATION:

Name: Michael W. Larkin, Jeffrey Bercow Company: Bercow & Radell, P.A.
Mailing Address: c/o Michael W. Larkin, Esq./Jeffrey Bercow, Esq., 200 S. Biscayne Blvd., # 850
City: Miami State: Florida Zip: 33131
Phone#: (305) 374-5300 Fax#: (305) 377-6222 E-mail:

5. 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).

See Exhibit A

RECEIVED
MAR 03 2004

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as N.E. corner of, etc.)
N.W. corner of N.E. 195th Street and West Dixie Highway

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____

7. SIZE OF PROPERTY (in acres): 2.57 (divide total sq. ft. by 43,560 to obtain acreage)

8. DATE property acquired leased: January 1997
(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.

See Exhibit B

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)
Blue Green Commercial Corp.

12. PRESENT ZONING CLASSIFICATION: RU-3M

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

- District Boundary Changes (DBC) [Zone class requested]: IU-1 (Parcel I); BU-2 (Parcel II)
- Unusual Use: _____
- Use Variance: _____
- Alternative Site Development: _____
- Special Exception: _____
- Modification of previous resolution/plan: _____
- Modification of Declaration or Covenant: _____

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:

Blue Green Commercial Corp., November 5, 2003, redesignation of property's land use designation from Low-Medium Density Residential to Industrial and Office and Business and Office, approved.

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: Mobile Home Trailers

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

Use: Mobile Home Park Year: _____

RECEIVED
204-67
AUG 04 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

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 hearing.

Signature _____

Signature _____

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

Notary Public: _____
Commission Expires: _____

CORPORATION AFFIDAVIT

(I)(WE), David Brown, 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: _____

David Brown
Authorized Signature

(Corp. Seal)

Office Held _____

Sworn to and subscribed to before me this 29 day of, July, 2004

Notary Public: Kathleen Jones
Commission Expires: _____
My Commission DD255274
Expires November 30, 2007

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.

Signature _____

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

Notary Public: _____
Commission Expires: _____

RECEIVED
204-67
AUG 04 2004

OWNERSHIP AFFIDAVIT
FOR
CORPORATION

ZONING AND PLANNING SECTION
MIAMI-DADE COUNTY, AMERICAN CITY DEVELOPMENT

BY [Signature]
Public Hearing No. 04-067

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

Before me, the undersigned authority, personally appeared David Brown, Vice-President of BMS Ojus, LLC, hereinafter the Affiant(s), who being first duly sworn by me, on oath, deposes and says:

- Affiant is the vice-president of BMS Ojus, LLC with the following address:
c/o Jeffrey Bercow, 200 S. Biscayne Blvd. Ste 850, Miami, FL 33131
- The Corporation owns the property which is the subject of the proposed hearing.
- The subject property is legally described as:
See Exhibit A
- Affiant is legally authorized to file this application for public hearing.
- 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]
Signature

David Brown
Affiant's signature

Steven O'Jedy
Print Name

David Brown
Print Name

[Signature]
Signature

Javier A. Velazquez
Print Name

Sworn to and subscribed before me on the 29 day of July, 2004. Affiant is personally known to me, ~~or has produced~~ _____ as identification.

 Kathleen K. Jones
My Commission DD255274
Expires November 30, 2007

(Stamp/Seal)

Kathleen K Jones
Notary

Commission Expires: 11/30/07

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: _____

NAME ADDRESS AND OFFICE (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:

RECEIVED
 204-67
 AUG 09 2004
 ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____

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: *[Handwritten Signature]*
 (Applicant)

Sworn to and subscribed before me this 5 day of Aug, 2004. Affiant is personally known to me or has produced _____ as identification.

[Handwritten Signature]
 (Notary Public)

 Kathleen K. Jones
 My Commission DD255274
 Expires November 30, 2007

My commission expires 11/30/07

*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.

RECEIVED
MAR 03 2004

APPLICANT'S AFFIDAVIT

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplemental 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

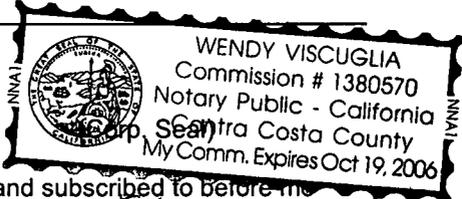
(I)(WE), _____, being first duly sworn, depose and say that (I am)(we are) the owner tenant of the property described and which is the subject matter of the proposed hearing.

Signature Signature

Sworn to and subscribed to before me this ___ day of, _____, _____.
Notary Public: _____
Commission Expires: _____

CORPORATION AFFIDAVIT

(I)(WE), STEPHEN WILLIAMS, 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
PRESIDENT
Office Held

Sworn to and subscribed to before me this 25 day of, February, 2004.
Notary Public: Wendy Viscuglia
Commission Expires: Oct. 19, 2006

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.

Signature
Sworn to and subscribed to before me this ___ day of, _____, _____.
Notary Public: _____
Commission Expires: _____

RESPONSIBILITIES OF THE APPLICANT

RECEIVED
MAR 03 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

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 Work 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.

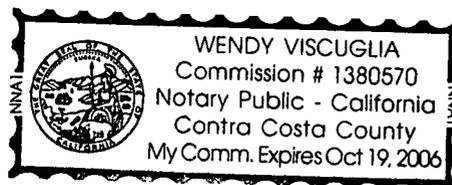
Stephen Williams
(Applicant's Signature)

STEPHEN WILLIAMS
(Print Name)

Sworn to and subscribed before me this 25th day of February, 2004. Affiant is personally known to me or has produced _____ as identification.

Wendy Viscuglia
(Notary Public)

My commission expires 10-19-06



OWNERSHIP AFFIDAVIT
FOR
CORPORATION

RECEIVED
MAR 03 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

STATE OF California
COUNTY OF Contra Costa

Public Hearing No. _____

Before me, the undersigned authority, personally appeared Stephen Williams, hereinafter the Affiant(s), who being first duly sworn by me, on oath, deposes and says:

- Affiant is the president, vice-president or CEO of the TRINITY PROPERTIES OF ADVENTURE, INC. Corporation, with the following address: _____
- The Corporation owns the property which is the subject of the proposed hearing.
- The subject property is legally described as: _____
- Affiant is legally authorized to file this application for public hearing.
- 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:

Gregory S. Newman
Signature

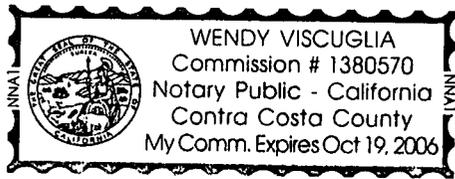
Gregory S. Newman
Print Name

Lisa Williams
Signature

LISA WILLIAMS
Print Name

Stephen Williams
Affiant's signature

STEPHEN WILLIAMS
Print Name



Sworn to and subscribed before me on the 25th day of February, 2004. Affiant is personally known to me or has produced _____ as identification.

Wendy Viscuglia
Notary

(Stamp/Seal)

Commission Expires: 10-19-06

DISCLOSURE OF INTEREST*

RECEIVED
MAR 03 2004
ZONING HEARINGS SECTION
MASSACHUSETTS PLANNING AND ZONING DEPT.
BY _____

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: Trinity Properties of Aventura, Inc.

<u>NAME AND ADDRESS</u>	<u>Percentage of Stock</u>
<u>See Exhibit C</u>	

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>

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>

RECEIVED
MAY 13 2004
PLANNING AND ZONING DEPT.

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 organizations, further disclosure shall be made to identify natural persons having ultimate ownership interest.]

NAME OF PURCHASER: Blue Green Commercial Corp. BY _____

NAME ADDRESS AND OFFICE (if applicable)	Percentage of Interest
<u>See Exhibit D</u>	
_____	_____
_____	_____
_____	_____

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 his application to the best of my knowledge and belief.

Signature: [Signature] STEVEN BROWN
(Applicant)

Sworn to and subscribed before me this 19 day of Feb, 2004. Affiant is personally known to me or has produced _____ as identification.

[Signature]
(Notary Public) Kathleen K. Jones
My Commission DD255274
Expires November 30, 2007

*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.

EXHIBIT "A"

LEGAL DESCRIPTION: FOR PARCEL I

The South 155 feet of Tract "A", SECOND REVISED PLAT OF AMENDED PLAT OF ALL OF BLOCKS 1 AND 2 L. TOMS' SUBDIVISION, according to the plat thereof as recorded in Plat Book 42 at Page 56 of the Public Records of Dade County, Florida, less the West 115 feet and South 10.00 feet thereof and also less the external area of a 25 foot radius circular curve concave to the Northwest and being tangent to the East line of said Tract "A" and tangent to the North line of the South 10.00 feet of Tract "A", lying and being in Miami-Dade County, Florida.

LEGAL DESCRIPTION: FOR PARCEL II

The North 155 feet of the South 310 feet of Tract "A", SECOND REVISED PLAT OF AMENDED PLAT OF ALL OF BLOCKS 1 AND 2 L. TOMS' SUBDIVISION, according to the plat thereof as recorded in Plat Book 42 at Page 56 of the Public Records of Dade County, Florida, less the West 115 feet thereof, lying and being in Miami-Dade County, Florida.

RECEIVED
204-67
MAR 03 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____


SKETCH TO ACCOMPANY LEGAL DESCRIPTION

N.E. 26th AVENUE

WEST DIXIE HWY.

R/W

EXHIBIT
B

SCALE 1" = 120'

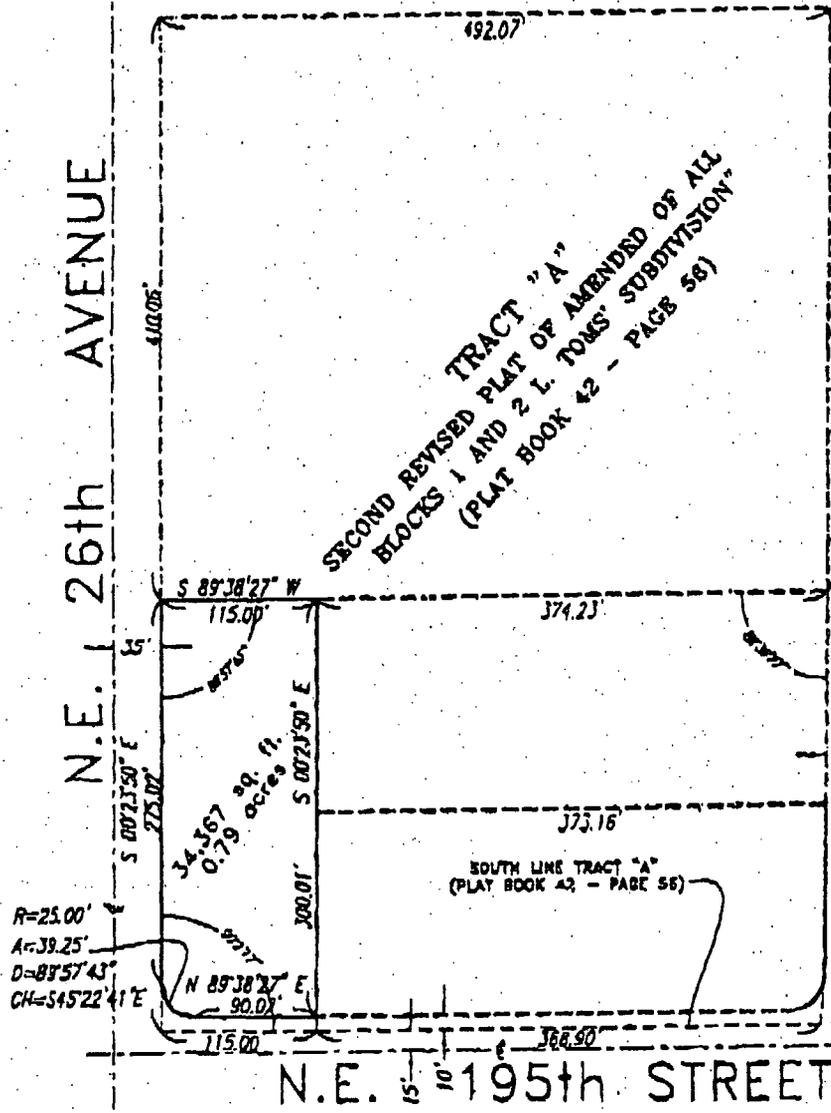
NORTH

TRACT "A"
SECOND REVISED PLAT OF AMENDED OF ALL
BLOCKS 1 AND 2 L. TOMS' SUBDIVISION"
(PLAT BOOK 42 - PAGE 56)

RECEIVED
204 67
MAR 03 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

F.E.C.



LEGAL DESCRIPTION:

The West 115 feet of the South 310 feet of Tract "A", SECOND REVISED PLAT OF AMENDED PLAT OF ALL OF BLOCKS 1 AND 2 L. TOMS' SUBDIVISION, according to the plat thereof as recorded in Plat Book 42 at Page 56 of the Public Records of Dade County, Florida, less the South 10.00 feet thereof and also less the external area of a 25 foot radius circular curve concave to the Northeast being tangent to the West line of said Tract "A" and also tangent to the North line of the South 10.00 feet of Tract "A", lying and being in Miami-Dade County, Florida.

File name: K:\035242\L TOMS SUBD\dwg\BMS.dwg

Schwelke-Shiskin & Associates, Inc. (LG # 87)

LAND PLANNERS • ENGINEERS • LAND SURVEYORS (LG#87)

3240 CORPORATE WAY MIRAMAR, FLORIDA 33025 TEL. NO. (954)435-7010 FAX NO. (954)438-3288

ORDER NO. 188888

PREPARED UNDER MY SUPERVISION

DATE: 11-11-03

PRESIDENT

ROBERT F. JACKSON, P.L.S. #2408 (STATE OF FLORIDA)

K:\035242\L TOMS SUBD\DWG\03_11_03_01.LAND SURVEY

EXHIBIT C

**DISCLOSURE OF INTEREST INFORMATION
FOR APPLICANT**

RECEIVED
MAR 03 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____

Trinity Properties of Aventura, Inc.
3527 Mt. Diablo Boulevard, Suite 336, Lafayette, CA 94549

Stephen D. Williams is the 100% shareholder of Trinity Properties of Aventura, Inc.