

Approved: \_\_\_\_\_ Mayor

Veto: \_\_\_\_\_

Override: \_\_\_\_\_

**RESOLUTION NO. Z-32-06**

WHEREAS, **ROYD LEMUS & RAQUEL LAU** applied to Community Zoning Appeals

Board 14 for the following:

- (1) AU to BU-1A
- (2) Applicants are requesting to waive the zoning regulations requiring a 5' high masonry wall where a business lot abuts EU zoned property, along the rear (west) and interior side (south) property lines.
- (3) Applicants are requesting to waive the zoning regulations requiring all uses to be conducted within completely enclosed buildings or within an area completely enclosed with walls; to permit the uses in an unenclosed structure.
- (4) UNUSUAL USE to permit outdoor dining.
- (5) Applicants are requesting to waive the zoning requirements requiring Krome Avenue to be 180' in width; to permit 50' of dedication (90' required) on the west side of Krome Avenue adjacent to the subject property.

OR IN THE ALTERNATIVE TO REQUEST #5, THE FOLLOWING:

- (6) Applicants are requesting to permit 51 parking spaces (75 required).

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2, 3 & 5 may be considered under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance) and approval of request #6 may be considered under §33-311(A)(16) (Alternative Site Development Option for the BU Zoning District) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance.)

Plans are on file and may be examined in the Zoning Department entitled "Redland Market," as prepared by Rocco J. Ceo, consisting of 3 sheets and dated stamped received 9/21/05.

SUBJECT PROPERTY: The north 330' of the east  $\frac{3}{4}$  of the SE  $\frac{1}{4}$  of Section 12, Township 56 South, Range 38 East, less the west 1,686.68' thereof, being subject to an ingress-egress easement across the north 35' thereof.

LOCATION: The Southwest corner of S.W. 177 Avenue & S.W. 208 Street, Miami-Dade County, Florida, and

*WHEREAS*, a public hearing of Community Zoning Appeals Board 14 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and upon due and proper consideration having been given to the matter it was the opinion of Community Zoning Appeals Board 14 that district boundary change to BU-1A (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the requested unusual use (Item #4) and the requests to waive the zoning regulations requiring a 5' high masonry wall where a business lot abuts EU zoned property, along the rear (west) and interior side (south) property lines (Item #2), and to waive the zoning regulations requiring all uses to be conducted within completely enclosed buildings or within an area completely enclosed with walls; to permit the uses in an unenclosed structure (Item #3), and the requests to waive the zoning requirements requiring Krome Avenue to be 180' in width; to permit 50' of dedication on the west side of Krome Avenue adjacent to the subject property (Item #5) or in the alternative, to permit 51 parking spaces (Item #6) would not be compatible with the area and its development and would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and that the requested unusual use (Item #4) would have an adverse impact upon the public interest and should be denied and said application was denied by Resolution No. CZAB14-10-06, and

*WHEREAS*, **ROYD LEMUS & RAQUEL LAU** appealed the decision of Community Zoning Appeals Board 14 to the Board of County Commissioners for the following:

- (1) AU to BU-1A
- (2) Applicants are requesting to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the rear (west) and interior side (south) property lines.

- (3) Applicants are requesting to waive the zoning regulations requiring all uses to be conducted within completely enclosed buildings or within an area completely enclosed with walls; to permit the uses in an unenclosed structure.
- (4) UNUSUAL USE to permit outdoor dining.
- (5) Applicants are requesting to waive the zoning requirements requiring Krome Avenue to be 180' in width; to permit 50' of dedication (90' required) on the west side of Krome Avenue adjacent to the subject property.

OR IN THE ALTERNATIVE TO REQUEST #5, THE FOLLOWING:

- (6) Applicants are requesting to permit 51 parking spaces (75 required).

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2, 3 & 5 may be considered under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance) and approval of request #6 may be considered under §33-311(A)(16) (Alternative Site Development Option for the BU Zoning District) or under §33-311(A)(4)(b) (Non-Use Variance) or (c) (Alternative Non-Use Variance.)

Plans are on file and may be examined in the Zoning Department entitled "Redland Market," as prepared by Rocco J. Ceo, consisting of 3 sheets and dated stamped received 9/21/05. Plans may be modified at public hearing.

SUBJECT PROPERTY: The north 330' of the east  $\frac{3}{4}$  of the SE  $\frac{1}{4}$  of Section 12, Township 56 South, Range 38 East, less the west 1,686.68' thereof, being subject to an ingress-egress easement across the north 35' thereof.

LOCATION: The Southwest corner of S.W. 177 Avenue & S.W. 208 Street, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners was advertised and held, as required by the Zoning Procedure Ordinance, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant proffered a Declaration of Restrictions which among other things provided:

1. **Site Plan.** The Property shall be developed in accordance with the plans previously submitted, entitled "Redland Market," as prepared by Rocco J. Ceo, consisting of three (3) sheets, dated stamped received September 21, 2005, as may be modified at the public hearing on the Application (the "Plan").
2. **Use Restrictions.** Notwithstanding the approval of the Application or the proposed BU-1A zoning classification of the Property, the use of the Property shall be restricted to a farmer's market, as depicted on the Plan. Further, the Owner agrees that (1) sixty-five percent (65%) of the total floor area of the patron area,

including the shade house, at the market shall be used for the display and sale of locally produced, raised or grown products, including, without limitation, fresh produce, flowers, foliage, and vinicultural and other agricultural products. The remaining floor area of the patron area shall be used for the display and sale of products necessary to support the rural residential community, including, without limitation, agricultural products not available locally during the off-season and food products of any kind. For purposes of this paragraph, the term "locally produced, raised or grown" shall refer to items or products raised, grown or produced in the agricultural area of Miami-Dade County. The display and sale of lottery products, beauty products and personal hygiene/health care products shall be prohibited.

3. **Sign Restrictions.** To the extent that a detached point of sale sign is used in connection with the operation of the farmer's market, said sign shall be of a monument type and shall not exceed a height of twelve feet (12'), as measured from grade to the top of the sign.
4. **Certificate of Use and Occupancy.** The Owner shall annually renew the certificate of use and occupancy, which will be subject to cancellation upon non-compliance with the terms of this Declaration of Restrictions and the approving resolution. Prior to the annual renewal of the certificate of use and occupancy, the Owner shall submit to the Director of the Department of Planning and Zoning an annual report indicating the percentage of the total floor area of the patron area devoted over the previous year to the display of locally produced, raised or grown items or products, including the source of said items.

*WHEREAS*, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

*WHEREAS*, after reviewing the record and decision of the Metropolitan Dade County Zoning Appeals Board 14 and after having given an opportunity for interested parties to be heard, it was the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that that the grounds and reasons alleged by the appellants specified in the appeal were sufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. CZAB14-10-06 and the appeal should be granted and the decision of Community Zoning Appeals Board 14 should be overruled, and

*WHEREAS*, upon due and proper consideration having been given to the matter it is the opinion of this Board that the requested district boundary change to BU-1A (Item #1) would be

compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that a portion of the request to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the rear (west) property line (Item #2), and the requests to waive the zoning regulations requiring all uses to be conducted within completely enclosed buildings or within an area completely enclosed with walls; to permit the uses in an unenclosed structure (Item #3), and to waive the zoning requirements requiring Krome Avenue to be 180' in width; to permit 50' of dedication on the west side of Krome Avenue adjacent to the subject property (Item #5) would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance, and that the proffered Declaration of Restrictions should be accepted, and that the requested unusual use to permit outdoor dining (Item #4), the request to permit 51 parking spaces (Item #6) and that portion of the request to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the interior side (south) property line (Item #2) would not be compatible with the area and its development and would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and that the requested unusual use (Item #4) would have an adverse impact upon the public interest and should be denied without prejudice, and

*WHEREAS*, a motion to accept the proffered Declaration of Restrictions, grant the appeal and overrule the decision of Community Zoning Appeals Board 14, approve Items #1, #3, and #5 as non-use variances, approve a portion of Item #2 to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the rear (west) property line, deny Items #4 and 6 with out prejudice, and deny a portion of Item #2 to waive the zoning regulations requiring a 5' high masonry wall

where a business lots abuts EU zoned property, along the interior side (south) property line was offered by Commissioner Dennis C. Moss, seconded by Commissioner Rebecca Sosa, and upon a poll of the members present the vote was as follows:

Bruno A. Barreiro	absent	Dennis C. Moss	aye
Jose "Pepe" Diaz	absent	Dorrin D. Rolle	aye
Audrey M. Edmonson	aye	Natacha Seijas	absent
Carlos A. Gimmenez	aye	Katy Sorenson	nay
Sally A. Heyman	absent	Rebecca Sosa	aye
Barbara J. Jordan	aye	Sen. Javier D. Souto	absent
Chairperson Joe A. Martinez			aye

*NOW THEREFORE BE IT RESOLVED* by the Board of County Commissioners, Miami-Dade County, Florida, that the appeal be and the same is hereby granted and the decision of Community Zoning Appeals Board 14 is overruled.

*BE IT FURTHER RESOLVED* that the requested district boundary change to BU-1A (Item #1) be and the same is hereby approved and said property is hereby zoned accordingly.

*BE IT FURTHER RESOLVED* that a portion of the request to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the rear (west) property line (Item #2), and the requests to waive the zoning regulations requiring all uses to be conducted within completely enclosed buildings or within an area completely enclosed with walls; to permit the uses in an unenclosed structure (Item #3), and to waive the zoning requirements requiring Krome Avenue to be 180' in width; to permit 50' of dedication on the west side of Krome Avenue adjacent to the subject property (Item #5) be and the same are hereby approved as non-use variances, subject to the following conditions:

1. That a site plan be submitted to and meet with the approval of the Director upon the submittal of an application for a building permit and/or Certificate of Use; said plan to include among other things but not be limited thereto, location of structure,

or structures, display area, types, sizes and location of signs, light standards, off-street parking areas, exits and entrances, drainage, walls, fences, landscaping, etc.

2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled Redland Market," as prepared by Rocco J. Ceo, consisting of 3 sheets and dated stamped received 9/21/05, except as herein modified to delete the outdoor dining area.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant submit to the Department of Planning and Zoning for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to the issuance of a Certificate of Use.
5. That no stringer lights, pennants, mobile or stationary visual devices, except as permitted under point of sale regulations, shall be used or displayed.
6. That the applicant obtain a Certificate of Use from the Department of Planning and Zoning, upon compliance with all terms and conditions, the same subject to cancellation upon violation of an of the conditions.
7. That the applicant comply with all applicable conditions and requirements of the Department of Environmental Resources Management (DERM).
8. That the applicant comply with all applicable conditions and requirements of the Public Works Department.
9. That the use of outdoor loudspeakers shall be prohibited.

*BE IT FURTHER RESOLVED* that the requested unusual use to permit outdoor dining (Item #4), the request to permit 51 parking spaces (Item #6) and that portion of the request to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the interior side (south) property line (Item #2) be and the same are hereby denied without prejudice.

*BE IT FURTHER RESOLVED* that Resolution No. CZAB14-10-06 is hereby null and void.

*BE IT FURTHER RESOLVED* that, pursuant to Section 33-6 of the Code of Miami-Dade County, Florida, the County hereby accepts the proffered covenant and does exercise

its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations

*BE IT FURTHER RESOLVED*, notice is hereby given to the applicant that the request herein constitutes an initial development order and does not constitute a final development order and that one, or more, concurrency determinations will subsequently be required before development will be permitted.

The Director is hereby authorized to make the necessary changes and notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning and to issue all permits in accordance with the terms and conditions of this resolution.

***THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED*** this 14<sup>th</sup> day of September, 2006, and shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

No. 06-3CZ14-2  
ej

HARVEY RUVIN, Clerk  
Board of County Commissioners  
Miami-Dade County, Florida

By  **RAY SULLIVAN**  
Deputy Clerk

**THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 25<sup>TH</sup> DAY OF SEPTEMBER, 2006.**

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

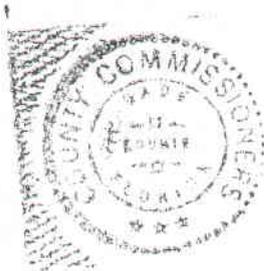
I, Earl Jones, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-32-06 adopted by said Board of County Commissioners at its meeting held on the 14<sup>th</sup> day of September, 2006.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 25<sup>th</sup> day of September, 2006.



Earl Jones, Deputy Clerk (3230)  
Miami-Dade County Department of Planning and Zoning

SEAL





Department of Planning and Zoning

Stephen P. Clark Center  
111 NW 1st Street • Suite 1210  
Miami, Florida 33128-1902  
T 305-375-2800

September 25, 2006

Royd Lemus & Raquel Lau  
c/o Michael Friere  
701 Brickell Avenue  
Suite 3000  
Miami, Florida 33131

miamidade.gov

Re: Hearing No. 06-3CZ14-2  
Location: The Southwest corner of S.W. 177 Avenue  
& S.W. 208 Street, Miami-Dade County, Florida

Dear Applicant:

Enclosed herewith is Resolution No. Z-32-06, adopted by the Board of County Commissioners, which **accepted your Declaration of Restrictions, and approved your request for a district boundary change to BU-1A (Item #1), approved Items #3, 5, and a portion of Item #2 to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the rear (west) property line, and denied Item #4 without prejudice and denied a portion of Item #2 to waive the zoning regulations requiring a 5' high masonry wall where a business lots abuts EU zoned property, along the interior side (south) property line without prejudice** on the above described property. Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. Failure to comply with stipulated conditions, if any, will result in the immediate issuance of a civil violation notice for each condition violated. Each notice issued may require payment of a daily monetary fine.

If, as stipulated in the resolution, building permits and/or use, occupancy or completion certificates will be required, note that permits must be obtained and final inspection approvals received for construction work done or required prior to issuance of the applicable certificate(s) pursuant to Section 33-8 of the Zoning Code. Payment of certificates may be subject to annual renewal by this Department. Application for required permits and/or certificates related to use, occupancy or completion should be made with this Department, or the Building Department as appropriate. At time of permit application you must provide a copy of this resolution. If there are anticipated changes from any plan submitted for the hearing, a plot use plan is to be submitted to this Department in triplicate before any detailed plans are prepared, inasmuch as building permits will not be issued prior to the approval of said plan.

The Board's decision may be appealed by an aggrieved party to Circuit Court within 30 days of the date of transmittal of the resolution to the Clerk of the County Commission. The transmittal date is **September 25, 2006**. In the event an appeal is filed, any building permit sought shall be at the risk of the party seeking said permit. Copies of any court filings concerning this matter should be served upon both my office and:

Murray A. Greenberg, County Attorney  
111 N.W. 1st Street, Suite 2810  
Miami, Florida 33128-1993

The County Attorney is not permitted to accept official service of process.

Sincerely,

Earl Jones  
Deputy Clerk

Enclosure

- ADA Coordination
- Agenda Coordination
- Animal Services
- Art in Public Places
- Audit and Management Services
- Aviation
- Building
- Building Code Compliance
- Business Development
- Capital Improvements
- Citizens' Independent Transportation Trust
- Commission on Ethics and Public Trust
- Communications
- Community Action Agency
- Community & Economic Development
- Community Relations
- Consumer Services
- Corrections & Rehabilitation
- Cultural Affairs
- Elections
- Emergency Management
- Employee Relations
- Empowerment Trust
- Enterprise Technology Services
- Environmental Resources Management
- Fair Employment Practices
- Finance
- Fire Rescue
- General Services Administration
- Historic Preservation
- Homeless Trust
- Housing Agency
- Housing Finance Authority
- Human Services
- Independent Review Panel
- International Trade Consortium
- Juvenile Services
- Medical Examiner
- Metro-Miami Action Plan
- Metropolitan Planning Organization
- Park and Recreation
- Planning and Zoning**
- Police
- Procurement Management
- Property Appraisal
- Public Library System
- Public Works
- Safe Neighborhood Parks
- Seaport
- Solid Waste Management
- Strategic Business Management
- Team Metro
- Transit
- Task Force on Urban Economic Revitalization
- Vizcaya Museum And Gardens
- Water & Sewer



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- Juvenile Services
- Medical Examiner
- Metro-Miami Action Plan
- Metropolitan Planning Organization
- Park and Recreation
- Planning and Zoning**
- Police
- Procurement Management
- Property Appraisal
- Public Library System
- Public Works
- Safe Neighborhood Parks
- Seaport
- Solid Waste Management
- Strategic Business Management
- Team Metro
- Transit
- Task Force on Urban Economic Revitalization
- Vizcaya Museum And Gardens
- Water & Sewer

October 27, 2006

Royd Lemus & Raquel Lau  
c/o Michael Friere  
701 Brickell Avenue  
Suite 3000  
Miami, Florida 33131

Re: Hearing No. 06-3CZ14-2  
Location: The Southwest corner of S.W. 177 Avenue  
& S.W. 208 Street, Miami-Dade County, Florida

Dear Applicant:

Enclosed herewith is a corrected Resolution No. Z-32-06, which was adopted by the Board of County Commissioners on October 26, 2006. The resolution was revised to address an omission in the covenant and resolution regarding the designation of the local vendors and to address Item #6, which was omitted from the resolution.

Please discard the original and replace with the attached, as the resolution has been revised to reflect the above-mentioned correction.

Sincerely,

Earl Jones  
Deputy Clerk

Enclosure