

A. RENE MIGUEL VALDEZ
(Applicant)

06-10-CZ10-2 (05-364)
BCC/District 10
Hearing Date: 06/23/11

Property Owner (if different from applicant) **Same.**

Is there an option to purchase /lease the property predicated on the approval of the zoning request? Yes No

Disclosure of interest form attached? Yes No

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
--------------------	-------------------------	-----------------------	---------------------	------------------------

No History

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

ZONING ACTION

MEMORANDUM

Harvey Ruvin

Clerk of the Circuit and County Courts
Clerk of the Board of County Commissioners
(305) 375-5126
(305) 375-2484 FAX
www.miami-dadeclerk.com



DATE: 04/28/2011

#Z- 05-364

ITEM: A

APPLICANT: RENE MIGUEL VALDEZ

MOTION: DEFERRED – 6/23/11 W/O NOTICE

ROLL CALL	M/S	YES	NO	ABSENT
Barreiro		X		
Bell		X		
Diaz				E
Heyman	S	X		
Jordan				E
Monestime		X		
Moss		X		
Sosa				E
Souto	M	X		
Vice Chairwoman Edmonson				E
Chairman Martinez		X		
TOTAL		7	0	

ZONING ACTION

MEMORANDUM

Harvey Ruvin
Clerk of the Circuit and County Courts
Clerk of the Board of County Commissioners
(305) 375-5126
(305) 375-2484 FAX
www.miami-dadeclerk.com



DATE: 3/17/2011 #Z

ITEM: A.

APPLICANT: RENE MIGUEL VALDEZ
(06-10-CZ10-2/05-364)

MOTION: Deferred to April 28, 2011 due to lack of a quorum.

ROLL CALL	M/S	YES	NO	ABSENT
Barreiro				
Bell				
Diaz				
Gimenez				
Heyman				
Jordan				
Monestime				
Moss				
Seijas				
Sosa				
Souto				
Vice Chairwoman Edmonson				
Chairman Martinez				
TOTAL				



ZONING ACTION

MEMORANDUM

Harvey Ruvin
Clerk of the Circuit and County Courts
Clerk of the Board of County Commissioners
(305) 375-5126
(305) 375-2484 FAX
www.miami-dadeclerk.com

DATE: April 26, 2007

#Z-06-07

ITEM: A.

APPLICANT: Rene Miguel Valdez

MOTION: Denied the appeal and upheld the decision of the CZAB which denied the application with prejudice

ROLL CALL	M/S	YES	NO	ABSENT
Diaz		X		
Edmonson				X
Gimenez		X		
Heyman				X
Martinez		X		
Moss	S			
Rolle		X		
Seijas				X
Sorenson		X		
Sosa		X		
Souto	M			
Vice Chairwoman Jordan		X		
Chairman Barreiro		X		
TOTAL		10	0	3

ZONING ACTION

MEMORANDUM

Harvey Ruvin

Clerk of the Circuit and County Courts
Clerk of the Board of County Commissioners

(305) 375-5126

(305) 375-2484 FAX

www.miami-dadeclerk.com



DATE: 2/8/2007

#Z-

ITEM: 1.

APPLICANT: RENE MIGUEL VALDEZ

(06-10-CZ10-2/05-364)

MOTION: to defer the foregoing application to the April 26, 2007, BCC Zoning meeting, with leave to amend; and to correct the advertisement with a new notice to the applicant.

ROLL CALL	M/S	YES	NO	ABSENT
Diaz		X		
Edmonson		X		
Gimenez		X		
Heyman		X		
Martinez		X		
Moss		X		
Rolle		X		
Seijas		X		
Sorenson		X		
Sosa				X
Souto		X		
Vice Chairwoman Jordan		X		
Chairman Barreiro				X
TOTAL		11	0	2

**MIAMI-DADE COUNTY
COMMUNITY ZONING APPEALS BOARD - AREA 10
MOTION SLIP**

2

APPLICANT'S NAME: RENE MIGUEL VALDEZ

REPRESENTATIVE: APPLICANT, PHIL WARD, ADRIAN PARADOS

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER	
06-10-CZ10-2 (05-364)	OCTOBER 17, 2006	CZAB10	62 06

REQ: (1) RU-1 to RU-5A.....OR IN THE ALTERNATIVE.....(2) UV permit RU-5A uses in RU-1

REC: DWOP

WITHDRAW: APPLICATION ITEM(S): _____

DEFER: INDEFINITELY TO: _____ W/LEAVE TO AMEND

DENY: WITH PREJUDICE WITHOUT PREJUDICE

ACCEPT PROFFERED COVENANT ACCEPT REVISED PLANS

APPROVE: PER REQUEST PER DEPARTMENT PER D.I.C.

WITH CONDITIONS

TITLE	M/S	NAME	YES	NO	ABSENT
VICE-CHAIRMAN		Juan Carlos ACOSTA	X		
MR.		Javier A. BETANCOURT			X
MR.	M	Julio R. CACERES	X		
MR.		Manuel CASAS	X		
MR.	S	Jose GARRIDO (C.A.)	X		
CHAIRMAN		Carlos A. MANRIQUE	X		
VOTE:			5	0	

EXHIBITS: YES NO

COUNTY ATTORNEY: DAVID HOPE

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS**

APPLICANT: Rene Miguel Valdez

PH: Z05-364 (06-10-CZ10-2)

SECTION: 15-54-40

DATE: June 23, 2011

COMMISSION DISTRICT: 10

ITEM NO.: A

A. INTRODUCTION

o **SUMMARY OF REQUESTS:**

The applicant is requesting a district boundary change on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, or in the alternative, a use variance to permit RU-5A office uses in the RU-1 zoning district.

o **REQUESTS:**

THE BOARD OF COUNTY COMMISSIONERS WILL BE CONDUCTING PROCEEDINGS ON REMAND FROM CIRCUIT COURT WITH DIRECTIONS TO APPROVE THE FOLLOWING:

(1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

(2) Use Variance to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated stamped received 11/18/05. Plans may be modified at public hearing.

o **LOCATION:** 2425 SW 82 Avenue, Miami-Dade County, Florida.

o **SIZE:** 0.307 Acres

B. ZONING HEARINGS HISTORY: In October 2006, the Community Zoning Appeals Board 10 (CZAB 10) denied with prejudice the applicant's requests for a zone change from RU-1 to RU-5A or in the alternative a use variance to permit RU-5A uses in the RU-1 zone, pursuant to Resolution No. CZAB10-62-06. The applicant appealed CZAB 10's decision to the BCC which denied said appeal with prejudice, pursuant to Resolution No. Z-6-07. This application has been remanded to the Board of County Commissioners (BCC) by the Circuit Court of the Eleventh Judicial Circuit with instructions to act in accordance with Court's Opinion which rejected the Board's decision to deny the application. The Circuit Court quashed the BCC's decision to sustain the Community Zoning Appeals Board 10 decision to deny this application.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES, POLICIES AND INTERPRETATIVE TEXT:

1. *The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Low Density Residential** use. The residential densities allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre. Residential densities of blocks abutting activity nodes as defined in the Guidelines for Urban Form, or of blocks abutting section line roads between nodes, shall be allowed a maximum residential density of 10.0 dwelling units per gross acre. To promote infill development, residential development exceeding the maximum density of 6.0 dwelling units per acre is permitted for substandard lots that were conveyed or platted prior to August 2nd, 1938. This density category is generally characterized by single family housing, e.g., single family detached, cluster, and townhouses. It could include low-rise apartments with extensive surrounding open space or a mixture of housing types provided that the maximum gross density is not exceeded.*
2. *Existing lawful residential and non-residential uses and zoning are not specifically depicted on the LUP map. They are however reflected in the average Plan density depicted. All such 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 zoning must be consistent with the provisions of the specific category in which the subject parcel exists, including the provisions for density averaging and definition of gross density.*
3. **Office uses** smaller than five acres in size may be approved in areas designated as Residential Communities where other office, business or industrial use(s) which are not inconsistent with this plan already lawfully exist on the same block face. However, where such an office, business, or industrial use exists only on a corner lot of a subject block face or block end, approval of office use elsewhere on the block is limited to the one block face or block end which is the more heavily trafficked side of the referenced corner lot. Office uses may be approved on such sites only if consistent with the objectives and policies of the CDMP and the use or zoning district would not have an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by maintaining operating hours, outdoor lighting or signage out of character with the neighborhood; by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the natural environment including air, water and living resources; or where the character of the buildings, including height, bulk, scale, floor area ratio or design would be out of scale with the character of the neighboring uses or would detrimentally impact the surrounding area. In applying this provision, the maximum limits of an eligible residentially designated block face along which office uses may be extended shall not extend beyond the first intersecting public or private street, whether existing, platted or projected to be necessary to provide access to other property, or beyond the first railroad right-of-way, utility transmission easement or right-of-way

exceeding 60 feet in width, canal, lake, public school, church, park, golf course or major recreational facility.

In addition, office uses may be approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations set forth in this paragraph. These office uses may occur in combination with or independent of residential use. Such limited office uses may be approved on such sites in residential community areas only where: a) the residential lot fronts directly on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not eligible for consideration); b) the lot or site size does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does subject frontage face such an Estate Density area. Office use approvals, pursuant to this paragraph may only authorize: a) conversion of an existing residence into an office; b) addition of an office use to an existing residence; or, c) the construction of a new office building on lots which were finally platted prior to March 25, 1991 in a size one acre or smaller. Additionally, such office uses may be approved only if the scale and character of the prospective office use are compatible with the surrounding residential neighborhood and if the site has sufficient dimensions to permit adequate on-site parking and buffering of adjacent residences from the office. Other factors that will be considered in determining compatibility include, but are not limited to traffic, noise, lighting, shadows, access, signage, landscaping, and hours of operation. Signage shall be restricted both in size, style, and location to preclude a commercial appearance. Landscaping and buffering of adjacent residences and rear properties will be required. Emphasis shall be placed on retention of the general architectural style of the area, where the area is sound and attractive. Development Orders authorizing the conversion of existing homes into offices, the addition of offices to existing residences or the construction of new buildings encompassing office uses pursuant to this paragraph may be approved only where compatible and where the intensity and character of the new building including gross floor area, lot coverage and height, will be consistent with the homes which exist or which could be built on the immediately adjacent parcels.

4. **Policy LU-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.*

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

RU-1; Single-family residence

Low Density Residential, 2.5 to 6 du

Surrounding Properties:

<u>NORTH:</u> RU-2; Travel agency and Insurance company	Low Density Residential, 2.5 to 6 dua
<u>SOUTH:</u> RU-1; Group home	Low Density Residential, 2.5 to 6 dua
<u>EAST:</u> RU-1; Single-family residence	Low Density Residential, 2.5 to 6 dua
<u>WEST:</u> RU-1; Office and Single-family residence	Low Density Residential, 2.5 to 6 dua

F. PERTINENT ZONING REQUIREMENTS/STANDARDS:

*In evaluating an application for a **district boundary change**, Section 33-311 provides that the Board take into consideration, among other factors, the extent to which:*

- (1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;*
- (2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;*
- (3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;*
- (4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;*
- (5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.*

Section 33-311(A)(4)(a) Use Variance. *The Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum use variance that will permit the reasonable use of the premises. A "use variance" is a*

10

variance which permits a use of land other than which is prescribed by the zoning regulations and shall include a change in permitted density.

G. NEIGHBORHOOD SERVICES PROVIDER COMMENTS:

DERM	No objection*
Public Works	No objection*
Parks	No comment
MDT	No comment
Fire Rescue	No objection
Police	No objection
Schools	No comment

*Subject to the conditions indicated in their memoranda.

H. PLANNING AND ZONING ANALYSIS:

This application was deferred from the April 28, 2011 meeting at the request of the applicant. This application has been remanded to the Board of County Commissioners (BCC) by the Circuit Court of the Eleventh Judicial Circuit with instructions to act in accordance with said court's opinion which rejected the Board's decision to deny the application. The applicant, Rene Miguel Valdes, appealed the decision of the BCC by seeking the issuance of a writ of certiorari from the Appellate Division of the 11th Judicial Circuit Court to quash the BCC's denial of the application (Resolution No. Z-6-07).

On October 17, 2006, pursuant to Resolution CZAB10-62-06, the Community Zoning Appeals Board – 10 (CZAB-10) denied with prejudice this application by a vote of 5 to 0. On November 6, 2006, the applicant appealed the CZAB-10's decision to this Board which denied the appeal by a vote of 10-0, pursuant to Resolution No. Z-6-07. Upon review, the appellate court found that the Board's decision to deny this application is not fairly debatable, amounts to reverse spot zoning and does not comport with the essential requirements of the law, thereby resulting in a miscarriage of justice (Circuit Court Case No. 07-304-AP). The Circuit Court granted certiorari and quashed the BCC's decision to sustain the Community Zoning Appeals Board 10 decision to deny this application. The County appealed the Circuit Court decision to the 3rd District Court of Appeal. The 3rd District Court of Appeal affirmed the Circuit Court's decision, though there was a vigorous dissent by a member of the court. The Florida Supreme Court denied further review of this case.

The applicant indicated on the appeal application to this Board that the subject property fronts on SW 82 Avenue, a half section-line road, and is located one lot to the south of the SW 24 Street (Coral Way). Additionally, the applicant notes that the subject property is impacted by substantial traffic along SW 82 Avenue, and indicates that the subject property is also impacted by the neighboring office uses found to the north and west, and by the adult congregate living facility to the south. The applicant maintains that the property is no longer appropriate for residential use.

The subject property is located at 2425 SW 82 Avenue, approximately 140' south of SW 24 Street (Coral Way), in an area characterized by single-family homes, a group home, and office/residential conversions. The 0.307-acre subject site is currently improved with a one-story single-family residence. The applicant seeks to change the zoning on the



subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, or in the alternative, a use variance to permit RU-5A uses in the RU-1 zoning district.

RU-5A uses include, but are not limited to, office buildings for accountants, architects, attorneys, dentists, medical doctors, notary publics, real estate, and travel agencies as well as banks without drive-through teller facilities. However, the applicant indicated in their Letter of Intent that the purpose of the zone change is to permit an architect's office. Staff notes that the applicant has proffered a covenant specifically restricting the office use on the site to that of an architect's office. Plans submitted by the applicant demonstrate that the subject site complies with all RU-5A zoning requirements for setbacks and lot coverage, including the compulsory parking requirements needed for office use.

Approval of either request would allow the applicant to provide semi-professional office services for the community. The subject site is designated for **Low Density Residential** use on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). The CDMP provides that office uses may be approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations set forth in the CDMP. These office uses may occur in combination with or independent of residential use. Such limited office uses may be approved on such sites in residential community areas only where: a) the residential lot fronts directly on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not eligible for consideration); b) the lot or site size does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does the subject frontage face such an Estate Density area.

The subject property meets some of the aforementioned criteria of the Master Plan for approval of office uses within residential designations in that the subject property is less than one acre in size and is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential. However, although the subject property is located on a half-section line roadway (SW 82 Avenue) it does not front on a "major roadway" as designated on the Land Use Plan map.

Notwithstanding the foregoing, the Master Plan also indicates that where other office, business or industrial uses exist on the same block face, approval of similar requests may be granted. However, where such an office, business or industrial use exists on a corner lot of a subject block face or block end, approval of office uses elsewhere on the block is limited to the one block face or block end which is the more heavily trafficked side of the referenced corner lot. One of the two neighboring parcels to the north, situated on the corner of SW 82 Avenue and Coral Way, was granted a use variance to permit all RU-5A uses in an RU-1 zone, pursuant to Resolution No. #Z-192-90; but cannot be considered as part of the same block face where the subject property lies, since it fronts Coral Way, the more heavily trafficked side.

Moreover, Resolution No. 4-ZAB-133-71 also approved a use variance on the other neighboring parcel to the north of the subject property also facing Coral Way and the property to the west of the subject site was granted approval of a use variance to permit a janitorial office in the RU-1 zone as would be permitted in the RU-5A zone, pursuant to Resolution No. Z-112-91. It should be noted that the parcel to the south of the subject

property on the same block face has an existing group home which staff notes is a permitted RU-1 use, is considered a single-family residential use and is limited to no more than 6 people residing on the premises.

Notwithstanding the foregoing, the appellate court determined that operating a group home for the elderly is commercial in nature and concluded that the subject site is "...a veritable island or, at the very least, a peninsula in a sea of commercially zoned property..." Based on the findings of the Court, staff opines that the subject site meets the CDMP criteria for the approval of an office use in a residential community in that a commercial use (group home) lawfully exists on the same blockface as the subject site. In addition, since the subject site abuts lawfully existing office uses to the north and west, staff opines that the introduction of an office use on this site is **compatible** with the other office uses located to the north and west of the site and with the existing group home located to the south of the site. Policy LU-4D of the CDMP states that 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. Staff notes that the submitted plans illustrate a 6' high Cherry Hedge along the north, east and south property lines with palms and Live Oak trees which staff opines will effectively buffer the office use from the surrounding properties. As such the staff opines that the proposed architect's office as illustrated on the submitted plans is consistent with Policy LU-4D of the CDMP and with the interpretative text of the CDMP for the approval of office uses in residential communities. Although, staff notes that the requested rezoning to RU-5A would be **compatible** with the surrounding office uses and **consistent** with the CDMP, **staff is supportive of the alternative use variance request subject to the Board's acceptance of the proffered covenant which limits the office use on the site to an architect's office, in that none of the properties that abut the subject site are zoned RU-5A.**

When considering district boundary changes, the Board shall hear and grant or deny applications by taking into consideration if the proposed development conforms to the Comprehensive Development Master Plan for Miami-Dade County. As previously mentioned, the requested RU-5A zoning would be **consistent** with the interpretative text of the CDMP and **compatible** with the neighboring office uses to the north and west of the subject property and with the existing group home to the south of the subject site.

Staff notes that the proposed architect's office will not have an unfavorable impact on the water, sewer, solid waste disposal, or other public services and will not have an unfavorable impact on the environment as indicated by the memorandum submitted by DERM. Additionally when considering zone changes, the Board shall consider if the development will have a favorable or unfavorable impact on the economy of Miami-Dade County. The approval of this application will not have an unfavorable impact on the economy nor on the environmental and natural resources of Miami-Dade County. Furthermore, the proposed development does not unduly burden or affect public transportation facilities as indicated in the Public Works Department's memorandum submitted for this application. The applicant seeks to change the zoning on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, to allow the applicant to provide semi-professional office services for the community. As previously mentioned, the applicant has proffered a covenant specifically restricting the office use on the site to that of an architect's office.

Staff's research reveals that most of the single-family residential lots fronting on SW 24 Street, between SW 82 Place and SW 79 Court, have gradually converted to non-residential uses and offices. Specific research indicates that of the 15 lots that front on Coral Way between those four blocks, only three lots are still in residential use; numerous public hearings have approved use variances as early as 1963 and as recent as an RU-5A district boundary change approval in 2007. Most, if not all, of these land use conversions are due to the increase in traffic and noise associated with Coral Way, which over the years have negatively impacted the quality of life of residents with homes fronting said corridor. Additionally, the placement of office uses is better located where traffic activity is intense and the roadway is well traveled, as opposed to having residences front such a busy vehicular corridor. Notwithstanding the foregoing, staff opines that RU-5A zoning should be limited to those lots fronting on SW 24 Street (Coral Way) and notes that although the properties to the north and west of the subject site have been granted approval at public hearing to permit office uses, staff notes that said properties are zoned RU-2 and RU-1 respectively. Moreover, staff notes that none of the properties along SW 82 Avenue are zoned RU-5A and therefore staff opines that the introduction of RU-5A zoning on the subject site would create an "island" of RU-5A zoning midblock along SW 82 Avenue. Although, staff notes that the requested rezoning to RU-5A would be **compatible** with the surrounding office uses and **consistent** with the CDMP, staff is supportive of the alternative use variance request subject to the Board's acceptance of the proffered covenant which limits the office use on the site to an architect's office, in that none of the properties that abut the subject site are zoned RU-5A. **Therefore, staff recommends denial without prejudice of request #1.**

In the alternative to the district boundary change (request #1), the applicant is requesting a use variance to permit RU-5A uses in the RU-1 zone. A use variance, as stated in Section 33-311(A)(4)(a), is a variance which permits a use of land other than that which is prescribed by the zoning regulations. Section 33-311(A)(4)(a) also states that the Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulations.

As previously mentioned the Circuit Court granted certiorari and quashed the BCC's decision to sustain the Community Zoning Appeals Board 10 decision to deny this application. Staff notes that use variances were approved on two parcels of land abutting the subject property to the north, pursuant to Resolution Nos. Z-192-90 and 4-ZAB-133-71. Furthermore, the appellate court determined that operating a group home for the elderly is commercial in nature and concluded that the subject site is "...a veritable island or, at the very least, a peninsula in a sea of commercially zoned property that substantially diminishes or renders its value to be virtually worthless as a residential property." Based on the aforementioned, staff concurs with the Court's finding and opines that the subject site is no longer conducive for use as a single-family residence. Therefore, staff is of the opinion that the approval of the requested use variance to permit semi-professional office uses in the RU-1 zone as would be permitted in the RU-5A zone on the subject property, subject to the Board's acceptance of the proffered covenant, will not be contrary to the public interest and will be in harmony with the general purpose and intent of the regulations which is to promote development that is compatible with the surrounding area. Staff's research as well as the opinion issued by the Circuit Court reveals that due to the conversion of the area to predominantly office usage, special conditions have transpired in

the surrounding area whereby a literal enforcement of the provisions of the RU-1 zoning regulations would result in **unnecessary hardship**. In staff's opinion, the spirit of the regulations shall be observed and substantial justice done by the approval of the semi-professional office use on this site. **Therefore, staff recommends approval with conditions of the requested use variance under Section 33-311(A)(4)(a), subject to the Board's acceptance of the proffered covenant.**

I. **RECOMMENDATION:**

Denial without prejudice of request #1 and approval with conditions of request #2, subject to the Board's acceptance of the proffered covenant.

J. **CONDITIONS:**

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit; said plan to include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, parking, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated stamped received 11/18/05, except as herein modified to show a 5' high wood fence in lieu of the chain link fence along the interior side (north and south) property lines and rear (east) property line.
3. 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.
4. That the use be established and maintained in accordance with the approved plan.
5. That the applicant comply with all applicable conditions and requirements of the Public Works Department.
6. That the applicant install a 5' high wood fence along the interior side (north and south) property lines and the rear (east) property line. Said fence shall be installed prior to final zoning inspection for the proposed addition.
7. That the use be restricted to an architect's office only, pursuant to the proffered covenant.

DATE TYPED: 02/03/11
DATE REVISED: 02/04/11; 02/08/11; 02/25/11; 03/21/11; 04/29/11
DATE FINALIZED: 04/29/11
MCL:GR:NN:TA:NC



Marc C. LaFerrier, AICP, Director
Miami-Dade County Department of Planning and Zoning *NON*

PLANNING AND ZONING
AGENDA OFFICE

2011 JUN 14 A 8:21

Memorandum

Date: February 7, 2011

To: Marc C. LaFerrier, AICP, Director
Department of Planning and Zoning



From: Jose Gonzalez, P.E., Assistant Director
Environmental Resources Management

Subject: C-10 #Z2005000364-2nd Revision
Rene Miguel Valdez
2425 SW 82nd Avenue
District Boundary Change from RU-1 to RU-5A
(RU-1) (0.31 Ac)
15-54-40

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code). Accordingly, DERM may approve the application, and the same may be scheduled for public hearing.

Potable Water Supply and Wastewater Disposal

Public water and public sanitary sewers can be made available to the subject property. Therefore, connection of the proposed development to the public water supply system and sanitary sewer system shall be required in accordance with Code requirements.

Existing public water and sewer facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Notwithstanding the foregoing, in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle the additional flows that this project would generate. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available at the point in time when the project will be contributing sewage to the system. Lack of adequate capacity in the system may require the approval of alternative means of sewage disposal. Use of an alternative means of sewage disposal may only be granted in accordance with Code requirements, and shall be an interim measure, with connection to the public sanitary sewer system required upon availability of adequate collection/transmission and treatment capacity.

Stormwater Management

Site grading and development shall comply with the requirements of Section 11C of the Code.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the LOS standards for flood

protection set forth in the CDMP, subject to compliance with the conditions required by DERM for this proposed development order.

Wetlands

The subject property does not contain jurisdictional wetlands, as defined by Section 24-5 of the Code. Therefore, a DERM Class IV Wetland Permit will not be required.

The applicant is advised that permits from the Army Corps of Engineers (305-526-7181), the Florida Department of Environmental Protection (561-681-6600), and the South Florida Water Management District (1-800-432-2045) may be required for the proposed project. It is the applicant's responsibility to contact these agencies.

Tree Preservation

The subject property contains tree resources. Section 24-49 of the Code requires the preservation of tree resources. A Miami-Dade County Tree Removal Permit is required prior to the removal or relocation of any trees. A tree survey showing all the tree resources on-site will be required prior to reviewing the tree removal permit application. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Enforcement History

DERM has found no open or closed formal enforcement records for the subject properties.

Concurrency Review Summary

DERM has conducted a concurrency review for this application, and has determined that the same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal, and flood protection. Therefore, the application has been approved for concurrency, subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement, and is valid only for this initial development order, as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

This memorandum shall constitute DERM's written approval, as required by the Code.

If you have any questions concerning the comments, or wish to discuss this matter further, please contact Christine Velazquez at (305) 372-6764.

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: RENE MIGUEL VALDEZ

This Department has no objections to this application subject to the following:

Parking space #10 must have 5 feet of paved aisle end back-out at time of permitting.

Landscaping and fences must comply with safe site distance triangle requirements set forth in Sec. 33-11 of the Miami-Dade County Code.

The proposed use of this application generates the same number of vehicle trips as the existing use and will not generate any new vehicle trips; therefore this application meets the Initial Traffic Concurrency Criteria.



Raul A Pino, P.L.S.

02-FEB-11

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

CHECKED BY AW AMOUNT OF FEE \$ 1,902.⁸²

RECEIPT # I 200621126

DATE HEARD: 10 17 06

BY CZAB # 10

RECEIVED
05-364

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY _____ 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. 06-10-C210-2 (05-364)

Filed in the name of (Applicant) Rene Miguel Valdes

Name of Appellant, if other than applicant _____

Address/Location of APPELLANT'S property: 2425 S.W. 82nd Avenue

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

Entire Appealable Application

Appellant (name): Rene Miguel Valdes
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)

The property fronts on SW 82 Avenue, a half-section line road. The property is one lot removed from the intersection of Coral Way (S.W. 24th Street). This section of SW 82 Avenue is affected by substantial traffic. The property is also impacted by office use to the south and west, and an adult congregate living facility to the north. The property is no longer appropriate for residential use.

APPELLANT MUST SIGN THIS PAGE

Date: 6 day of November, year: 2006

Signed Rene M. Valdes

Rene M. Valdes

Print Name

2425 SW 82 AVE MIAMI, FL 331

Mailing Address

(305) 579-0644 (305) 961-5044

Phone

Fax

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

Rene M. Valdes
Representing

[Signature]
Signature

Simon Fern
Print Name

1221 Buckell Ave
Address

Miami FL 33131
City State Zip

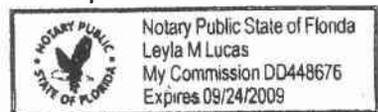
305 579-0644
Telephone Number

Subscribed and Sworn to before me on the 6 day of November, year 2006

Leyla M. Lucas
Notary Public

(stamp/seal)

Commission expires:



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 Rene M. Valdes
(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 objections, waivers 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:

<u>[Signature]</u>	<u>Rene M. Valdes</u>
Signature	Appellant's signature

<u>Simon Ferry</u>
Print Name

<u>Rene M. Valdes</u>
Print Name

<u>[Signature]</u>
Signature

<u>Leyla M. Lucas</u>
Print Name

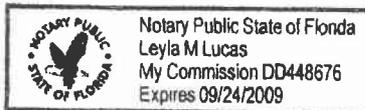
Sworn to and subscribed before me on the 6 day of November, year 2008

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

<u>[Signature]</u>
Notary (Stamp/Seal)

Commission Expires:

[b:forms/affidapl.sam(11/03)]



Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-6-07

WHEREAS, **RENE MIGUEL VALDEZ** applied to Community Zoning Appeals Board

10 for the following:

- (1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

- (2) USE VARIANCE to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Zoning Department entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated 4/22/04.

SUBJECT PROPERTY: Lot 4, Block 8, CORAL WAY HOMESITES, Plat book 46, Page 21.

LOCATION: 2425 S.W. 82 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of Community Zoning Appeals Board 10 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 10 that the requested district boundary change to RU-5A (Item #1), or in the alternative, the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) 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 said application was denied by Resolution No. CZAB10-62-06, and

WHEREAS, **RENE MIGUEL VALDEZ** appealed the decision of Community Zoning Appeals Board 10 to the Board of County Commissioners for the following:

(1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

(2) USE VARIANCE to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Zoning Department entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated 4/22/04. Plans may be modified at public hearing.

SUBJECT PROPERTY: Lot 4, Block 8, CORAL WAY HOMESITES, Plat book 46, Page 21 AND THE SOUTH ½ OF ALLEY LYING NORTH AND ADJACENT PER R-941-74.

LOCATION: 2425 S.W. 82 Avenue, 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

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 10 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 insufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. CZAB10-62-06 and that the appeal should be denied and the decision of Community Zoning Appeals Board 10 should be sustained, 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 RU-5A (Item #1), or in the alternative, the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) 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

WHEREAS, a motion to deny the appeal with prejudice, sustain the decision of Community Zoning Appeals Board 10, and deny the application with prejudice was offered by Commissioner Sen. Javier D. Souto, seconded by Commissioner Dennis C. Moss, and upon a poll of the members present the vote was as follows:

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

Bruno A. Barreiro 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 denied with prejudice and the decision of Community Zoning Appeals Board 10 is sustained.

BE IT FURTHER RESOLVED that the requested district boundary change to RU-5A (Item #1), be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED that the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED that Resolution No. CZAB10-62-06 remains in full force and effect.

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 26th day of April, 2007, 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. 06-10-CZ10-2

ej

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

By: **KAY SULLIVAN**
Deputy Clerk

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 17TH DAY OF MAY, 2007.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Deputy Clerk's Name, 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-6-07 adopted by said Board of County Commissioners at its meeting held on the 26th day of April, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 17th day of May, 2007.



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

SEAL



NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 10, that the requested district boundary change to RU-5A (Item #1), be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED, that the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) be and the same is hereby denied with prejudice.

The Director is hereby authorized to make the necessary notations upon the records of the Miami-Dade County Department of Planning and Zoning.

PASSED AND ADOPTED this 17th day of October, 2006.

Hearing No. 06-10-CZ10-2
ls

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Luis Salvat, 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 Miami-Dade County Community Zoning Appeals Board 10, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB10-62-06 adopted by said Community Zoning Appeals Board at its meeting held on the 17th day of October 2006.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 24th day of October 2006.



Luis Salvat, Deputy Clerk (2678)
Miami-Dade County Department of Planning and Zoning



PLANNING AND ZONING
AGENDA OFFICE

2011 FEB -4 P 12:15

NOT FINAL UNTIL TIME EXPIRES
TO FILE RE-HEARING MOTION,
AND, IF FILED, DISPOSED OF.

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

RENE MIGUEL VALDEZ,

Petitioner,

v.

MIAMI DADE COUNTY BOARD OF
COUNTY COMMISSIONERS,

Respondent.

APPELLATE DIVISION

CASE NUMBER: 07-304 AP

LOWER CASE NO: Z-607

FILED FOR RECORD
2008 MAR 31 PM 2:31
CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.
CIVIL #101
VANESTHER FLETCHER

Opinion filed: March 31, _____, 2008.

On Petition for Writ of Certiorari from the Miami-Dade County Board of County Commissioners.

Javier L. Gonzalez, Esq., of Gonzalez & Rodriguez, P.L., for Petitioner.

John McInnis, Esq., Assistant Miami-Dade County Attorney, for Respondent.

Before SOTO, LEBAN, and VENZER, JJ.

VENZER, J.

Petitioner Rene Miguel Valdez ("Mr. Valdez") seeks review of a decision by the Miami-Dade County Board of County Commissioners ("the Board"). The Board sustained the Community Zoning Appeals Board 10's decision to deny Mr. Valdez's application for a boundary change from RU-1 (single family use) to RU-5A (semi-professional office district), or

Received by
Zoning Agenda Coordinator

FEB 04 2011

Received by
Zoning Agenda Coordinator

FEB 04 2011

in the alternative a use variance to permit a RU-5A use in the RU-1 zoning district¹ to allow an architectural office on the property's premises.

Upon receipt of a petition for writ of certiorari, this Court's review is limited to a three part standard: (1) whether procedural due process was accorded; (2) whether essential requirements of the law were observed; and (3) whether the findings and judgment were supported by competent substantial evidence. *Dep't of Highway Safety & Motor Vehicles v. Wejebe*, 954 So. 2d 1245, 1248 (Fla. 3d DCA 2007).

Procedural due process rights are afforded to an individual when the person receives notice and an opportunity to be heard. *Joshua v. City of Gainesville*, 768 So. 2d 432, 438 (Fla. 2000). The Board argues that the Mr. Valdez was afforded procedural due process because he received notice and a hearing before the Board of County Commissioners. Mr. Valdez contends that he was denied his right to due process of law because of a commissioner's comments at the hearing.² The record reflects that Mr. Valdez did not object to the commissioner's comments

¹ Resolution No. Z-6-07 states in part that ". . . it was the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that the grounds and reasons alleged by the appellants specified in the appeal were insufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. CZAB10-62-06 and that the appeal should be denied and decision of the Community Zoning Appeals Board 10 should be sustained. . . ." (R. at 2.)

² Mr. Valdez argues that Rule 7.01(g) of the Rules of Procedure governing the Board of County Commissioners was violated because Commissioner Souto made comments that implied that Mr. Valdez and his counsel were friends. The Commissioner even referred to Mr. Valdez as family. On April 26, 2007, Commissioner Souto made the following comments at the hearing:

[Commissioner Souto]: And I'm in the same situation here basically. These fellows in front of me are some of my best friends. Simon over there, Simon Ferro, is one of my best friends. Mr. Valdes [sic] too, my best friends. His brother was one of my best friends. And to the extent the word for this, we're friends, like family. But this has nothing to do with family or friends. This has to do with what's right or what's not right, and I hope they understand that and that everyone understands that.

Hr'g Tr. 32:8-20, Apr. 26, 2007 (R. at 37.)

Received by
Zoning Agenda Coordinator
FEB 04 2011

even after the votes were recorded.³ We find that Mr. Valdez was afforded due process because he had notice and ample opportunity to participate at the Board hearing. Moreover, Mr. Valdez's failure to object at the hearing precludes him from raising the issue for the first time on appeal. *First City Sav. Corp. of Tex. v. S & B Partners*, 548 So. 2d 1156, 1158 (Fla. 5th DCA 1989) (circuit court on certiorari review of zoning decision will not consider issues not presented to the county commission), *review dismissed*, 554 So. 2d 1168 (Fla. 1989).

A departure from the essential requirements of law occurs when there has been a violation of a clearly established principle of law resulting in a miscarriage of justice. *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, 528 (Fla. 1995).

The Florida Supreme Court has utilized the fairly debatable test to uphold zoning ordinances. *City of Miami Beach v. Lachman*, 71 So. 2d 148, 152 (Fla. 1953). So long as a zoning restriction is fairly debatable, that is, when it is "open to dispute or controversy on grounds that make sense, whether the zoning restriction advances the public health, welfare, safety, or morals of the community, the subject restriction is considered to be constitutional." *City Comm'n of City of Miami v. Woodlawn Park Cemetery Co.*, 553 So. 2d 1227, 1230 (Fla. 3d DCA 1989) (footnote and citations omitted).

However, if the zoning ordinance results in reverse spot zoning, then the restriction is not fairly debatable because it is confiscatory and invalid. *City of Miami Beach v. Robbins*, 702 So. 2d 1329, 1330 (Fla. 3d DCA 1997). In *Robbins*, the Third District Court of Appeal noted:

Reverse spot zoning occurs when the ordinance prevents a property owner from utilizing his or her property in a certain way, when virtually all of the adjoining neighbors are not subject to such a restriction, creating, in effect, a veritable

³ Out of thirteen Commissioners voting, three commissioners were absent. The remaining ten Commissioners voted to deny Mr. Valdez's appeal with prejudice and sustain the Community Zoning Appeal Board 10's decision. (R. at 3.)

zoning island or zoning peninsula in a surrounding sea of contrary zoning classification.

Id.

In the case at bar, Mr. Valdez's property is located at 2425 S.W. 82nd Avenue in unincorporated Miami-Dade County, Florida. Mr. Valdez requested a zoning change from RU-1, single residential district, to RU-5A, semi-professional office district *or in the alternative* a use variance to permit an RU-5A classification to allow an architect's office on the premises. However, the Board decided that Mr. Valdez's request for a zoning change was incompatible with the area concerned and inconsistent with the intent of the land development plan for Miami-Dade County.

Upon this Court's review of the aerial, hearing, radius, and hand sketched maps of Mr. Valdez's property and the surrounding area (R. at 113-17), we are not persuaded by the Board's argument. Immediately north of Mr. Valdez's property is a travel agency and insurance company. Both of these properties have been granted use variances allowing RU-5A uses in an RU-2 zoning district. (Resp't Resp. to Pet. for Writ. of Cert., 4.) To the south of Mr. Valdez's property is a group home for the elderly which is still classified as RU-1. The Board avers that the group home is permitted to have RU-1 classification pursuant to section 419.001, Florida Statutes (2007). (Resp't Resp. to Pet. for Writ. of Cert., 4.) Typically, group homes have caretakers assisting the occupants or providing services to assist the elderly with daily activities. This Court is mindful of these activities and agrees with Mr. Valdez that operating a group home for the elderly is commercial in nature. To the east of Mr. Valdez's property, the land is classified as a single-family residence. (R. at 42.) However, the property to the west of Mr. Valdez's property is zoned single-family residence with a permitted office use.

Despite the large concentration of nonresidential activity surrounding Mr. Valdez's property, the Board denied Mr. Valdez similar zoning privileges as the surrounding property

Received by
Zoning Agenda Coordinator
FEB 04 2011

owners. In *Woodlawn*, 553 So. 2d at 1233, the Third District held it confiscatory when a property owner is prevented from utilizing his property in a certain manner, even though adjoining property owners are not subject to the same restrictions.

The Board's denial of Mr. Valdez's request for a zoning change or use variance to permit an architectural office appears to us as arbitrary and not fairly debatable. As such, the Board's actions amount to reverse spot zoning which is impermissible. See *Debes v. City of Key West*, 690 So. 2d 700, 701 (Fla. 3d DCA 1997) (court noting that singling out the owner's property for disparate treatment represented an instance of "discriminatory spot zoning-or, in this context, spot planning-in reverse."); see also *Tollius v. City of Miami*, 96 So. 2d 122, 125 (Fla. 1957) (Supreme Court of Florida reversing a rezoning restriction because the property no longer retained the features at the time the zoning ordinance was passed and the block where the property was located was a veritable island); *Olive v. City of Jacksonville*, 328 So. 2d 854, 856 (Fla. 1st DCA 1976) (court holding that to deny the appellants' commercial zoning classification would constitute reverse spot zoning and the subject property was a literal peninsula); *Manilow v. City of Miami Beach*, 213 So. 2d 589, 592-93 (Fla. 3d DCA 1968) (court holding that to deny relief to the property owner would constitute reverse spot zoning and the property, except for the northern most part, was similar to a "veritable island"); *Kugel v. City of Miami Beach*, 206 So. 2d 282, 285 (Fla. 3d DCA 1968) (court holding that since the character of the property had been changed by other actions of the municipality, the zoning regulation was arbitrary and could not be characterized as fairly debatable). Similar to the reverse spot zoning examples we have cited, Mr. Valdez's property is a veritable island or, at the very least, a peninsula in a sea of commercially zoned property that substantially diminishes or renders its value to be virtually

Received by
Zoning Agenda Coordinator

FEB 04 2011

worthless as a residential property. *See City of Miami Beach v. Robbins*, 702 So. 2d 1329, 1330 (Fla. 3d DCA 1997).

Therefore, we grant certiorari because the Board's decision does not comport with the essential requirements of the law and results in a miscarriage of justice. *Haines City Cmty. Dev. V. Heggs*, 658 So. 2d 523, 528 (Fla. 1995). The County Commission's decision to sustain the Community Zoning Appeals Board 10's decision to deny Mr. Valdez's application for a boundary change from RU-1 (single family use) to RU-5A (semi-professional office district), or in the alternative a use variance to permit a RU-5A use in the RU-1 zoning district, is quashed. The matter is remanded to the Board with instructions to act in accordance with this opinion. Certiorari granted.

SOTO and LEBAN, JJ., concur.

COPIES FURNISHED TO COUNSEL
OF RECORD AND TO ANY PARTY
NOT REPRESENTED BY COUNSEL

COPIES FURNISHED TO
COUNSEL OF RECORD AND
TO ANY PARTY NOT REPRESENTED
BY COUNSEL

Received by
Zoning Agenda Coordinator

FEB 04 2011

PLANNING AND ZONING
AGENDA OFFICE
2011 FEB -4 P 12:15



Memorandum

Date: 01-FEB-11
To: Marc LaFerrier, Director
 Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
 Miami-Dade Fire Rescue Department
Subject: Z2005000364

Fire Prevention Unit:

No objection.

Service Impact/Demand

Development for the above Z2005000364
 located at 2425 SW 82 AVE, MIAMI-DADE COUNTY, FLORIDA.
 in Police Grid 1441 is proposed as the following:

N/A	dwelling units	N/A	square feet
<u>residential</u>		<u>industrial</u>	
1,286	square feet	N/A	square feet
<u>Office</u>		<u>institutional</u>	
N/A	square feet	N/A	square feet
<u>Retail</u>		<u>nursing home/hospitals</u>	

Based on this development information, estimated service impact is: 0.29 alarms-annually.
 The estimated average travel time is: 6:05 minutes

Existing services

The Fire station responding to an alarm in the proposed development will be:
 Station 3 - Tropical Park - 3911 SW 82 Avenue
 Rescue, ALS Engine

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:
 None.

Fire Planning Additional Comments

Current service impact calculated based on Letter of Intent dated November 8, 2005. Substantial changes to the Letter of Intent will require additional service impact analysis.

For information regarding the aforementioned comments, please contact the Miami-Dade Fire Rescue Department
 Planning Section at 786-331-4540.

BUILDING AND NEIGHBORHOOD
COMPLIANCE DEPARTMENT

ENFORCEMENT HISTORY OF VIOLATIONS OF CHAPTER 19 AND
CHAPTER 33 OF THE MIAMI-DADE COUNTY CODE

RENE MIGUEL VALDEZ

2425 SW 82 AVE, MIAMI-DADE
COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2005000364

HEARING NUMBER

HISTORY:

No current/open cases from Neighborhood Compliance and/or Building Divisions.

No prior cases from either division for the last 12 months.

None

**OUTSTANDING FINES, PENALTIES, COST OR LIENS
INCURRED PURSUANT TO CHAPTER 8CC:**

None

REPORTER NAME:

L. Cuellar

ZONING INSPECTION REPORT

Inspector: MARTINEZ, RAMIRO

Inspection Date

Evaluator: JAMES MURPHY

02/09/11

Process #: Z2005000364
Applicant's Name: RENE MIGUEL VALDEZ

Locations: 2425 SW 82 AVE, MIAMI-DADE COUNTY, FLORIDA.

Size: 0.307 ACRES

Folio #: 3040150050880

Request:

1 THE APPLICANT IS REQUESTING A ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL DISTRICT TO SEMI-PROFESSIONAL OFFICE DISTRICT.

EXISTING ZONING

Subject Property RU-1,

EXISTING USE

SITE CHARACTERISTICS

STRUCTURES ON SITE:

ONE STORY CBS RESIDENCE ON THE SITE.

USE(S) OF PROPERTY:

THE PROPERTY IS CURRENTLY UTILIZED AS A SINGLE-FAMILY RESIDENCE (RU-1).

FENCES/WALLS:

THERE IS A 5- FT CHAIN-LINK FENCE ALONG THE NORTH PROPERTY LINE; 5 FT. WIRE FENCE ALONG THE EAST AND SOUTH PROPERTY LINES, AND A 4-FT. PICKET FENCE ALONG THE FRONT, WEST PROPERTY LINE.

LANDSCAPING:

NO LANDSCAPING ON THE PROPERTY.

BUFFERING:

THERE IS A 6-FT CHERRY HEDGE ALONG THE WEST HALF OF THE NORTH PROPERTY LINE THAT BELONGS TO THE ADJACENT PROPERTY.

VIOLATIONS OBSERVED:

NO VIOLATIONS OBSERVED AT THE TIME OF INSPECTION. BNC MEMO DATED 02/09/2011 REV#3 ON FILE. THERE IS AN OPEN PERMIT NO. 1992098317 FOR BLDG 107 (ROOF) EXPIRED ON 02/17/1993.

OTHER:

THE ADJACENT PROPERTY ABUTTING THE EAST HALF OF THE THE NORTH PROPERTY LINE NEEDS TO PROVIDE A LANDSCAPE BUFFER IN ORDER TO MINIMIZE THE VISUAL IMPACT OF THE PARKING AREA.

Process # Applicant's Name
Z2005000364 RENE MIGUEL VALDEZ

ZONING INSPECTION REPORT

SURROUNDING PROPERTY

NORTH:

RU-2; TRAVEL AGENCY & INSURANCE OFFICE.

SOUTH:

RU-1; EXISTING GORUP HOME - 6 RESIDENTS.

EAST:

RU-1; SINGLE-FAMILY RESIDENCE.

WEST:

RU-1; SINGLE-FAMILY RESIDENCE & OFFICE USE.

SURROUNDING AREA

THE SUBJECT PROPERTY IS SURROUNDED BY OFFICE/RESIDENTIAL CONVERSIONS THAT HAVE BEEN GRANTED ON PARCELS FRONTING CORAL WAY LOCATED TO THE NORTH AND WEST OF SITE AND ONE STORY SINGLE FAMILY RESIDENCES TO THE EAST AND SOUTH.

NEIGHBORHOOD CHARACTERISTICS

THIS AREA IS CHARACTERIZED BY A NUMBER OF OFFICE/RESIDENTIAL CONVERSIONS THAT HAVE TAKEN PLACE ON PROPERTIES FRONTING CORAL WAY. HOWEVER, ALL OF THE AREA TO EAST AND SOUTH REMAINS RESIDENTIAL.

COMMENTS:

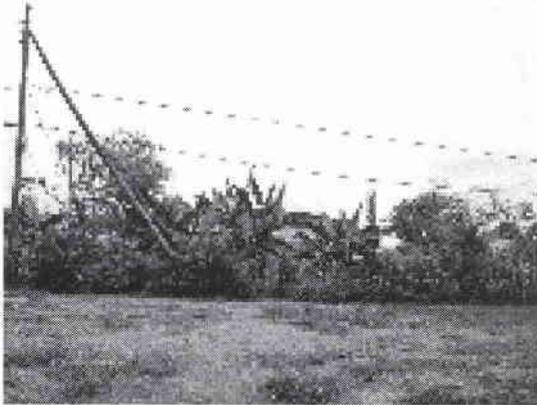
PICTURES OF SITE AND SURROUNDING AREA MAY BE VIEWED FROM THE WEST DADE FILE UNDER ZONING EVALUATION.

HASSUN 02/09/2011: ENFORCEMENT HISTORY UPDATED.

Inspector **MARTINEZ, RAMIRO**

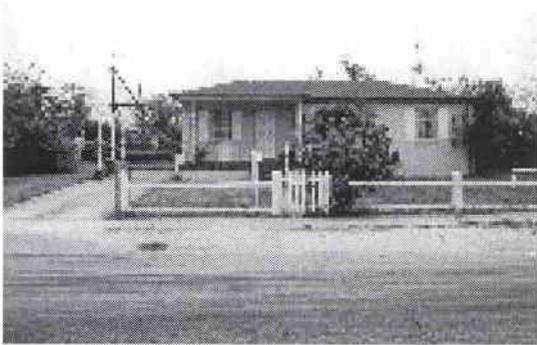
Evaluator **JAMES MURPHY**

Process Number: **Z2005000364** Applicant Name **RENE MIGUEL VALDEZ**



Date: 28-APR-06

Comments: East View From Backyard of Subject Property.



Date: 28-APR-06

Comments: Front View of Subject Property



Date: 28-APR-06

Comments: North View from Subject property - Travel Agency.

Inspector **MARTINEZ, RAMIRO**

Evaluator **JAMES MURPHY**

Process Number: **Z2005000364** Applicant Name **RENE MIGUEL VALDEZ**



Date: 28-APR-06

Comments: Northeast View from Subject Property - Insurance Office.



Date: 28-APR-06

Comments: South from Subject Property - adjacent residence.



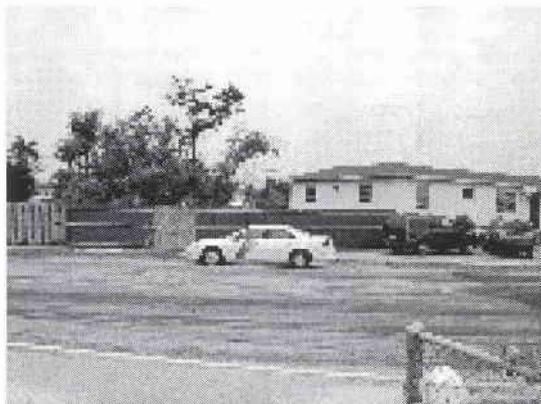
Date: 28-APR-06

Comments: Southeast Corner View of Subject Property

Inspector **MARTINEZ, RAMIRO**

Evaluator **JAMES MURPHY**

Process Number: **Z2005000364** Applicant Name **RENE MIGUEL VALDEZ**



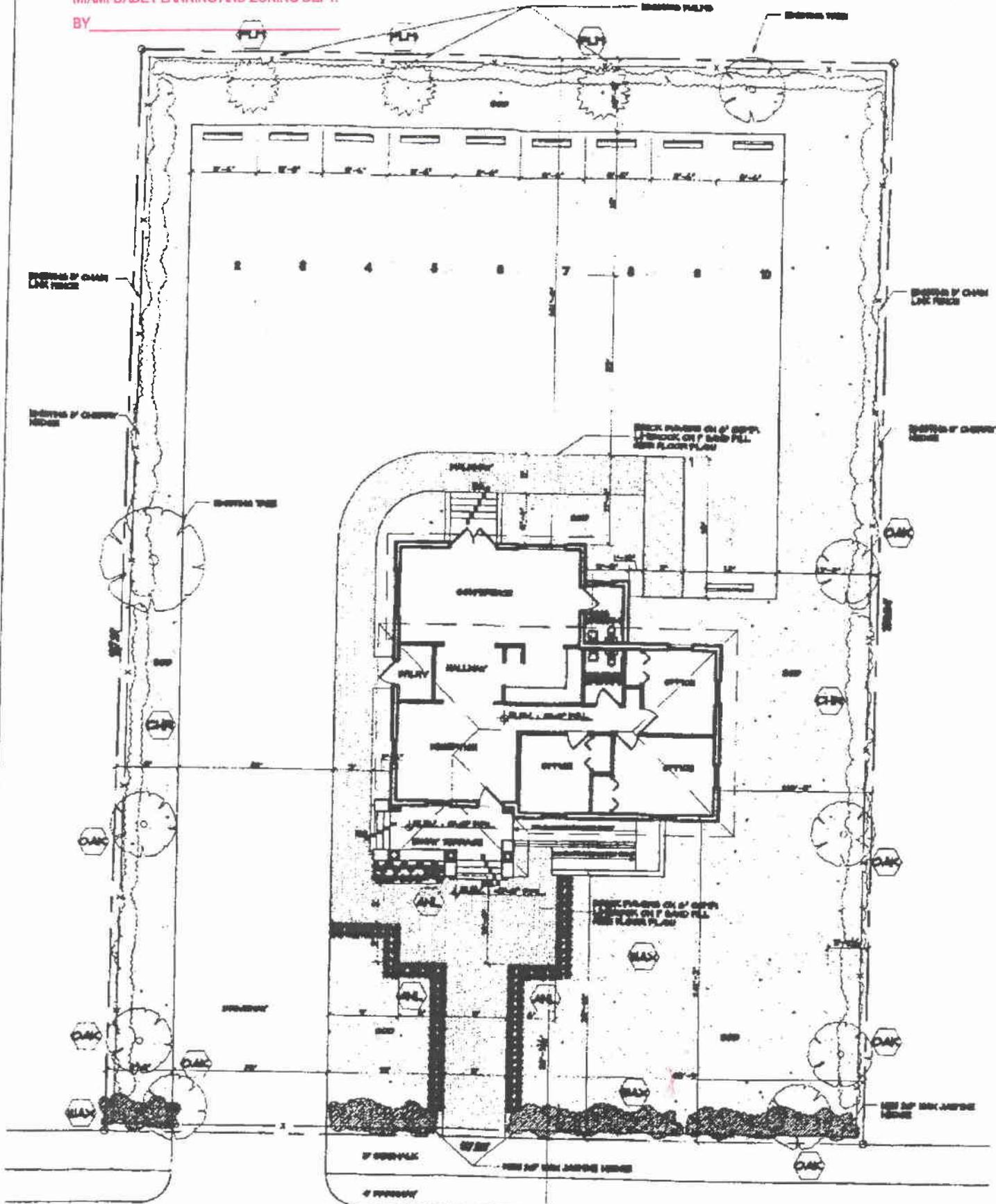
Date: 28-APR-06

Comments: West View From Subject Property.

RECEIVED
205.364
NOV 18 2015

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____



ENLARGED SITE PLAN SW 82nd AVE.

44

RECEIVED
201-304
NOV / 8 2005

45

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPARTMENT

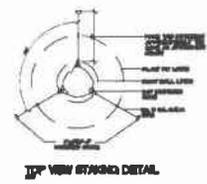
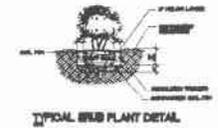
LEGAL DESCRIPTION

LOT 4 BLOCK 8 OF CORAL HAY HOUSTES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 46 AT PAGE 3 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

LEGEND

EXISTING ZONING	RU-1
PROPOSED ZONING	RU-SA
LOT AREA	2,644 SQ. FT.
BUILDING AREA (A/C)	1,360 SQ. FT.
PAVED AREA (DRIVEWAY)	836 SQ. FT.
PAVEMENT TERRACE (PARKING)	426 SQ. FT.
LANDSCAPED AREA	870 SQ. FT. (32% LOT AREA)
LOT COVERAGE	51%
HEIGHT	1 STORY (11')
REARAGE	2'
FRONT	4'-0" - 5'
REAR	4'-0" - 6'
INTERIOR SIDE	0'
PARKING SPACES	15 MIN. (15)

PROPOSED RU-SA ZONING FOR
RENE MIGUEL VALDES
2465 SW 82ND AVE MIAMI, FLORIDA
PHONE 305 890 4847



PLANT MATERIAL

SYM.	NAME	MIN.	MAX.
(Symbol)	ORANGE VIBURNUM	5'	7'
(Symbol)	MIAMI PALM	5'	7'
(Symbol)	WAX JARDON	10'	15' (10' @ 10')
(Symbol)	ORANGE JACARANDA	5'	
(Symbol)	ARTISAN PLANTING	5'	100' (10')

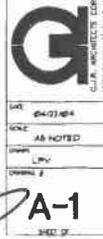
LANDSCAPE NOTES

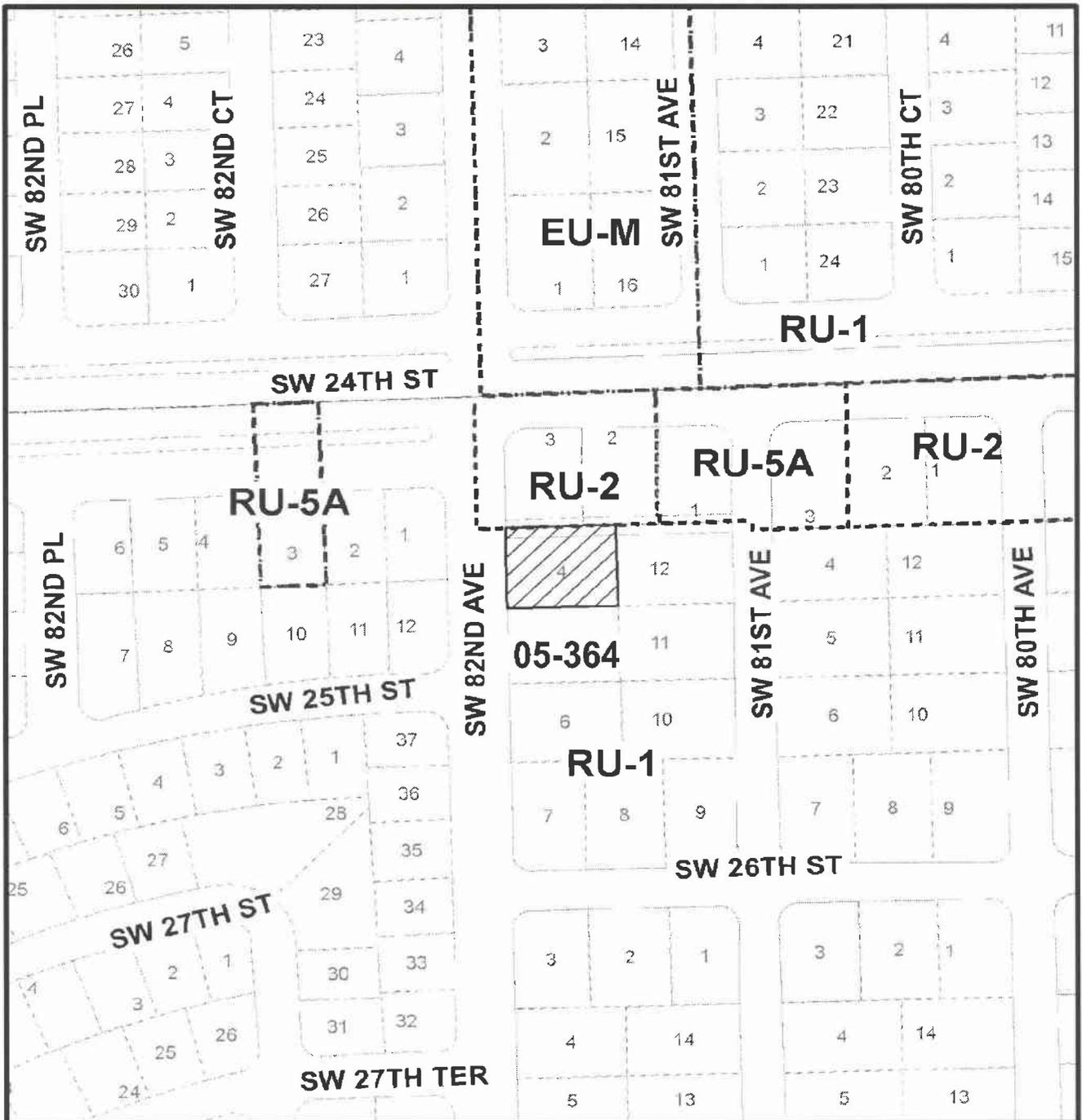
- The proposed planting shall include trees, shrubs and ground cover plants to the adjacent hard edge or road borders to a minimum of 10' width.
- All plants shall meet the minimum standards of Florida Rule 62 or better as specified in Florida and Standards for Nursery Plants as promulgated by the Division of Plant Industry, Florida Department of Agriculture, Inland Section.
- All shrubs to be planted in a minimum of 24" pot, ground cover in a minimum of 12" from the edge of walk, parking, paved areas, etc. Areas have shrub and vegetation index to be planted 24" from edge of walk.
- All trees and palms over 10' in height shall be treated for pest control treatment for a period of six months from the date of planting. After control treatment is done in the planting site, or the site was previously treated shall be free of scale, mites, and other pests for at least 30 days before the trees or palms are planted.
- All palm species for species such as Queen, Kentia, and other palm species shall have straight trunks. Free of scars, chips or any damage caused by insects, termites or planting handling of the trunk.
- All work by the Landscape Contractor shall be performed in a professional and neat manner in accordance with established standards of landscape installation practices and workmanship.
- Landscape Contractor and its subcontractors shall be bonded and licensed as required by the individually, jointly, state or any other governmental agency requiring a license or insurance in order for the Landscape Contractor to perform its work.
- All work shall conform to Miami-Dade County landscape ordinance Chapter 25-1, a division FDS-16 and any other applicable landscape ordinance in effect at the project location.
- Street trees, 7' part of the contract and shall conform to Miami-Dade County landscape ordinance.
- Landscape Contractor is required to provide and obtain any necessary permits for the successful completion of the project, including tree removal permits, if applicable.
- Landscape material shall not be allowed to grow in such a manner as to obscure the view of visibility to property owner or neighbors for an obstructed, unobstructed view distance of 10' in front and 10' in rear.
- Landscape contractor shall add Florida State Bar Code of Florida at 1-800-368-6710 Full Proof 48 hours before sign-off.



SITE PLAN
SCALE: 1/8" = 1'
NORTH

René Miguel Valdes
5/17/04
A-1





**MIAMI-DADE COUNTY
HEARING MAP**

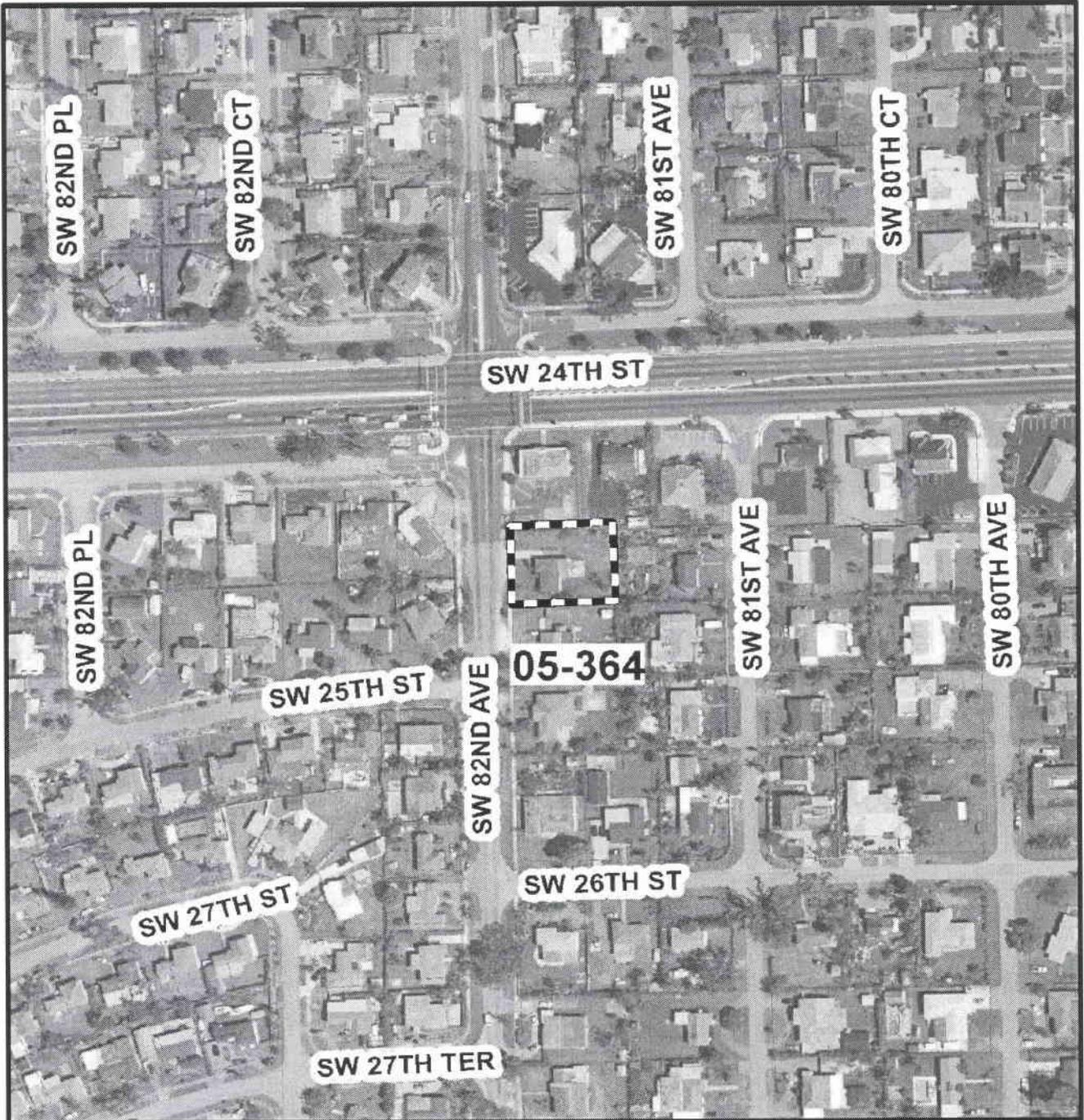
Section: 15 Township: 54 Range: 40
 Process Number: 05-364
 Applicant: RENE MIGUEL VALDEZ
 Zoning Board: C10
 District Number: 10
 Drafter ID: ALFREDO
 Scale: 1:200'



 SUBJECT PROPERTY



47



MIAMI-DADE COUNTY
AERIAL

Section: 15 Township: 54 Range: 40
Process Number: 05-364
Applicant: RENE MIGUEL VALDEZ
Zoning Board: C10
District Number: 10
Drafter ID: ALFREDO
Scale: NTS



A. RENE MIGUEL VALDEZ
(Applicant)

06-10-CZ10-2 (05-364)
BCC/District 10
Hearing Date: 04/28/11

Property Owner (if different from applicant) Same.

Is there an option to purchase /lease the property predicated on the approval of the zoning request? Yes No

Disclosure of interest form attached? Yes No

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
-------------	------------------	----------------	--------------	-----------------

No History

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

ZONING ACTION

MEMORANDUM

Harvey Ruvin

Clerk of the Circuit and County Courts
Clerk of the Board of County Commissioners

(305) 375-5126

(305) 375-2484 FAX

www.miami-dadeclerk.com



DATE: 3/17/2011 #Z

ITEM: A.

APPLICANT: RENE MIGUEL VALDEZ
(06-10-CZ10-2/05-364)

MOTION: Deferred to April 28, 2011 due to lack of a quorum.

ROLL CALL	M/S	YES	NO	ABSENT
Barreiro				
Bell				
Diaz				
Gimenez				
Heyman				
Jordan				
Monestime				
Moss				
Seijas				
Sosa				
Souto				
Vice Chairwoman Edmonson				
Chairman Martinez				
TOTAL				

ZONING ACTION

MEMORANDUM

Harvey Ruvin
Clerk of the Circuit and County Courts
Clerk of the Board of County Commissioners
(305) 375-5126
(305) 375-2484 FAX
www.miami-dadeclerk.com



DATE: April 26, 2007

#Z-06-07

ITEM: A.

APPLICANT: Rene Miguel Valdez

MOTION: Denied the appeal and upheld the decision of the CZAB which denied the application with prejudice

ROLL CALL	M/S	YES	NO	ABSENT
Diaz		X		
Edmonson				X
Gimenez		X		
Heyman				X
Martinez		X		
Moss	S			
Rolle		X		
Seijas				X
Sorenson		X		
Sosa		X		
Souto	M			
Vice Chairwoman Jordan		X		
Chairman Barreiro		X		
TOTAL		10	0	3

ZONING ACTION

MEMORANDUM

Harvey Ruvin

Clerk of the Circuit and County Courts
Clerk of the Board of County Commissioners

(305) 375-5126

(305) 375-2484 FAX

www.miami-dadeclerk.com



DATE: 2/8/2007

#Z-

ITEM: 1.

APPLICANT: RENE MIGUEL VALDEZ

(06-10-CZ10-2/05-364)

MOTION: to defer the foregoing application to the April 26, 2007, BCC Zoning meeting, with leave to amend; and to correct the advertisement with a new notice to the applicant.

ROLL CALL	M/S	YES	NO	ABSENT
Diaz		X		
Edmonson		X		
Gimenez		X		
Heyman		X		
Martinez		X		
Moss		X		
Rolle		X		
Seijas		X		
Sorenson		X		
Sosa				X
Souto		X		
Vice Chairwoman Jordan		X		
Chairman Barreiro				X
TOTAL		11	0	2

MIAMI-DADE COUNTY
COMMUNITY ZONING APPEALS BOARD - AREA 10
MOTION SLIP

2

APPLICANT'S NAME: RENE MIGUEL VALDEZ

REPRESENTATIVE: APPLICANT, PHIL WARD, ADRIAN PARADOS

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER	
06-10-CZ10-2 (05-364)	OCTOBER 17, 2006	CZAB10	62 06

REQ: (1) RU-1 to RU-5A.....OR IN THE ALTERNATIVE.....(2) UV permit RU-5A uses in RU-1

REC: DWOP

WITHDRAW: APPLICATION ITEM(S): _____

DEFER: INDEFINITELY TO: _____ W/LEAVE TO AMEND

DENY: WITH PREJUDICE WITHOUT PREJUDICE

ACCEPT PROFFERED COVENANT ACCEPT REVISED PLANS

APPROVE: PER REQUEST PER DEPARTMENT PER D.I.C.

WITH CONDITIONS

TITLE	M/S	NAME	YES	NO	ABSENT
VICE-CHAIRMAN		Juan Carlos ACOSTA	X		
MR.		Javier A. BETANCOURT			X
MR.	M	Julio R. CACERES	X		
MR.		Manuel CASAS	X		
MR.	S	Jose GARRIDO (C.A.)	X		
CHAIRMAN		Carlos A. MANRIQUE	X		
VOTE:			5	0	

EXHIBITS: YES NO

COUNTY ATTORNEY: DAVID HOPE

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS**

APPLICANT: Rene Miguel Valdez

PH: Z05-364 (06-10-CZ10-2)

SECTION: 15-54-40

DATE: April 28, 2011

COMMISSION DISTRICT: 10

ITEM NO.: A

=====

A. INTRODUCTION

o **SUMMARY OF REQUESTS:**

The applicant is requesting a district boundary change on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, or in the alternative, a use variance to permit RU-5A office uses in the RU-1 zoning district.

o **REQUESTS:**

THE BOARD OF COUNTY COMMISSIONERS WILL BE CONDUCTING PROCEEDINGS ON REMAND FROM CIRCUIT COURT WITH DIRECTIONS TO APPROVE THE FOLLOWING:

(1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

(2) Use Variance to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated stamped received 11/18/05. Plans may be modified at public hearing.

o **LOCATION:** 2425 SW 82 Avenue, Miami-Dade County, Florida.

o **SIZE:** 0.307 Acres

B. ZONING HEARINGS HISTORY: In October 2006, the Community Zoning Appeals Board 10 (CZAB 10) denied with prejudice the applicant's requests for a zone change from RU-1 to RU-5A or in the alternative a use variance to permit RU-5A uses in the RU-1 zone, pursuant to Resolution No. CZAB10-62-06. The applicant appealed CZAB 10's decision to the BCC which denied said appeal with prejudice, pursuant to Resolution No. Z-6-07. This application has been remanded to the Board of County Commissioners (BCC) by the Circuit Court of the Eleventh Judicial Circuit with instructions to act in accordance with Court's Opinion which rejected the Board's decision to deny the application. The Circuit Court quashed the BCC's decision to sustain the Community Zoning Appeals Board 10 decision to deny this application.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES, POLICIES AND INTERPRETATIVE TEXT:

1. *The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Low Density Residential** use. The residential densities allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre. Residential densities of blocks abutting activity nodes as defined in the Guidelines for Urban Form, or of blocks abutting section line roads between nodes, shall be allowed a maximum residential density of 10.0 dwelling units per gross acre. To promote infill development, residential development exceeding the maximum density of 6.0 dwelling units per acre is permitted for substandard lots that were conveyed or platted prior to August 2nd, 1938. This density category is generally characterized by single family housing, e.g., single family detached, cluster, and townhouses. It could include low-rise apartments with extensive surrounding open space or a mixture of housing types provided that the maximum gross density is not exceeded.*
2. *Existing lawful residential and non-residential uses and zoning are not specifically depicted on the LUP map. They are however reflected in the average Plan density depicted. All such 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 zoning must be consistent with the provisions of the specific category in which the subject parcel exists, including the provisions for density averaging and definition of gross density.*
3. ***Office uses** smaller than five acres in size may be approved in areas designated as Residential Communities where other office, business or industrial use(s) which are not inconsistent with this plan already lawfully exist on the same block face. However, where such an office, business, or industrial use exists only on a corner lot of a subject block face or block end, approval of office use elsewhere on the block is limited to the one block face or block end which is the more heavily trafficked side of the referenced corner lot. Office uses may be approved on such sites only if consistent with the objectives and policies of the CDMP and the use or zoning district would not have an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by maintaining operating hours, outdoor lighting or signage out of character with the neighborhood; by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the natural environment including air, water and living resources; or where the character of the buildings, including height, bulk, scale, floor area ratio or design would be out of scale with the character of the neighboring uses or would detrimentally impact the surrounding area. In applying this provision, the maximum limits of an eligible residentially designated block face along which office uses may be extended shall not extend beyond the first intersecting public or private street, whether existing, platted or projected to be necessary to provide access to other property, or beyond the first railroad right-of-way, utility transmission easement or right-of-way*

exceeding 60 feet in width, canal, lake, public school, church, park, golf course or major recreational facility.

In addition, office uses may be approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations set forth in this paragraph. These office uses may occur in combination with or independent of residential use. Such limited office uses may be approved on such sites in residential community areas only where: a) the residential lot fronts directly on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not eligible for consideration); b) the lot or site size does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does subject frontage face such an Estate Density area. Office use approvals, pursuant to this paragraph may only authorize: a) conversion of an existing residence into an office; b) addition of an office use to an existing residence; or, c) the construction of a new office building on lots which were finally platted prior to March 25, 1991 in a size one acre or smaller. Additionally, such office uses may be approved only if the scale and character of the prospective office use are compatible with the surrounding residential neighborhood and if the site has sufficient dimensions to permit adequate on-site parking and buffering of adjacent residences from the office. Other factors that will be considered in determining compatibility include, but are not limited to traffic, noise, lighting, shadows, access, signage, landscaping, and hours of operation. Signage shall be restricted both in size, style, and location to preclude a commercial appearance. Landscaping and buffering of adjacent residences and rear properties will be required. Emphasis shall be placed on retention of the general architectural style of the area, where the area is sound and attractive. Development Orders authorizing the conversion of existing homes into offices, the addition of offices to existing residences or the construction of new buildings encompassing office uses pursuant to this paragraph may be approved only where compatible and where the intensity and character of the new building including gross floor area, lot coverage and height, will be consistent with the homes which exist or which could be built on the immediately adjacent parcels.

4. **Policy LU-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.*

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

RU-1; Single-family residence

Low Density Residential, 2.5 to 6 du

Surrounding Properties:

<u>NORTH:</u> RU-2; Travel agency and Insurance company	Low Density Residential, 2.5 to 6 dua
<u>SOUTH:</u> RU-1; Group home	Low Density Residential, 2.5 to 6 dua
<u>EAST:</u> RU-1; Single-family residence	Low Density Residential, 2.5 to 6 dua
<u>WEST:</u> RU-1; Office and Single-family residence	Low Density Residential, 2.5 to 6 dua

F. PERTINENT ZONING REQUIREMENTS/STANDARDS:

*In evaluating an application for a **district boundary change**, Section 33-311 provides that the Board take into consideration, among other factors, the extent to which:*

- (1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;*
- (2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;*
- (3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;*
- (4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;*
- (5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.*

Section 33-311(A)(4)(a) Use Variance. *The Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum use variance that will permit the reasonable use of the premises. A "use variance" is a*

variance which permits a use of land other than which is prescribed by the zoning regulations and shall include a change in permitted density.

G. NEIGHBORHOOD SERVICES PROVIDER COMMENTS:

DERM	No objection*
Public Works	No objection*
Parks	No comment
MDT	No comment
Fire Rescue	No objection
Police	No objection
Schools	No comment

*Subject to the conditions indicated in their memoranda.

H. PLANNING AND ZONING ANALYSIS:

This application was deferred from the March 17, 2011 meeting due to an inadvertent error in the advertisement. This application has been remanded to the Board of County Commissioners (BCC) by the Circuit Court of the Eleventh Judicial Circuit with instructions to act in accordance with said court's opinion which rejected the Board's decision to deny the application. The applicant, Rene Miguel Valdes, appealed the decision of the BCC by seeking the issuance of a writ of certiorari from the Appellate Division of the 11th Judicial Circuit Court to quash the BCC's denial of the application (Resolution No. Z-6-07).

On October 17, 2006, pursuant to Resolution CZAB10-62-06, the Community Zoning Appeals Board – 10 (CZAB-10) denied with prejudice this application by a vote of 5 to 0. On November 6, 2006, the applicant appealed the CZAB-10's decision to this Board which denied the appeal by a vote of 10-0, pursuant to Resolution No. Z-6-07. Upon review, the appellate court found that the Board's decision to deny this application is not fairly debatable, amounts to reverse spot zoning and does not comport with the essential requirements of the law, thereby resulting in a miscarriage of justice (Circuit Court Case No. 07-304-AP). The Circuit Court granted certiorari and quashed the BCC's decision to sustain the Community Zoning Appeals Board 10 decision to deny this application. The County appealed the Circuit Court decision to the 3rd District Court of Appeal. The 3rd District Court of Appeal affirmed the Circuit Court's decision, though there was a vigorous dissent by a member of the court. The Florida Supreme Court denied further review of this case.

The applicant indicated on the appeal application to this Board that the subject property fronts on SW 82 Avenue, a half section-line road, and is located one lot to the south of the SW 24 Street (Coral Way). Additionally, the applicant notes that the subject property is impacted by substantial traffic along SW 82 Avenue, and indicates that the subject property is also impacted by the neighboring office uses found to the north and west, and by the adult congregate living facility to the south. The applicant maintains that the property is no longer appropriate for residential use.

The subject property is located at 2425 SW 82 Avenue, approximately 140' south of SW 24 Street (Coral Way), in an area characterized by single-family homes, a group home, and office/residential conversions. The 0.307-acre subject site is currently improved with a one-story single-family residence. The applicant seeks to change the zoning on the

subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, or in the alternative, a use variance to permit RU-5A uses in the RU-1 zoning district.

RU-5A uses include, but are not limited to, office buildings for accountants, architects, attorneys, dentists, medical doctors, notary publics, real estate, and travel agencies as well as banks without drive-through teller facilities. However, the applicant indicated in their Letter of Intent that the purpose of the zone change is to permit an architect's office. Staff notes that the applicant has proffered a covenant specifically restricting the office use on the site to that of an architect's office. Plans submitted by the applicant demonstrate that the subject site complies with all RU-5A zoning requirements for setbacks and lot coverage, including the compulsory parking requirements needed for office use.

Approval of either request would allow the applicant to provide semi-professional office services for the community. The subject site is designated for **Low Density Residential** use on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). The CDMP provides that office uses may be approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations set forth in the CDMP. These office uses may occur in combination with or independent of residential use. Such limited office uses may be approved on such sites in residential community areas only where: a) the residential lot fronts directly on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not eligible for consideration); b) the lot or site size does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does the subject frontage face such an Estate Density area.

The subject property meets some of the aforementioned criteria of the Master Plan for approval of office uses within residential designations in that the subject property is less than one acre in size and is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential. However, although the subject property is located on a half-section line roadway (SW 82 Avenue) it does not front on a "major roadway" as designated on the Land Use Plan map.

Notwithstanding the foregoing, the Master Plan also indicates that where other office, business or industrial uses exist on the same block face, approval of similar requests may be granted. However, where such an office, business or industrial use exists on a corner lot of a subject block face or block end, approval of office uses elsewhere on the block is limited to the one block face or block end which is the more heavily trafficked side of the referenced corner lot. One of the two neighboring parcels to the north, situated on the corner of SW 82 Avenue and Coral Way, was granted a use variance to permit all RU-5A uses in an RU-1 zone, pursuant to Resolution No. #Z-192-90; but cannot be considered as part of the same block face where the subject property lies, since it fronts Coral Way, the more heavily trafficked side.

Moreover, Resolution No. 4-ZAB-133-71 also approved a use variance on the other neighboring parcel to the north of the subject property also facing Coral Way and the property to the west of the subject site was granted approval of a use variance to permit a janitorial office in the RU-1 zone as would be permitted in the RU-5A zone, pursuant to Resolution No. Z-112-91. It should be noted that the parcel to the south of the subject

property on the same block face has an existing group home which staff notes is a permitted RU-1 use, is considered a single-family residential use and is limited to no more than 6 people residing on the premises.

Notwithstanding the foregoing, the appellate court determined that operating a group home for the elderly is commercial in nature and concluded that the subject site is "...a veritable island or, at the very least, a peninsula in a sea of commercially zoned property..." Based on the findings of the Court, staff opines that the subject site meets the CDMP criteria for the approval of an office use in a residential community in that a commercial use (group home) lawfully exists on the same blockface as the subject site. In addition, since the subject site abuts lawfully existing office uses to the north and west, staff opines that the introduction of an office use on this site is **compatible** with the other office uses located to the north and west of the site and with the existing group home located to the south of the site. Policy LU-4D of the CDMP states that 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. Staff notes that the submitted plans illustrate a 6' high Cherry Hedge along the north, east and south property lines with palms and Live Oak trees which staff opines will effectively buffer the office use from the surrounding properties. As such the staff opines that the proposed architect's office as illustrated on the submitted plans is consistent with Policy LU-4D of the CDMP and with the interpretative text of the CDMP for the approval of office uses in residential communities. Although, staff notes that the requested rezoning to RU-5A would be **compatible** with the surrounding office uses and **consistent** with the CDMP, **staff is supportive of the alternative use variance request subject to the Board's acceptance of the proffered covenant which limits the office use on the site to an architect's office, in that none of the properties that abut the subject site are zoned RU-5A.**

When considering district boundary changes, the Board shall hear and grant or deny applications by taking into consideration if the proposed development conforms to the Comprehensive Development Master Plan for Miami-Dade County. As previously mentioned, the requested RU-5A zoning would be **consistent** with the interpretative text of the CDMP and **compatible** with the neighboring office uses to the north and west of the subject property and with the existing group home to the south of the subject site.

Staff notes that the proposed architect's office will not have an unfavorable impact on the water, sewer, solid waste disposal, or other public services and will not have an unfavorable impact on the environment as indicated by the memorandum submitted by DERM. Additionally when considering zone changes, the Board shall consider if the development will have a favorable or unfavorable impact on the economy of Miami-Dade County. The approval of this application will not have an unfavorable impact on the economy nor on the environmental and natural resources of Miami-Dade County. Furthermore, the proposed development does not unduly burden or affect public transportation facilities as indicated in the Public Works Department's memorandum submitted for this application. The applicant seeks to change the zoning on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, to allow the applicant to provide semi-professional office services for the community. As previously mentioned, the applicant has proffered a covenant specifically restricting the office use on the site to that of an architect's office.

Staff's research reveals that most of the single-family residential lots fronting on SW 24 Street, between SW 82 Place and SW 79 Court, have gradually converted to non-residential uses and offices. Specific research indicates that of the 15 lots that front on Coral Way between those four blocks, only three lots are still in residential use; numerous public hearings have approved use variances as early as 1963 and as recent as an RU-5A district boundary change approval in 2007. Most, if not all, of these land use conversions are due to the increase in traffic and noise associated with Coral Way, which over the years have negatively impacted the quality of life of residents with homes fronting said corridor. Additionally, the placement of office uses is better located where traffic activity is intense and the roadway is well traveled, as opposed to having residences front such a busy vehicular corridor. Notwithstanding the foregoing, staff opines that RU-5A zoning should be limited to those lots fronting on SW 24 Street (Coral Way) and notes that although the properties to the north and west of the subject site have been granted approval at public hearing to permit office uses, staff notes that said properties are zoned RU-2 and RU-1 respectively. Moreover, staff notes that none of the properties along SW 82 Avenue are zoned RU-5A and therefore staff opines that the introduction of RU-5A zoning on the subject site would create an "island" of RU-5A zoning midblock along SW 82 Avenue. Although, staff notes that the requested rezoning to RU-5A would be **compatible** with the surrounding office uses and **consistent** with the CDMP, staff is supportive of the alternative use variance request subject to the Board's acceptance of the proffered covenant which limits the office use on the site to an architect's office, in that none of the properties that abut the subject site are zoned RU-5A. **Therefore, staff recommends denial without prejudice of request #1.**

In the alternative to the district boundary change (request #1), the applicant is requesting a use variance to permit RU-5A uses in the RU-1 zone. A use variance, as stated in Section 33-311(A)(4)(a), is a variance which permits a use of land other than that which is prescribed by the zoning regulations. Section 33-311(A)(4)(a) also states that the Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulations.

As previously mentioned the Circuit Court granted certiorari and quashed the BCC's decision to sustain the Community Zoning Appeals Board 10 decision to deny this application. Staff notes that use variances were approved on two parcels of land abutting the subject property to the north, pursuant to Resolution Nos. Z-192-90 and 4-ZAB-133-71. Furthermore, the appellate court determined that operating a group home for the elderly is commercial in nature and concluded that the subject site is "...a veritable island or, at the very least, a peninsula in a sea of commercially zoned property that substantially diminishes or renders its value to be virtually worthless as a residential property." Based on the aforementioned, staff concurs with the Court's finding and opines that the subject site is no longer conducive for use as a single-family residence. Therefore, staff is of the opinion that the approval of the requested use variance to permit semi-professional office uses in the RU-1 zone as would be permitted in the RU-5A zone on the subject property, subject to the Board's acceptance of the proffered covenant, will not be contrary to the public interest and will be in harmony with the general purpose and intent of the regulations which is to promote development that is compatible with the surrounding area. Staff's research as well as the opinion issued by the Circuit Court reveals that due to the conversion of the area to predominantly office usage, special conditions have transpired in

the surrounding area whereby a literal enforcement of the provisions of the RU-1 zoning regulations would result in **unnecessary hardship**. In staff's opinion, the spirit of the regulations shall be observed and substantial justice done by the approval of the semi-professional office use on this site. **Therefore, staff recommends approval with conditions of the requested use variance under Section 33-311(A)(4)(a), subject to the Board's acceptance of the proffered covenant.**

I. RECOMMENDATION:

Denial without prejudice of request #1 and approval with conditions of request #2, subject to the Board's acceptance of the proffered covenant.

J. CONDITIONS:

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit; said plan to include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, parking, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated stamped received 11/18/05, except as herein modified to show a 5' high wood fence in lieu of the chain link fence along the interior side (north and south) property lines and rear (east) property line.
3. 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.
4. That the use be established and maintained in accordance with the approved plan.
5. That the applicant comply with all applicable conditions and requirements of the Public Works Department.
6. That the applicant install a 5' high wood fence along the interior side (north and south) property lines and the rear (east) property line. Said fence shall be installed prior to final zoning inspection for the proposed addition.
7. That the use be restricted to an architect's office only, pursuant to the proffered covenant.

DATE TYPED: 02/03/11
DATE REVISED: 02/04/11; 02/08/11; 02/25/11; 03/21/11
DATE FINALIZED: 03/21/11
MCL:GR:NN:TA:NC



Marc C. LaFerrier, AICP, Director
Miami-Dade County Department of
Planning and Zoning

Memorandum



Date: February 7, 2011

To: Marc C. LaFerrier, AICP, Director
Department of Planning and Zoning

A handwritten signature in black ink, appearing to read "Jose Gonzalez". The signature is written in a cursive, flowing style.

From: Jose Gonzalez, P.E., Assistant Director
Environmental Resources Management

Subject: C-10 #Z2005000364-2nd Revision
Rene Miguel Valdez
2425 SW 82nd Avenue
District Boundary Change from RU-1 to RU-5A
(RU-1) (0.31 Ac)
15-54-40

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code). Accordingly, DERM may approve the application, and the same may be scheduled for public hearing.

Potable Water Supply and Wastewater Disposal

Public water and public sanitary sewers can be made available to the subject property. Therefore, connection of the proposed development to the public water supply system and sanitary sewer system shall be required in accordance with Code requirements.

Existing public water and sewer facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Notwithstanding the foregoing, in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle the additional flows that this project would generate. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available at the point in time when the project will be contributing sewage to the system. Lack of adequate capacity in the system may require the approval of alternative means of sewage disposal. Use of an alternative means of sewage disposal may only be granted in accordance with Code requirements, and shall be an interim measure, with connection to the public sanitary sewer system required upon availability of adequate collection/transmission and treatment capacity.

Stormwater Management

Site grading and development shall comply with the requirements of Section 11C of the Code.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the LOS standards for flood

protection set forth in the CDMP, subject to compliance with the conditions required by DERM for this proposed development order.

Wetlands

The subject property does not contain jurisdictional wetlands, as defined by Section 24-5 of the Code. Therefore, a DERM Class IV Wetland Permit will not be required.

The applicant is advised that permits from the Army Corps of Engineers (305-526-7181), the Florida Department of Environmental Protection (561-681-6600), and the South Florida Water Management District (1-800-432-2045) may be required for the proposed project. It is the applicant's responsibility to contact these agencies.

Tree Preservation

The subject property contains tree resources. Section 24-49 of the Code requires the preservation of tree resources. A Miami-Dade County Tree Removal Permit is required prior to the removal or relocation of any trees. A tree survey showing all the tree resources on-site will be required prior to reviewing the tree removal permit application. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Enforcement History

DERM has found no open or closed formal enforcement records for the subject properties.

Concurrency Review Summary

DERM has conducted a concurrency review for this application, and has determined that the same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal, and flood protection. Therefore, the application has been approved for concurrency, subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement, and is valid only for this initial development order, as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

This memorandum shall constitute DERM's written approval, as required by the Code.

If you have any questions concerning the comments, or wish to discuss this matter further, please contact Christine Velazquez at (305) 372-6764.

REVISION 1
PH# Z2005000364
CZAB - BCC

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: RENE MIGUEL VALDEZ

This Department has no objections to this application subject to the following:

Parking space #10 must have 5 feet of paved aisle end back-out at time of permitting.

Landscaping and fences must comply with safe site distance triangle requirements set forth in Sec. 33-11 of the Miami-Dade County Code.

The proposed use of this application generates the same number of vehicle trips as the existing use and will not generate any new vehicle trips; therefore this application meets the Initial Traffic Concurrency Criteria.



Raul A Pino, P.L.S.

02-FEB-11

This instrument was prepared by:

DRAFT

Name: Jeffrey M. Flanagan, Esq.
Address: Flanagan & Williard, P.A.
1450 Madruga Avenue
Suite 407
Coral Gables, FL 33146

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned Owner holds the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property," which is supported by the attorney's opinion, and

IN ORDER TO ASSURE the **County** that the representations made by the owner during consideration of Public Hearing No. 05-364 will be abided by the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property:

- (1) That said Property shall be developed substantially in accordance with the plans previously submitted, prepared by G.J.R. Architects entitled, "Proposed RU-5A Zoning for Rene Miguel Valdes," dated _____, said plans being on file with the Miami-Dade County department of Planning and Zoning, and by reference made a part hereof ("Site Plan").
- (2) Parking space #10 in the Site Plan shall have 5 feet of aisle end back-out, and all landscaping and fences shall comply with safe-site distance triangle requirements.
- (3) The Property shall be used as an architect's office or for any uses allowed pursuant to the underlying RU-1 zoning regulations.

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

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

owners of the real property and for the benefit of Miami-Dade County and the public welfare. Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

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

Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including jointers of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, whichever by law has jurisdiction over such matters, after public hearing.

Should this Declaration of Restrictions be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive officer of the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

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

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

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

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and

approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

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

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

Acceptance of Declaration. Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance or dedication.

Owner. The term Owner shall include the Owner, and its heirs, successors and assigns.

Signed, witnessed, executed and acknowledged this ____ day of _____ 2011.

Witnesses:

Print Name: _____

Maria Nela Valdes

Print Name: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011
by _____ who is personally known to me or who produced
_____ as identification.

Notary Public, State of Florida at
Large

My Commission Expires:

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

CHECKED BY AW AMOUNT OF FEE \$ 1,902.⁸²

RECEIPT # I 200621126

DATE HEARD: 10 17 06

BY CZAB # 10

RECEIVED
05-364

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY _____ 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. 06-10-C210-2 (05-364)

Filed in the name of (Applicant) Rene Miguel Valdes

Name of Appellant, if other than applicant _____

Address/Location of APPELLANT'S property: 2425 S.W. 82nd Avenue

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

Entire Appealable Application

Appellant (name): Rene Miguel Valdes
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)

The property fronts on SW 82 Avenue, a half-section line road. The property is one lot removed from the intersection of Coral Way (S.W. 24th Street). This section of SW 82 Avenue is affected by substantial traffic. The property is also impacted by office use to the south and west, and an adult congregate living facility to the north. The property is no longer appropriate for residential use.

APPELLANT MUST SIGN THIS PAGE

Date: 6 day of November, year: 2008

Signed

Rene M. Valdes

Rene M. Valdes

Print Name

2425 SW 82 AVE MIAMI, FL 331

Mailing Address

(305) 579-0644 (305) 961-5644

Phone

Fax

REPRESENTATIVE'S AFFIDAVIT

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

Rene M. Valdes
Representing

Simon Ferrn
Signature

Simon Ferrn
Print Name

1221 Buckell Ave
Address

Miami FL 33131
City State Zip

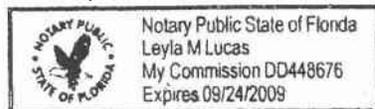
305 579-0644
Telephone Number

Subscribed and Sworn to before me on the 6 day of November, year 2008

Leyla M. Lucas
Notary Public

(stamp/seal)

Commission expires:



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 Rene M. Valdes
(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 objections, waivers 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:

<u>[Signature]</u> Signature	<u>Rene M. Valdes</u> Appellant's signature
---------------------------------	--

Simon Ferris
Print Name

Rene M. Valdes
Print Name

Leyla M. Lucas
Signature

Leyla M. Lucas
Print Name

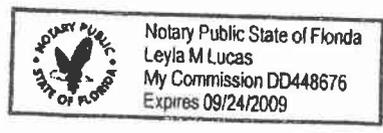
Sworn to and subscribed before me on the 6 day of November, year 2006

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

[Signature]
Notary
(Stamp/Seal)

Commission Expires:

[b:forms/affidapl.sam(11/03)]



Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-6-07

WHEREAS, **RENE MIGUEL VALDEZ** applied to Community Zoning Appeals Board 10 for the following:

- (1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

- (2) USE VARIANCE to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Zoning Department entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated 4/22/04.

SUBJECT PROPERTY: Lot 4, Block 8, CORAL WAY HOMESITES, Plat book 46, Page 21.

LOCATION: 2425 S.W. 82 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of Community Zoning Appeals Board 10 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 10 that the requested district boundary change to RU-5A (Item #1), or in the alternative, the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) 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 said application was denied by Resolution No. CZAB10-62-06, and

WHEREAS, **RENE MIGUEL VALDEZ** appealed the decision of Community Zoning Appeals Board 10 to the Board of County Commissioners for the following:

(1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

(2) USE VARIANCE to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Zoning Department entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated 4/22/04. Plans may be modified at public hearing.

SUBJECT PROPERTY: Lot 4, Block 8, CORAL WAY HOMESITES, Plat book 46, Page 21 AND THE SOUTH ½ OF ALLEY LYING NORTH AND ADJACENT PER R-941-74.

LOCATION: 2425 S.W. 82 Avenue, 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

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 10 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 insufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. CZAB10-62-06 and that the appeal should be denied and the decision of Community Zoning Appeals Board 10 should be sustained, 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 RU-5A (Item #1), or in the alternative, the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) 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

WHEREAS, a motion to deny the appeal with prejudice, sustain the decision of Community Zoning Appeals Board 10, and deny the application with prejudice was offered by Commissioner Sen. Javier D. Souto, seconded by Commissioner Dennis C. Moss, and upon a poll of the members present the vote was as follows:

Jose "Pepe" Diaz	aye	Dennis C. Moss	aye
Audrey M. Edmonson	absent	Dorrin D. Rolle	aye
Carlos A. Gimmenez	aye	Natacha Seijas	absent
Sally A. Heyman	absent	Katy Sorenson	aye
Barbara J. Jordan	aye	Rebecca Sosa	aye
Joe A. Martinez	aye	Sen. Javier D. Souto	aye
		Bruno A. Barreiro	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 denied with prejudice and the decision of Community Zoning Appeals Board 10 is sustained.

BE IT FURTHER RESOLVED that the requested district boundary change to RU-5A (Item #1), be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED that the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED that Resolution No. CZAB10-62-06 remains in full force and effect.

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 26th day of April, 2007, 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. 06-10-CZ10-2

ej

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

By: **KAY SULLIVAN**
Deputy Clerk

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 17TH DAY OF MAY, 2007.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Deputy Clerk's Name, 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-6-07 adopted by said Board of County Commissioners at its meeting held on the 26th day of April, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 17th day of May, 2007.



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

SEAL



RESOLUTION NO. CZAB10-62-06

WHEREAS, RENE MIGUEL VALDEZ applied for the following:

- (1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

- (2) USE VARIANCE to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Zoning Department entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated 4/22/04.

SUBJECT PROPERTY: Lot 4, Block 8, CORAL WAY HOMESITES, Plat book 46, Page 21.

LOCATION: 2425 S.W. 82 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 10 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, 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 RU-5A (Item #1), or in the alternative, the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) 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

WHEREAS, a motion to deny Items #1 & 2 with prejudice was offered by Julio R. Caceres, seconded by Jose Garrido, and upon a poll of the members present the vote was as follows:

Juan Carlos Acosta	aye	Manuel Casas	aye
Javier A. Betancourt	absent	Jose Garrido	aye
Julio R. Caceres	aye		
	Carlos A. Manrique	aye	

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 10, that the requested district boundary change to RU-5A (Item #1), be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED, that the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) be and the same is hereby denied with prejudice.

The Director is hereby authorized to make the necessary notations upon the records of the Miami-Dade County Department of Planning and Zoning.

PASSED AND ADOPTED this 17th day of October, 2006.

Hearing No. 06-10-CZ10-2
ls

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Luis Salvat, 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 Miami-Dade County Community Zoning Appeals Board 10, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB10-62-06 adopted by said Community Zoning Appeals Board at its meeting held on the 17th day of October 2006.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 24th day of October 2006.



Luis Salvat, Deputy Clerk (2678)
Miami-Dade County Department of Planning and Zoning



PLANNING AND ZONING
AGENDA OFFICE

2011 FEB -4 P 12: 15

NOT FINAL UNTIL TIME EXPIRES
TO FILE RE-HEARING MOTION,
AND, IF FILED, DISPOSED OF.

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

RENE MIGUEL VALDEZ,

Petitioner,

v.

MIAMI DADE COUNTY BOARD OF
COUNTY COMMISSIONERS,

Respondent.

APPELLATE DIVISION

CASE NUMBER: 07-304 AP

LOWER CASE NO: Z-607

CLERK
DADE COUNTY, FLA.
CIVIL #101

2008 MAR 31 PM 2: 31

FILED FOR RECORD

VANESTER FLETCHER

Opinion filed: March 31, _____, 2008.

On Petition for Writ of Certiorari from the Miami-Dade County Board of County Commissioners.

Javier L. Gonzalez, Esq., of Gonzalez & Rodriguez, P.L., for Petitioner.

John McInnis, Esq., Assistant Miami-Dade County Attorney, for Respondent.

Before SOTO, LEBAN, and VENZER, JJ.

VENZER, J.

Petitioner Rene Miguel Valdez ("Mr. Valdez") seeks review of a decision by the Miami-Dade County Board of County Commissioners ("the Board"). The Board sustained the Community Zoning Appeals Board 10's decision to deny Mr. Valdez's application for a boundary change from RU-1 (single family use) to RU-5A (semi-professional office district), or

Received by
Zoning Agenda Coordinator

FEB 04 2011

Received by
Zoning Agenda Coordinator

FEB 04 2011

in the alternative a use variance to permit a RU-5A use in the RU-1 zoning district¹ to allow an architectural office on the property's premises.

Upon receipt of a petition for writ of certiorari, this Court's review is limited to a three part standard: (1) whether procedural due process was accorded; (2) whether essential requirements of the law were observed; and (3) whether the findings and judgment were supported by competent substantial evidence. *Dep't of Highway Safety & Motor Vehicles v. Wejebe*, 954 So. 2d 1245, 1248 (Fla. 3d DCA 2007).

Procedural due process rights are afforded to an individual when the person receives notice and an opportunity to be heard. *Joshua v. City of Gainesville*, 768 So. 2d 432, 438 (Fla. 2000). The Board argues that the Mr. Valdez was afforded procedural due process because he received notice and a hearing before the Board of County Commissioners. Mr. Valdez contends that he was denied his right to due process of law because of a commissioner's comments at the hearing.² The record reflects that Mr. Valdez did not object to the commissioner's comments

¹ Resolution No. Z-6-07 states in part that ". . . it was the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that the grounds and reasons alleged by the appellants specified in the appeal were insufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. CZAB10-62-06 and that the appeal should be denied and decision of the Community Zoning Appeals Board 10 should be sustained. . . ." (R. at 2.)

² Mr. Valdez argues that Rule 7.01(g) of the Rules of Procedure governing the Board of County Commissioners was violated because Commissioner Souto made comments that implied that Mr. Valdez and his counsel were friends. The Commissioner even referred to Mr. Valdez as family. On April 26, 2007, Commissioner Souto made the following comments at the hearing:

[Commissioner Souto]: And I'm in the same situation here basically. These fellows in front of me are some of my best friends. Simon over there, Simon Ferro, is one of my best friends. Mr. Valdes [sic] too, my best friends. His brother was one of my best friends. And to the extent the word for this, we're friends, like family. But this has nothing to do with family or friends. This has to do with what's right or what's not right, and I hope they understand that and that everyone understands that.

even after the votes were recorded.³ We find that Mr. Valdez was afforded due process because he had notice and ample opportunity to participate at the Board hearing. Moreover, Mr. Valdez's failure to object at the hearing precludes him from raising the issue for the first time on appeal. *First City Sav. Corp. of Tex. v. S & B Partners*, 548 So. 2d 1156, 1158 (Fla. 5th DCA 1989) (circuit court on certiorari review of zoning decision will not consider issues not presented to the county commission), *review dismissed*, 554 So. 2d 1168 (Fla. 1989).

A departure from the essential requirements of law occurs when there has been a violation of a clearly established principle of law resulting in a miscarriage of justice. *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, 528 (Fla. 1995).

The Florida Supreme Court has utilized the fairly debatable test to uphold zoning ordinances. *City of Miami Beach v. Lachman*, 71 So. 2d 148, 152 (Fla. 1953). So long as a zoning restriction is fairly debatable, that is, when it is "open to dispute or controversy on grounds that make sense, whether the zoning restriction advances the public health, welfare, safety, or morals of the community, the subject restriction is considered to be constitutional." *City Comm'n of City of Miami v. Woodlawn Park Cemetery Co.*, 553 So. 2d 1227, 1230 (Fla. 3d DCA 1989) (footnote and citations omitted).

However, if the zoning ordinance results in reverse spot zoning, then the restriction is not fairly debatable because it is confiscatory and invalid. *City of Miami Beach v. Robbins*, 702 So. 2d 1329, 1330 (Fla. 3d DCA 1997). In *Robbins*, the Third District Court of Appeal noted:

Reverse spot zoning occurs when the ordinance prevents a property owner from utilizing his or her property in a certain way, when virtually all of the adjoining neighbors are not subject to such a restriction, creating, in effect, a veritable

³ Out of thirteen Commissioners voting, three commissioners were absent. The remaining ten Commissioners voted to deny Mr. Valdez's appeal with prejudice and sustain the Community Zoning Appeal Board 10's decision. (R. at 3.)

zoning island or zoning peninsula in a surrounding sea of contrary zoning classification.

Id.

In the case at bar, Mr. Valdez's property is located at 2425 S.W. 82nd Avenue in unincorporated Miami-Dade County, Florida. Mr. Valdez requested a zoning change from RU-1, single residential district, to RU-5A, semi-professional office district *or in the alternative* a use variance to permit an RU-5A classification to allow an architect's office on the premises. However, the Board decided that Mr. Valdez's request for a zoning change was incompatible with the area concerned and inconsistent with the intent of the land development plan for Miami-Dade County.

Upon this Court's review of the aerial, hearing, radius, and hand sketched maps of Mr. Valdez's property and the surrounding area (R. at 113-17), we are not persuaded by the Board's argument. Immediately north of Mr. Valdez's property is a travel agency and insurance company. Both of these properties have been granted use variances allowing RU-5A uses in an RU-2 zoning district. (Resp't Resp. to Pet. for Writ. of Cert., 4.) To the south of Mr. Valdez's property is a group home for the elderly which is still classified as RU-1. The Board avers that the group home is permitted to have RU-1 classification pursuant to section 419.001, Florida Statutes (2007). (Resp't Resp. to Pet. for Writ. of Cert., 4.) Typically, group homes have caretakers assisting the occupants or providing services to assist the elderly with daily activities. This Court is mindful of these activities and agrees with Mr. Valdez that operating a group home for the elderly is commercial in nature. To the east of Mr. Valdez's property, the land is classified as a single-family residence. (R. at 42.) However, the property to the west of Mr. Valdez's property is zoned single-family residence with a permitted office use.

Despite the large concentration of nonresidential activity surrounding Mr. Valdez's property, the Board denied Mr. Valdez similar zoning privileges as the surrounding property

owners. In *Woodlawn*, 553 So. 2d at 1233, the Third District held it confiscatory when a property owner is prevented from utilizing his property in a certain manner, even though adjoining property owners are not subject to the same restrictions.

The Board's denial of Mr. Valdez's request for a zoning change or use variance to permit an architectural office appears to us as arbitrary and not fairly debatable. As such, the Board's actions amount to reverse spot zoning which is impermissible. See *Debes v. City of Key West*, 690 So. 2d 700, 701 (Fla. 3d DCA 1997) (court noting that singling out the owner's property for disparate treatment represented an instance of "discriminatory spot zoning-or, in this context, spot planning-in reverse."); see also *Tollius v. City of Miami*, 96 So. 2d 122, 125 (Fla. 1957) (Supreme Court of Florida reversing a rezoning restriction because the property no longer retained the features at the time the zoning ordinance was passed and the block where the property was located was a veritable island); *Olive v. City of Jacksonville*, 328 So. 2d 854, 856 (Fla. 1st DCA 1976) (court holding that to deny the appellants' commercial zoning classification would constitute reverse spot zoning and the subject property was a literal peninsula); *Manilow v. City of Miami Beach*, 213 So. 2d 589, 592-93 (Fla. 3d DCA 1968) (court holding that to deny relief to the property owner would constitute reverse spot zoning and the property, except for the northern most part, was similar to a "veritable island"); *Kugel v. City of Miami Beach*, 206 So. 2d 282, 285 (Fla. 3d DCA 1968) (court holding that since the character of the property had been changed by other actions of the municipality, the zoning regulation was arbitrary and could not be characterized as fairly debatable). Similar to the reverse spot zoning examples we have cited, Mr. Valdez's property is a veritable island or, at the very least, a peninsula in a sea of commercially zoned property that substantially diminishes or renders its value to be virtually

worthless as a residential property. *See City of Miami Beach v. Robbins*, 702 So. 2d 1329, 1330 (Fla. 3d DCA 1997).

Therefore, we grant certiorari because the Board's decision does not comport with the essential requirements of the law and results in a miscarriage of justice. *Haines City Cmty. Dev. V. Heggs*, 658 So. 2d 523, 528 (Fla. 1995). The County Commission's decision to sustain the Community Zoning Appeals Board's decision to deny Mr. Valdez's application for a boundary change from RU-1 (single family use) to RU-5A (semi-professional office district), or in the alternative a use variance to permit a RU-5A use in the RU-1 zoning district, is quashed. The matter is remanded to the Board with instructions to act in accordance with this opinion.

Certiorari granted.

SOTO and LEBAN, JJ., concur.

COPIES FURNISHED TO COUNSEL
OF RECORD AND TO ANY PARTY
NOT REPRESENTED BY COUNSEL

COPIES FURNISHED TO
COUNSEL OF RECORD AND
TO ANY PARTY NOT REPRESENTED
BY COUNSEL

Memorandum



Date: 01-FEB-11
To: Marc LaFerrier, Director
 Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
 Miami-Dade Fire Rescue Department
Subject: Z2005000364

Fire Prevention Unit:

No objection.

Service Impact/Demand

Development for the above Z2005000364
 located at 2425 SW 82 AVE, MIAMI-DADE COUNTY, FLORIDA.
 in Police Grid 1441 is proposed as the following:

N/A	dwelling units	N/A	square feet
<u>residential</u>		<u>industrial</u>	
1,286	square feet	N/A	square feet
<u>Office</u>		<u>institutional</u>	
N/A	square feet	N/A	square feet
<u>Retail</u>		<u>nursing home/hospitals</u>	

Based on this development information, estimated service impact is: 0.29 alarms-annually.
 The estimated average travel time is: 6:05 minutes

Existing services

The Fire station responding to an alarm in the proposed development will be:
 Station 3 - Tropical Park - 3911 SW 82 Avenue
 Rescue, ALS Engine

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:
 None.

Fire Planning Additional Comments

Current service impact calculated based on Letter of Intent dated November 8, 2005. Substantial changes to the Letter of Intent will require additional service impact analysis.

For information regarding the aforementioned comments, please contact the Miami-Dade Fire Rescue Department Planning Section at 786-331-4540.

DATE: 09-FEB-11
REVISION 3

**BUILDING AND NEIGHBORHOOD
COMPLIANCE DEPARTMENT**

**ENFORCEMENT HISTORY OF VIOLATIONS OF CHAPTER 19 AND
CHAPTER 33 OF THE MIAMI-DADE COUNTY CODE**

RENE MIGUEL VALDEZ

2425 SW 82 AVE, MIAMI-DADE
COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2005000364

HEARING NUMBER

HISTORY:

No current/open cases from Neighborhood Compliance and/or Building Divisions.

No prior cases from either division for the last 12 months.

None

**OUTSTANDING FINES, PENALTIES, COST OR LIENS
INCURRED PURSUANT TO CHAPTER 8CC:**

None

REPORTER NAME:

L. Cuellar

ZONING INSPECTION REPORT

Inspector: MARTINEZ, RAMIRO

Inspection Dat

Evaluator: JAMES MURPHY

02/09/11

Process #: Applicant's Name
Z2005000364 RENE MIGUEL VALDEZ

Locations: 2425 SW 82 AVE, MIAMI-DADE COUNTY, FLORIDA.

Size: 0.307 ACRES

Folio #: 3040150050880

Request:

1 THE APPLICANT IS REQUESTING A ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL DISTRICT TO SEMI-PROFESSIONAL OFFICE DISTRICT.

EXISTING ZONING

Subject Property RU-1,

EXISTING USE

SITE CHARACTERISTICS

STRUCTURES ON SITE:

ONE STORY CBS RESIDENCE ON THE SITE.

USE(S) OF PROPERTY:

THE PROPERTY IS CURRENTLY UTILIZED AS A SINGLE-FAMILY RESIDENCE (RU-1).

FENCES/WALLS:

THERE IS A 5- FT CHAIN-LINK FENCE ALONG THE NORTH PROPERTY LINE; 5 FT. WIRE FENCE ALONG THE EAST AND SOUTH PROPERTY LINES, AND A 4-FT. PICKET FENCE ALONG THE FRONT, WEST PROPERTY LINE.

LANDSCAPING:

NO LANSCAPING ON THE PROPERTY.

BUFFERING:

THERE IS A 6-FT CHERRY HEDGE ALONG THE WEST HALF OF THE NORTH PROPERTY LINE THAT BELONGS TO THE ADJACENT PROPERTY.

VIOLATIONS OBSERVED:

NO VIOLATIONS OBSERVED AT THE TIME OF INSPECTION. BNC MEMO DATED 02/09/2011 REV#3 ON FILE. THERE IS AN OPEN PERMIT NO. 1992098317 FOR BLDG 107 (ROOF) EXPIRED ON 02/17/1993.

OTHER:

THE ADJACENT PROPERTY ABUTTING THE EAST HALF OF THE THE NORTH PROPERTY LINE NEEDS TO PROVIDE A LANDSCAPE BUFFER IN ORDER TO MINIMIZE THE VISUAL IMPACT OF THE PARKING AREA.

Process # Applicant's Name
Z2005000364 RENE MIGUEL VALDEZ

SURROUNDING PROPERTY

NORTH:

RU-2; TRAVEL AGENCY & INSURANCE OFFICE.

SOUTH:

RU-1; EXISTING GORUP HOME - 6 RESIDENTS.

EAST:

RU-1; SINGLE-FAMILY RESIDENCE.

WEST:

RU-1; SINGLE-FAMILY RESIDENCE & OFFICE USE.

SURROUNDING AREA

THE SUBJECT PROPERTY IS SURROUNDED BY OFFICE/RESIDENTIAL CONVERSIONS THAT HAVE BEEN GRANTED ON PARCELS FRONTING CORAL WAY LOCATED TO THE NORTH AND WEST OF SITE AND ONE STORY SINGLE FAMILY RESIDENCES TO THE EAST AND SOUTH.

NEIGHBORHOOD CHARACTERISTICS

THIS AREA IS CHARACTERIZED BY A NUMBER OF OFFICE/RESIDENTIAL CONVERSIONS THAT HAVE TAKEN PLACE ON PROPERTIES FRONTING CORAL WAY. HOWEVER, ALL OF THE AREA TO EAST AND SOUTH REMAINS RESIDENTIAL.

COMMENTS:

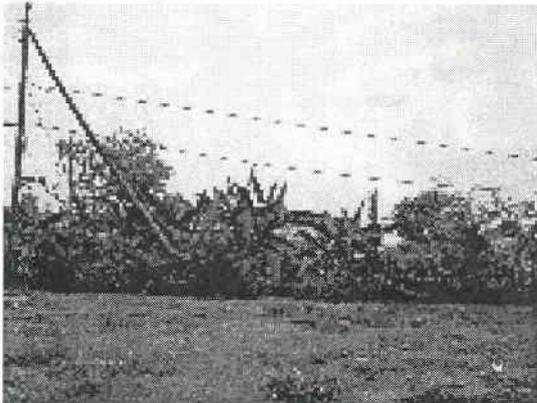
PICTURES OF SITE AND SURROUNDING AREA MAY BE VIEWED FROM THE WEST DADE FILE UNDER ZONING EVALUATION.

HASSUN 02/09/2011: ENFORCEMENT HISTORY UPDATED.

Inspector **MARTINEZ, RAMIRO**

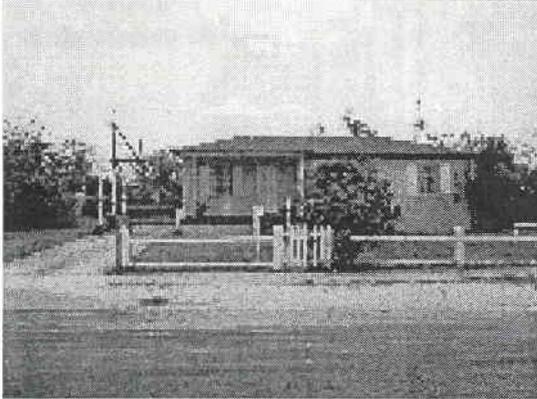
Evaluator **JAMES MURPHY**

Process Number: **Z2005000364** Applicant Name **RENE MIGUEL VALDEZ**



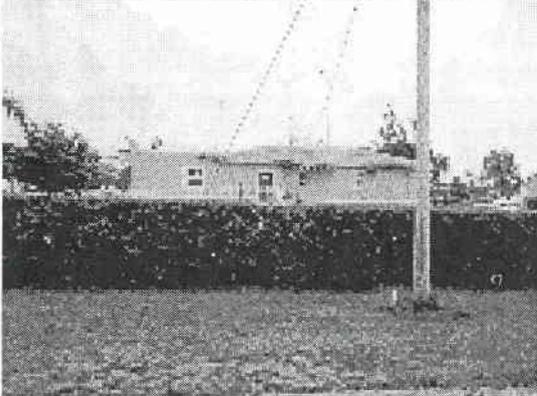
Date: 28-APR-06

Comments: East View From Backyard of Subject Property.



Date: 28-APR-06

Comments: Front View of Subject Property



Date: 28-APR-06

Comments: North View from Subject property - Travel Agency.

Inspector **MARTINEZ, RAMIRO**

Evaluator **JAMES MURPHY**

Process Number: **Z2005000364** Applicant Name **RENE MIGUEL VALDEZ**



Date: 28-APR-06

Comments: Northeast View from Subject Property - Insurance Office.



Date: 28-APR-06

Comments: South from Subject Property - adjacent residence.



Date: 28-APR-06

Comments: Southeast Corner View of Subject Property

Inspector **MARTINEZ, RAMIRO**

Evaluator **JAMES MURPHY**

Process Number: **Z2005000364** Applicant Name **RENE MIGUEL VALDEZ**



Date: 28-APR-06

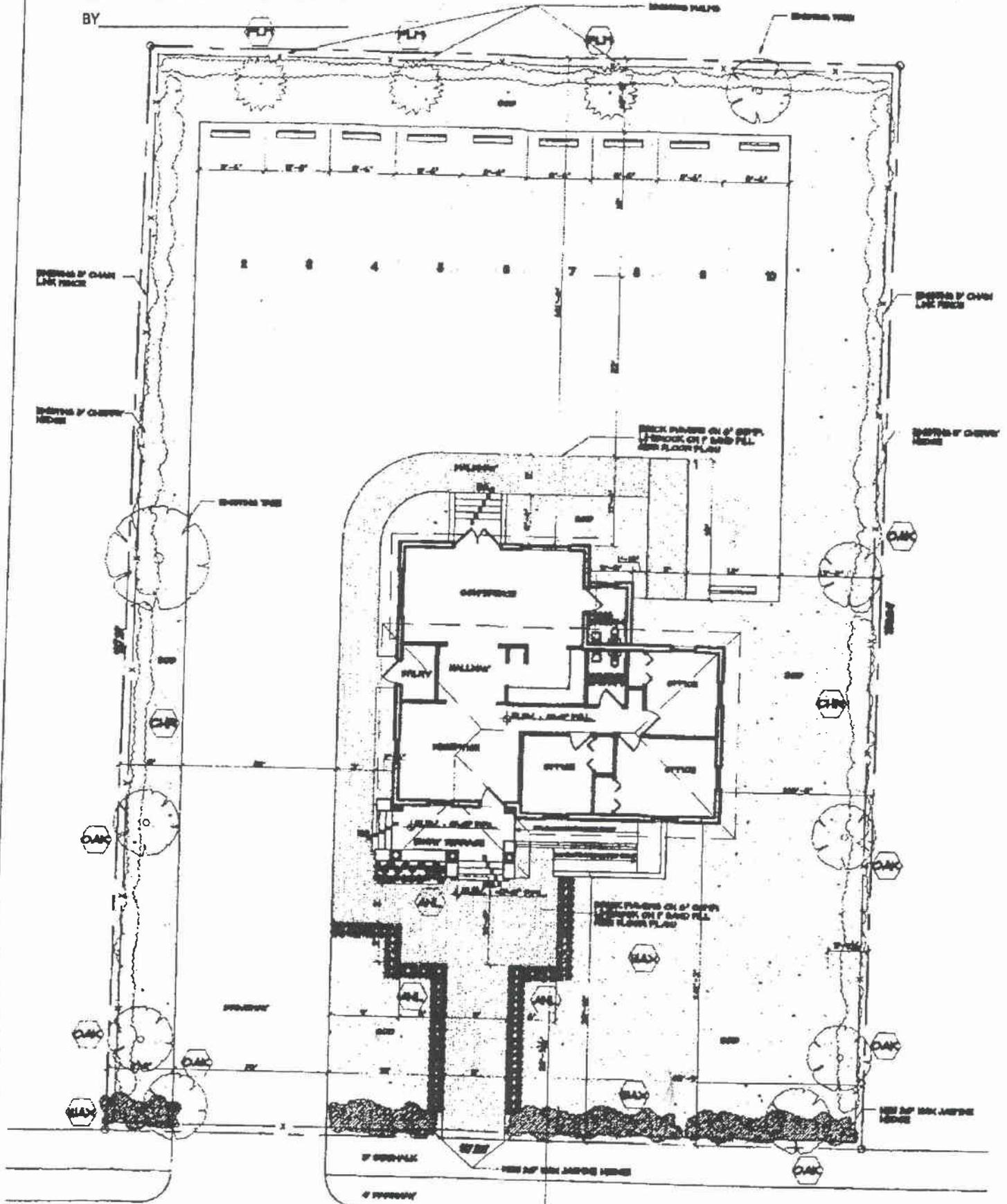
Comments: West View From Subject Property.

RECEIVED

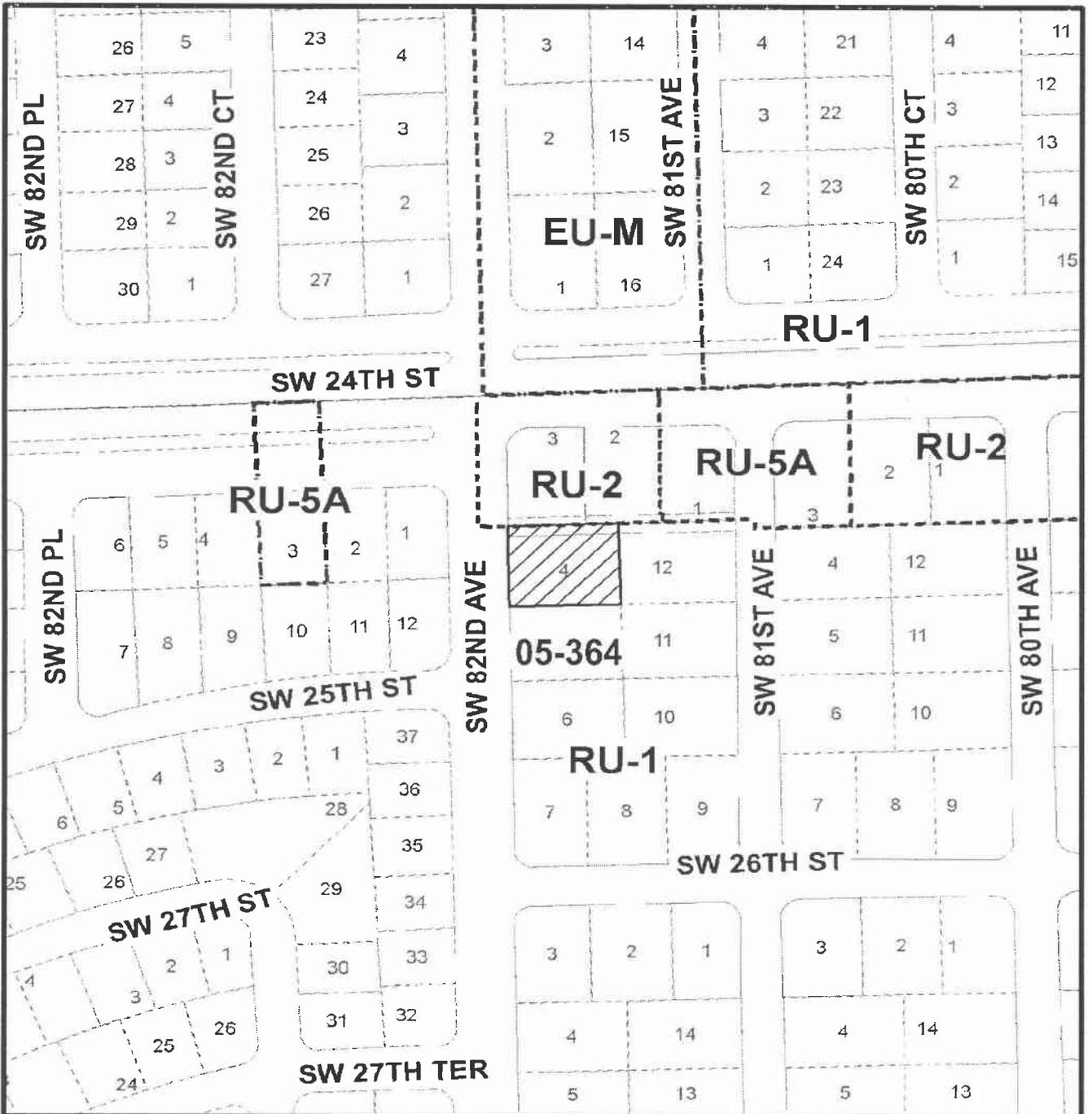
265.364
NOV 18 2015

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____

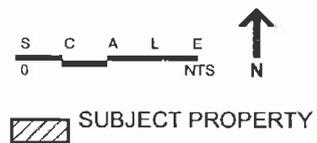


ENLARGED SITE PLAN SW 82nd AVE

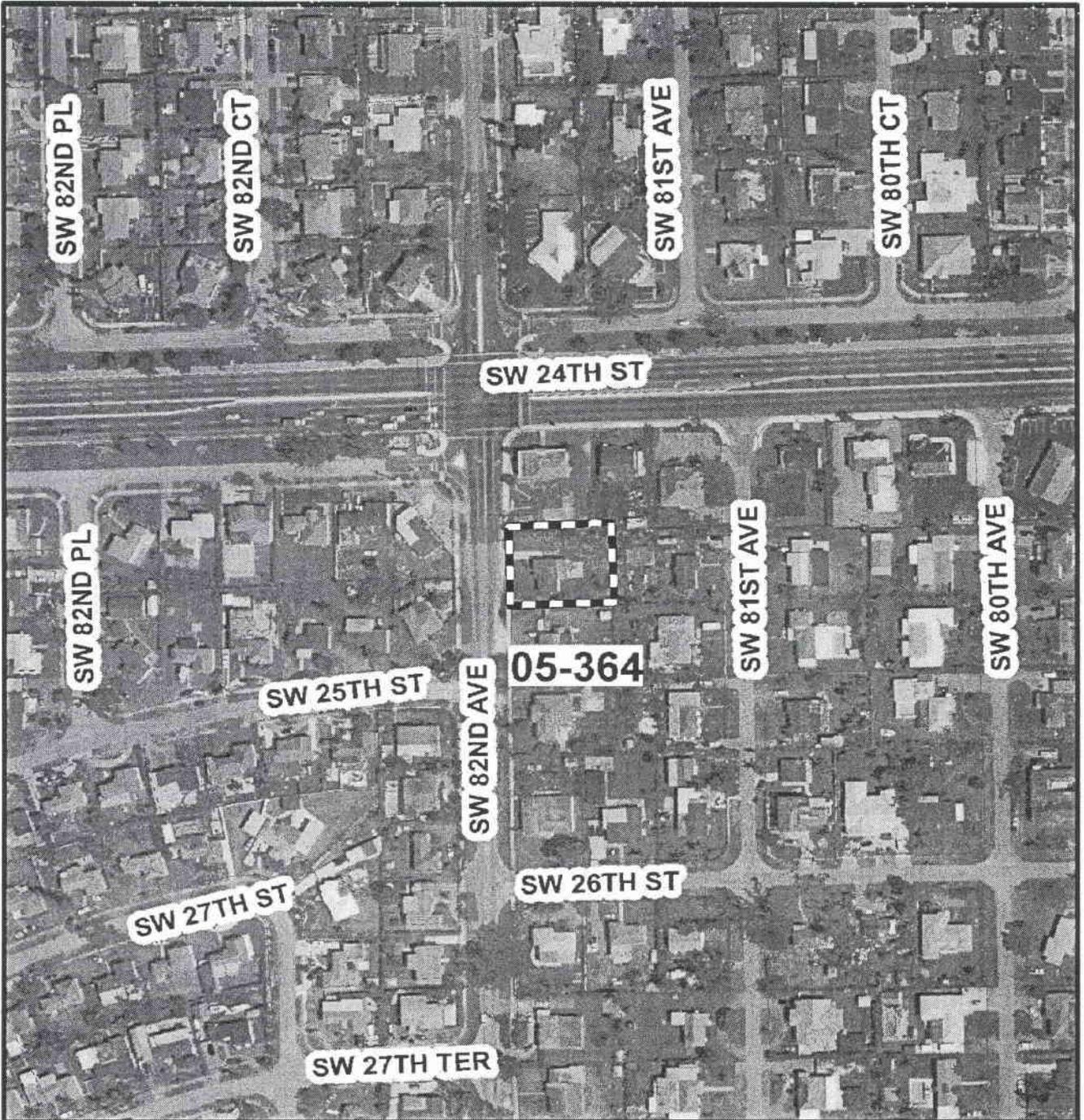


**MIAMI-DADE COUNTY
HEARING MAP**

Section: 15 Township: 54 Range: 40
 Process Number: 05-364
 Applicant: RENE MIGUEL VALDEZ
 Zoning Board: C10
 District Number: 10
 Drafter ID: ALFREDO
 Scale: 1:200'



50



MIAMI-DADE COUNTY
AERIAL

Section: 15 Township: 54 Range: 40
Process Number: 05-364
Applicant: RENE MIGUEL VALDEZ
Zoning Board: C10
District Number: 10
Drafter ID: ALFREDO
Scale: NTS



A. RENE MIGUEL VALDEZ
(Applicant)

06-10-CZ10-2 (05-364)
BCC/District 10
Hearing Date: 03/17/11

Property Owner (if different from applicant) Same.

Is there an option to purchase /lease the property predicated on the approval of the zoning request? Yes No

Disclosure of interest form attached? Yes No

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
-------------	------------------	----------------	--------------	-----------------

No History

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

ZONING ACTION

MEMORANDUM

Harvey Ruvin

Clerk of the Circuit and County Courts
Clerk of the Board of County Commissioners

(305) 375-5126

(305) 375-2484 FAX

www.miami-dadeclerk.com



DATE: April 26, 2007

#Z-06-07

ITEM: A.

APPLICANT: Rene Miguel Valdez

MOTION: Denied the appeal and upheld the decision of the CZAB which denied the application with prejudice

ROLL CALL	M/S	YES	NO	ABSENT
Diaz		X		
Edmonson				X
Gimenez		X		
Heyman				X
Martinez		X		
Moss	S			
Rolle		X		
Seijas				X
Sorenson		X		
Sosa		X		
Souto	M			
Vice Chairwoman Jordan		X		
Chairman Barreiro		X		
TOTAL		10	0	3

ZONING ACTION

MEMORANDUM

Harvey Ruvin

Clerk of the Circuit and County Courts
Clerk of the Board of County Commissioners

(305) 375-5126

(305) 375-2484 FAX

www.miami-dadeclerk.com



DATE: 2/8/2007

#Z-

ITEM: 1.

APPLICANT: RENE MIGUEL VALDEZ

(06-10-CZ10-2/05-364)

MOTION: to defer the foregoing application to the April 26, 2007, BCC Zoning meeting, with leave to amend; and to correct the advertisement with a new notice to the applicant.

ROLL CALL	M/S	YES	NO	ABSENT
Diaz		X		
Edmonson		X		
Gimenez		X		
Heyman		X		
Martinez		X		
Moss		X		
Rolle		X		
Seijas		X		
Sorenson		X		
Sosa				X
Souto		X		
Vice Chairwoman Jordan		X		
Chairman Barreiro				X
TOTAL		11	0	2

**MIAMI-DADE COUNTY
COMMUNITY ZONING APPEALS BOARD - AREA 10
MOTION SLIP**

2

APPLICANT'S NAME: RENE MIGUEL VALDEZ

REPRESENTATIVE: APPLICANT, PHIL WARD, ADRIAN PARADOS

HEARING NUMBER	HEARING DATE	RESOLUTION NUMBER	
06-10-CZ10-2 (05-364)	OCTOBER 17, 2006	CZAB10	62 06

REQ: (1) RU-1 to RU-5A.....OR IN THE ALTERNATIVE.....(2) UV permit RU-5A uses in RU-1

REC: DWOP

WITHDRAW: APPLICATION ITEM(S): _____

DEFER: INDEFINITELY TO: _____ W/LEAVE TO AMEND

DENY: WITH PREJUDICE WITHOUT PREJUDICE

ACCEPT PROFFERED COVENANT ACCEPT REVISED PLANS

APPROVE: PER REQUEST PER DEPARTMENT PER D.I.C.

WITH CONDITIONS

TITLE	M/S	NAME	YES	NO	ABSENT
VICE-CHAIRMAN		Juan Carlos ACOSTA	X		
MR.		Javier A. BETANCOURT			X
MR.	M	Julio R. CACERES	X		
MR.		Manuel CASAS	X		
MR.	S	Jose GARRIDO (C.A.)	X		
CHAIRMAN		Carlos A. MANRIQUE	X		
VOTE:			5	0	

EXHIBITS: YES NO

COUNTY ATTORNEY: DAVID HOPE

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS**

APPLICANT: Rene Miguel Valdez

PH: Z05-364 (06-10-CZ10-2)

SECTION: 15-54-40

DATE: March 17, 2011

COMMISSION DISTRICT: 10

ITEM NO.: A

A. INTRODUCTION

o **SUMMARY OF REQUESTS:**

The applicant is requesting a district boundary change on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, or in the alternative, a use variance to permit RU-5A office uses in the RU-1 zoning district.

o **REQUESTS:**

THE BOARD OF COUNTY COMMISSIONERS WILL BE CONDUCTING PROCEEDINGS ON REMAND FROM CIRCUIT COURT WITH DIRECTIONS TO APPROVE THE FOLLOWING:

(1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

(2) Use Variance to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Department of Planning and Zoning entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated stamped received 11/18/05. Plans may be modified at public hearing.

o **LOCATION:** 2425 SW 82 Avenue, Miami-Dade County, Florida.

o **SIZE:** 0.307 Acres

B. ZONING HEARINGS HISTORY: In October 2006, the Community Zoning Appeals Board 10 (CZAB 10) denied with prejudice the applicant's requests for a zone change from RU-1 to RU-5A or in the alternative a use variance to permit RU-5A uses in the RU-1 zone, pursuant to Resolution No. CZAB10-62-06. The applicant appealed CZAB 10's decision to the BCC which denied said appeal with prejudice, pursuant to Resolution No. Z-6-07. This application has been remanded to the Board of County Commissioners (BCC) by the Circuit Court of the Eleventh Judicial Circuit with instructions to act in accordance with Court's Opinion which rejected the Board's decision to deny the application. The Circuit Court quashed the BCC's decision to sustain the Community Zoning Appeals Board 10 decision to deny this application.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES, POLICIES AND INTERPRETATIVE TEXT:

1. *The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Low Density Residential** use. The residential densities allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre. Residential densities of blocks abutting activity nodes as defined in the Guidelines for Urban Form, or of blocks abutting section line roads between nodes, shall be allowed a maximum residential density of 10.0 dwelling units per gross acre. To promote infill development, residential development exceeding the maximum density of 6.0 dwelling units per acre is permitted for substandard lots that were conveyed or platted prior to August 2nd, 1938. This density category is generally characterized by single family housing, e.g., single family detached, cluster, and townhouses. It could include low-rise apartments with extensive surrounding open space or a mixture of housing types provided that the maximum gross density is not exceeded.*
2. *Existing lawful residential and non-residential uses and zoning are not specifically depicted on the LUP map. They are however reflected in the average Plan density depicted. All such 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 zoning must be consistent with the provisions of the specific category in which the subject parcel exists, including the provisions for density averaging and definition of gross density.*
3. **Office uses** *smaller than five acres in size may be approved in areas designated as Residential Communities where other office, business or industrial use(s) which are not inconsistent with this plan already lawfully exist on the same block face. However, where such an office, business, or industrial use exists only on a corner lot of a subject block face or block end, approval of office use elsewhere on the block is limited to the one block face or block end which is the more heavily trafficked side of the referenced corner lot. Office uses may be approved on such sites only if consistent with the objectives and policies of the CDMP and the use or zoning district would not have an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by maintaining operating hours, outdoor lighting or signage out of character with the neighborhood; by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the natural environment including air, water and living resources; or where the character of the buildings, including height, bulk, scale, floor area ratio or design would be out of scale with the character of the neighboring uses or would detrimentally impact the surrounding area. In applying this provision, the maximum limits of an eligible residentially designated block face along which office uses may be extended shall not extend beyond the first intersecting public or private street, whether existing, platted or projected to be necessary to provide access to other property, or beyond the first railroad right-of-way, utility transmission easement or right-of-way*

exceeding 60 feet in width, canal, lake, public school, church, park, golf course or major recreational facility.

In addition, office uses may be approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations set forth in this paragraph. These office uses may occur in combination with or independent of residential use. Such limited office uses may be approved on such sites in residential community areas only where: a) the residential lot fronts directly on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not eligible for consideration); b) the lot or site size does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does subject frontage face such an Estate Density area. Office use approvals, pursuant to this paragraph may only authorize: a) conversion of an existing residence into an office; b) addition of an office use to an existing residence; or, c) the construction of a new office building on lots which were finally platted prior to March 25, 1991 in a size one acre or smaller. Additionally, such office uses may be approved only if the scale and character of the prospective office use are compatible with the surrounding residential neighborhood and if the site has sufficient dimensions to permit adequate on-site parking and buffering of adjacent residences from the office. Other factors that will be considered in determining compatibility include, but are not limited to traffic, noise, lighting, shadows, access, signage, landscaping, and hours of operation. Signage shall be restricted both in size, style, and location to preclude a commercial appearance. Landscaping and buffering of adjacent residences and rear properties will be required. Emphasis shall be placed on retention of the general architectural style of the area, where the area is sound and attractive. Development Orders authorizing the conversion of existing homes into offices, the addition of offices to existing residences or the construction of new buildings encompassing office uses pursuant to this paragraph may be approved only where compatible and where the intensity and character of the new building including gross floor area, lot coverage and height, will be consistent with the homes which exist or which could be built on the immediately adjacent parcels.

4. **Policy LU-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.*

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

RU-1; Single-family residence

Low Density Residential, 2.5 to 6 du

Surrounding Properties:

<u>NORTH:</u> RU-2; Travel agency and Insurance company	Low Density Residential, 2.5 to 6 dua
<u>SOUTH:</u> RU-1; Group home	Low Density Residential, 2.5 to 6 dua
<u>EAST:</u> RU-1; Single-family residence	Low Density Residential, 2.5 to 6 dua
<u>WEST:</u> RU-1; Office and Single-family residence	Low Density Residential, 2.5 to 6 dua

F. PERTINENT ZONING REQUIREMENTS/STANDARDS:

*In evaluating an application for a **district boundary change**, Section 33-311 provides that the Board take into consideration, among other factors, the extent to which:*

- (1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;*
- (2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;*
- (3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;*
- (4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;*
- (5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.*

Section 33-311(A)(4)(a) Use Variance. *The Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum use variance that will permit the reasonable use of the premises. A "use variance" is a*

variance which permits a use of land other than which is prescribed by the zoning regulations and shall include a change in permitted density.

G. NEIGHBORHOOD SERVICES PROVIDER COMMENTS:

DERM	No objection*
Public Works	No objection*
Parks	No comment
MDT	No comment
Fire Rescue	No objection
Police	No objection
Schools	No comment

*Subject to the conditions indicated in their memoranda.

H. PLANNING AND ZONING ANALYSIS:

This application has been remanded to the Board of County Commissioners (BCC) by the Circuit Court of the Eleventh Judicial Circuit with instructions to act in accordance with said court's opinion which rejected the Board's decision to deny the application. The applicant, Rene Miguel Valdes, appealed the decision of the BCC by seeking the issuance of a writ of certiorari from the Appellate Division of the 11th Judicial Circuit Court to quash the BCC's denial of the application (Resolution No. Z-6-07).

On October 17, 2006, pursuant to Resolution CZAB10-62-06, the Community Zoning Appeals Board – 10 (CZAB-10) denied with prejudice this application by a vote of 5 to 0. On November 6, 2006, the applicant appealed the CZAB-10's decision to this Board which denied the appeal by a vote of 10-0, pursuant to Resolution No. Z-6-07. Upon review, the appellate court found that the Board's decision to deny this application is not fairly debatable, amounts to reverse spot zoning and does not comport with the essential requirements of the law, thereby resulting in a miscarriage of justice (Circuit Court Case No. 07-304-AP). The Circuit Court granted certiorari and quashed the BCC's decision to sustain the Community Zoning Appeals Board 10 decision to deny this application. The County appealed the Circuit Court decision to the 3rd District Court of Appeal. The 3rd District Court of Appeal affirmed the Circuit Court's decision, though there was a vigorous dissent by a member of the court. The Florida Supreme Court denied further review of this case.

The applicant indicated on the appeal application to this Board that the subject property fronts on SW 82 Avenue, a half section-line road, and is located one lot to the south of the SW 24 Street (Coral Way). Additionally, the applicant notes that the subject property is impacted by substantial traffic along SW 82 Avenue, and indicates that the subject property is also impacted by the neighboring office uses found to the north and west, and by the adult congregate living facility to the south. The applicant maintains that the property is no longer appropriate for residential use.

The subject property is located at 2425 SW 82 Avenue, approximately 140' south of SW 24 Street (Coral Way), in an area characterized by single-family homes, a group home, and office/residential conversions. The 0.307-acre subject site is currently improved with a one-story single-family residence. The applicant seeks to change the zoning on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-

Professional Office District, or in the alternative, a use variance to permit RU-5A uses in the RU-1 zoning district.

RU-5A uses include, but are not limited to, office buildings for accountants, architects, attorneys, dentists, medical doctors, notary publics, real estate, and travel agencies as well as banks without drive-through teller facilities. However, the applicant indicated in their Letter of Intent that the purpose of the zone change is to permit an architect's office. Staff notes that the applicant has proffered a covenant specifically restricting the office use on the site to that of an architect's office. Plans submitted by the applicant demonstrate that the subject site complies with all RU-5A zoning requirements for setbacks and lot coverage, including the compulsory parking requirements needed for office use.

Approval of either request would allow the applicant to provide semi-professional office services for the community. The subject site is designated for **Low Density Residential** use on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). The CDMP provides that office uses may be approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations set forth in the CDMP. These office uses may occur in combination with or independent of residential use. Such limited office uses may be approved on such sites in residential community areas only where: a) the residential lot fronts directly on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not eligible for consideration); b) the lot or site size does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does the subject frontage face such an Estate Density area.

The subject property meets some of the aforementioned criteria of the Master Plan for approval of office uses within residential designations in that the subject property is less than one acre in size and is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential. However, although the subject property is located on a half-section line roadway (SW 82 Avenue) it does not front on a "major roadway" as designated on the Land Use Plan map.

Notwithstanding the foregoing, the Master Plan also indicates that where other office, business or industrial uses exist on the same block face, approval of similar requests may be granted. However, where such an office, business or industrial use exists on a corner lot of a subject block face or block end, approval of office uses elsewhere on the block is limited to the one block face or block end which is the more heavily trafficked side of the referenced corner lot. One of the two neighboring parcels to the north, situated on the corner of SW 82 Avenue and Coral Way, was granted a use variance to permit all RU-5A uses in an RU-1 zone, pursuant to Resolution No. #Z-192-90; but cannot be considered as part of the same block face where the subject property lies, since it fronts Coral Way, the more heavily trafficked side.

Moreover, Resolution No. 4-ZAB-133-71 also approved a use variance on the other neighboring parcel to the north of the subject property also facing Coral Way and the property to the west of the subject site was granted approval of a use variance to permit a janitorial office in the RU-1 zone as would be permitted in the RU-5A zone, pursuant to Resolution No. Z-112-91. It should be noted that the parcel to the south of the subject property on the same block face has an existing group home which staff notes is a

permitted RU-1 use, is considered a single-family residential use and is limited to no more than 6 people residing on the premises.

Notwithstanding the foregoing, the appellate court determined that operating a group home for the elderly is commercial in nature and concluded that the subject site is "...a veritable island or, at the very least, a peninsula in a sea of commercially zoned property..." Based on the findings of the Court, staff opines that the subject site meets the CDMP criteria for the approval of an office use in a residential community in that a commercial use (group home) lawfully exists on the same blockface as the subject site. In addition, since the subject site abuts lawfully existing office uses to the north and west, staff opines that the introduction of an office use on this site is **compatible** with the other office uses located to the north and west of the site and with the existing group home located to the south of the site. Policy LU-4D of the CDMP states that 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. Staff notes that the submitted plans illustrate a 6' high Cherry Hedge along the north, east and south property lines with palms and Live Oak trees which staff opines will effectively buffer the office use from the surrounding properties. As such the staff opines that the proposed architect's office as illustrated on the submitted plans is consistent with Policy LU-4D of the CDMP and with the interpretative text of the CDMP for the approval of office uses in residential communities. Although, staff notes that the requested rezoning to RU-5A would be **compatible** with the surrounding office uses and **consistent** with the CDMP, **staff is supportive of the alternative use variance request subject to the Board's acceptance of the proffered covenant which limits the office use on the site to an architect's office, in that none of the properties that abut the subject site are zoned RU-5A.**

When considering district boundary changes, the Board shall hear and grant or deny applications by taking into consideration if the proposed development conforms to the Comprehensive Development Master Plan for Miami-Dade County. As previously mentioned, the requested RU-5A zoning would be **consistent** with the interpretative text of the CDMP and **compatible** with the neighboring office uses to the north and west of the subject property and with the existing group home to the south of the subject site.

Staff notes that the proposed architect's office will not have an unfavorable impact on the water, sewer, solid waste disposal, or other public services and will not have an unfavorable impact on the environment as indicated by the memorandum submitted by DERM. Additionally when considering zone changes, the Board shall consider if the development will have a favorable or unfavorable impact on the economy of Miami-Dade County. The approval of this application will not have an unfavorable impact on the economy nor on the environmental and natural resources of Miami-Dade County. Furthermore, the proposed development does not unduly burden or affect public transportation facilities as indicated in the Public Works Department's memorandum submitted for this application. The applicant seeks to change the zoning on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, to allow the applicant to provide semi-professional office services for the community. As previously mentioned, the applicant has proffered a covenant specifically restricting the office use on the site to that of an architect's office.

Staff's research reveals that most of the single-family residential lots fronting on SW 24 Street, between SW 82 Place and SW 79 Court, have gradually converted to non-residential uses and offices. Specific research indicates that of the 15 lots that front on Coral Way between those four blocks, only three lots are still in residential use; numerous public hearings have approved use variances as early as 1963 and as recent as an RU-5A district boundary change approval in 2007. Most, if not all, of these land use conversions are due to the increase in traffic and noise associated with Coral Way, which over the years have negatively impacted the quality of life of residents with homes fronting said corridor. Additionally, the placement of office uses is better located where traffic activity is intense and the roadway is well traveled, as opposed to having residences front such a busy vehicular corridor. Notwithstanding the foregoing, staff opines that RU-5A zoning should be limited to those lots fronting on SW 24 Street (Coral Way) and notes that although the properties to the north and west of the subject site have been granted approval at public hearing to permit office uses, staff notes that said properties are zoned RU-2 and RU-1 respectively. Moreover, staff notes that none of the properties along SW 82 Avenue are zoned RU-5A and therefore staff opines that the introduction of RU-5A zoning on the subject site would create an "island" of RU-5A zoning midblock along SW 82 Avenue. Although, staff notes that the requested rezoning to RU-5A would be **compatible** with the surrounding office uses and **consistent** with the CDMP, staff is supportive of the alternative use variance request subject to the Board's acceptance of the proffered covenant which limits the office use on the site to an architect's office, in that none of the properties that abut the subject site are zoned RU-5A. **Therefore, staff recommends denial without prejudice of request #1.**

In the alternative to the district boundary change (request #1), the applicant is requesting a use variance to permit RU-5A uses in the RU-1 zone. A use variance, as stated in Section 33-311(A)(4)(a), is a variance which permits a use of land other than that which is prescribed by the zoning regulations. Section 33-311(A)(4)(a) also states that the Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulations.

As previously mentioned the Circuit Court granted certiorari and quashed the BCC's decision to sustain the Community Zoning Appeals Board 10 decision to deny this application. Staff notes that use variances were approved on two parcels of land abutting the subject property to the north, pursuant to Resolution Nos. Z-192-90 and 4-ZAB-133-71. Furthermore, the appellate court determined that operating a group home for the elderly is commercial in nature and concluded that the subject site is "...a veritable island or, at the very least, a peninsula in a sea of commercially zoned property that substantially diminishes or renders its value to be virtually worthless as a residential property." Based on the aforementioned, staff concurs with the Court's finding and opines that the subject site is no longer conducive for use as a single-family residence. Therefore, staff is of the opinion that the approval of the requested use variance to permit semi-professional office uses in the RU-1 zone as would be permitted in the RU-5A zone on the subject property, subject to the Board's acceptance of the proffered covenant, will not be contrary to the public interest and will be in harmony with the general purpose and intent of the regulations which is to promote development that is compatible with the surrounding area. Staff's research as well as the opinion issued by the Circuit Court reveals that due to the conversion of the area to predominantly office usage, special conditions have transpired in

the surrounding area whereby a literal enforcement of the provisions of the RU-1 zoning regulations would result in **unnecessary hardship**. In staff's opinion, the spirit of the regulations shall be observed and substantial justice done by the approval of the semi-professional office use on this site. **Therefore, staff recommends approval with conditions of the requested use variance under Section 33-311(A)(4)(a), subject to the Board's acceptance of the proffered covenant.**

I. RECOMMENDATION:

Denial without prejudice of request #1 and approval with conditions of request #2, subject to the Board's acceptance of the proffered covenant.

J. CONDITIONS:

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Planning and Zoning upon the submittal of an application for a building permit; said plan to include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, parking, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated stamped received 11/18/05, except as herein modified to show a 5' high wood fence in lieu of the chain link fence along the interior side (north and south) property lines and rear (east) property line.
3. 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.
4. That the use be established and maintained in accordance with the approved plan.
5. That the applicant comply with all applicable conditions and requirements of the Public Works Department.
6. That the applicant install a 5' high wood fence along the interior side (north and south) property lines and the rear (east) property line. Said fence shall be installed prior to final zoning inspection for the proposed addition.
7. That the use be restricted to an architect's office only, pursuant to the proffered covenant.

DATE TYPED: 02/03/11
DATE REVISED: 02/04/11; 02/08/11; 02/25/11
DATE FINALIZED: 02/25/11
MCL:GR:NN:TA:NC



Marc C. LaFerrier, AICP, Director
Miami-Dade County Department of
Planning and Zoning

NDW

Memorandum



Date: February 7, 2011

To: Marc C. LaFerrier, AICP, Director
Department of Planning and Zoning

A handwritten signature in black ink, appearing to read "Jose Gonzalez".

From: Jose Gonzalez, P.E., Assistant Director
Environmental Resources Management

Subject: C-10 #Z2005000364-2nd Revision
Rene Miguel Valdez
2425 SW 82nd Avenue
District Boundary Change from RU-1 to RU-5A
(RU-1) (0.31 Ac)
15-54-40

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code). Accordingly, DERM may approve the application, and the same may be scheduled for public hearing.

Potable Water Supply and Wastewater Disposal

Public water and public sanitary sewers can be made available to the subject property. Therefore, connection of the proposed development to the public water supply system and sanitary sewer system shall be required in accordance with Code requirements.

Existing public water and sewer facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Notwithstanding the foregoing, in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle the additional flows that this project would generate. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available at the point in time when the project will be contributing sewage to the system. Lack of adequate capacity in the system may require the approval of alternative means of sewage disposal. Use of an alternative means of sewage disposal may only be granted in accordance with Code requirements, and shall be an interim measure, with connection to the public sanitary sewer system required upon availability of adequate collection/transmission and treatment capacity.

Stormwater Management

Site grading and development shall comply with the requirements of Section 11C of the Code.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the LOS standards for flood

protection set forth in the CDMP, subject to compliance with the conditions required by DERM for this proposed development order.

Wetlands

The subject property does not contain jurisdictional wetlands, as defined by Section 24-5 of the Code. Therefore, a DERM Class IV Wetland Permit will not be required.

The applicant is advised that permits from the Army Corps of Engineers (305-526-7181), the Florida Department of Environmental Protection (561-681-6600), and the South Florida Water Management District (1-800-432-2045) may be required for the proposed project. It is the applicant's responsibility to contact these agencies.

Tree Preservation

The subject property contains tree resources. Section 24-49 of the Code requires the preservation of tree resources. A Miami-Dade County Tree Removal Permit is required prior to the removal or relocation of any trees. A tree survey showing all the tree resources on-site will be required prior to reviewing the tree removal permit application. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Enforcement History

DERM has found no open or closed formal enforcement records for the subject properties.

Concurrency Review Summary

DERM has conducted a concurrency review for this application, and has determined that the same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal, and flood protection. Therefore, the application has been approved for concurrency, subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement, and is valid only for this initial development order, as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

This memorandum shall constitute DERM's written approval, as required by the Code.

If you have any questions concerning the comments, or wish to discuss this matter further, please contact Christine Velazquez at (305) 372-6764.

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: RENE MIGUEL VALDEZ

This Department has no objections to this application subject to the following:

Parking space #10 must have 5 feet of paved aisle end back-out at time of permitting.

Landscaping and fences must comply with safe site distance triangle requirements set forth in Sec. 33-11 of the Miami-Dade County Code.

The proposed use of this application generates the same number of vehicle trips as the existing use and will not generate any new vehicle trips; therefore this application meets the Initial Traffic Concurrency Criteria.



Raul A Pino, P.L.S.

02-FEB-11

This instrument was prepared by:

Name: Jeffrey M. Flanagan, Esq.
Address: Flanagan & Williard, P.A.
1450 Madruga Avenue
Suite 407
Coral Gables, FL 33146

(Space reserved for Clerk)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned Owner holds the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto, and hereinafter called the "Property," which is supported by the attorney's opinion, and

IN ORDER TO ASSURE the **County** that the representations made by the owner during consideration of Public Hearing No. 05-364 will be abided by the Owner freely, voluntarily and without duress makes the following Declaration of Restrictions covering and running with the Property:

- (1) That said Property shall be developed substantially in accordance with the plans previously submitted, prepared by G.J.R. Architects entitled, "Proposed RU-5A Zoning for Rene Miguel Valdes," dated _____, said plans being on file with the Miami-Dade County department of Planning and Zoning, and by reference made a part hereof ("Site Plan").
- (2) Parking space #10 in the Site Plan shall have 5 feet of aisle end back-out, and all landscaping and fences shall comply with safe-site distance triangle requirements.
- (3) The Property shall be used as an architect's office or for any uses allowed pursuant to the underlying RU-1 zoning regulations.

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

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

owners of the real property and for the benefit of Miami-Dade County and the public welfare. Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

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

Modification, Amendment, Release. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, whichever by law has jurisdiction over such matters, after public hearing.

Should this Declaration of Restrictions be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive officer of the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

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

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

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

Presumption of Compliance. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and

approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

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

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

Acceptance of Declaration. Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance or dedication.

Owner. The term Owner shall include the Owner, and its heirs, successors and assigns.

Signed, witnessed, executed and acknowledged this ____ day of _____ 2011.

Witnesses:

Print Name: _____

Maria Nela Valdes

Print Name: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011
by _____ who is personally known to me or who produced
_____ as identification.

Notary Public, State of Florida at
Large

My Commission Expires:

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

CHECKED BY AW AMOUNT OF FEE \$ 1,902.⁸²

RECEIPT # I 200621126

DATE HEARD: 10 17 06

BY CZAB # 10



ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY _____ 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. 06-10-C210-2 (05-364)

Filed in the name of (Applicant) Rene Miguel Valdes

Name of Appellant, if other than applicant _____

Address/Location of APPELLANT'S property: 2425 S.W. 82nd Avenue

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

Entire Appealable Application

Appellant (name): Rene Miguel Valdes
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)

The property fronts on SW 82 Avenue, a half-section line road. The property is one lot removed from the intersection of Coral Way (S.W. 24th Street). This section of SW 82 Avenue is affected by substantial traffic. The property is also impacted by office use to the south and west, and an adult congregate living facility to the north. The property is no longer appropriate for residential use.

APPELLANT MUST SIGN THIS PAGE

Date: 6 day of November, year: 2008

Signed Rene M. Valdes

Rene M. Valdes
Print Name

2425 SW 82 AVE MIAMI, FL 331
Mailing Address

(305) 579-0644 (305) 961-5644
Phone Fax

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

Rene M. Valdes
Representing

[Signature]
Signature

Simon Ferrn
Print Name

1221 Buckell Ave
Address

Miami FL 33131
City State Zip

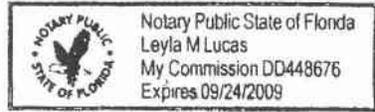
305 579-0644
Telephone Number

Subscribed and Sworn to before me on the 6 day of November, year 2008

Leyla M. Lucas
Notary Public

(stamp/seal)

Commission expires:



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 Rene M. Valdes
(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 objections, waivers 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] Rene M. Valdes
Signature Appellant's signature

Simou Ferry
Print Name Rene M. Valdes
Print Name

[Signature]
Signature

Leyla M. Lucas
Print Name

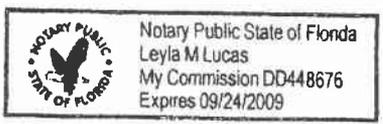
Sworn to and subscribed before me on the 6 day of November, year 2008

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

[Signature]
Notary
(Stamp/Seal)

Commission Expires:

[b:forms/affidapl.sam(11/03)]



Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-6-07

WHEREAS, **RENE MIGUEL VALDEZ** applied to Community Zoning Appeals Board 10 for the following:

- (1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

- (2) USE VARIANCE to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Zoning Department entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated 4/22/04.

SUBJECT PROPERTY: Lot 4, Block 8, CORAL WAY HOMESITES, Plat book 46, Page 21.

LOCATION: 2425 S.W. 82 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of Community Zoning Appeals Board 10 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 10 that the requested district boundary change to RU-5A (Item #1), or in the alternative, the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) 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 said application was denied by Resolution No. CZAB10-62-06, and

WHEREAS, **RENE MIGUEL VALDEZ** appealed the decision of Community Zoning Appeals Board 10 to the Board of County Commissioners for the following:

(1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

(2) USE VARIANCE to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Zoning Department entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated 4/22/04. Plans may be modified at public hearing.

SUBJECT PROPERTY: Lot 4, Block 8, CORAL WAY HOMESITES, Plat book 46, Page 21 AND THE SOUTH ½ OF ALLEY LYING NORTH AND ADJACENT PER R-941-74.

LOCATION: 2425 S.W. 82 Avenue, 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

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 10 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 insufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. CZAB10-62-06 and that the appeal should be denied and the decision of Community Zoning Appeals Board 10 should be sustained, 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 RU-5A (Item #1), or in the alternative, the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) 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

WHEREAS, a motion to deny the appeal with prejudice, sustain the decision of Community Zoning Appeals Board 10, and deny the application with prejudice was offered by Commissioner Sen. Javier D. Souto, seconded by Commissioner Dennis C. Moss, and upon a poll of the members present the vote was as follows:

Jose "Pepe" Diaz	aye	Dennis C. Moss	aye
Audrey M. Edmonson	absent	Dorrin D. Rolle	aye
Carlos A. Gimmenez	aye	Natacha Seijas	absent
Sally A. Heyman	absent	Katy Sorenson	aye
Barbara J. Jordan	aye	Rebecca Sosa	aye
Joe A. Martinez	aye	Sen. Javier D. Souto	aye
Bruno A. Barreiro		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 denied with prejudice and the decision of Community Zoning Appeals Board 10 is sustained.

BE IT FURTHER RESOLVED that the requested district boundary change to RU-5A (Item #1), be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED that the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED that Resolution No. CZAB10-62-06 remains in full force and effect.

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 26th day of April, 2007, 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. 06-10-CZ10-2

ej

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

By **KAY SULLIVAN**
Deputy Clerk

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 17TH DAY OF MAY, 2007.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Deputy Clerk's Name, 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-6-07 adopted by said Board of County Commissioners at its meeting held on the 26th day of April, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 17th day of May, 2007.



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

SEAL



RESOLUTION NO. CZAB10-62-06

WHEREAS, RENE MIGUEL VALDEZ applied for the following:

- (1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

- (2) USE VARIANCE to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Zoning Department entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated 4/22/04.

SUBJECT PROPERTY: Lot 4, Block 8, CORAL WAY HOMESITES, Plat book 46, Page 21:

LOCATION: 2425 S.W. 82 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 10 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, 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 RU-5A (Item #1), or in the alternative, the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) 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

WHEREAS, a motion to deny Items #1 & 2 with prejudice was offered by Julio R. Caceres, seconded by Jose Garrido, and upon a poll of the members present the vote was as follows:

Juan Carlos Acosta	aye	Manuel Casas	aye
Javier A. Betancourt	absent	Jose Garrido	aye
Julio R. Caceres	aye		
	Carlos A. Manrique	aye	

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 10, that the requested district boundary change to RU-5A (Item #1), be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED, that the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) be and the same is hereby denied with prejudice.

The Director is hereby authorized to make the necessary notations upon the records of the Miami-Dade County Department of Planning and Zoning.

PASSED AND ADOPTED this 17th day of October, 2006.

Hearing No. 06-10-CZ10-2
ls

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Luis Salvat, 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 Miami-Dade County Community Zoning Appeals Board 10, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB10-62-06 adopted by said Community Zoning Appeals Board at its meeting held on the 17th day of October 2006.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 24th day of October 2006.



Luis Salvat, Deputy Clerk (2678)
Miami-Dade County Department of Planning and Zoning



PLANNING AND ZONING
AGENDA OFFICE

NOT FINAL UNTIL TIME EXPIRES
TO FILE RE-HEARING MOTION,
AND, IF FILED, DISPOSED OF.

2011 FEB -4 P 12: 15

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

RENE MIGUEL VALDEZ,

Petitioner,

v.

MIAMI DADE COUNTY BOARD OF
COUNTY COMMISSIONERS,

Respondent.

APPELLATE DIVISION

CASE NUMBER: 07-304 AP

LOWER CASE NO: Z-607

CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.
CIVIL #101

2008 MAR 31 PM 2: 31

FILED FOR RECORD

VANESTHER FLETCHER

Opinion filed: March 31, _____, 2008.

On Petition for Writ of Certiorari from the Miami-Dade County Board of County Commissioners.

Javier L. Gonzalez, Esq., of Gonzalez & Rodriguez, P.L., for Petitioner.

John McInnis, Esq., Assistant Miami-Dade County Attorney, for Respondent.

Before SOTO, LEBAN, and VENZER, JJ.

VENZER, J.

Petitioner Rene Miguel Valdez ("Mr. Valdez") seeks review of a decision by the Miami-Dade County Board of County Commissioners ("the Board"). The Board sustained the Community Zoning Appeals Board 10's decision to deny Mr. Valdez's application for a boundary change from RU-1 (single family use) to RU-5A (semi-professional office district), or

Received by
Zoning Agenda Coordinator

FEB 04 2011

Received by
Zoning Agenda Coordinator

FEB 04 2011

in the alternative a use variance to permit a RU-5A use in the RU-1 zoning district¹ to allow an architectural office on the property's premises.

Upon receipt of a petition for writ of certiorari, this Court's review is limited to a three part standard: (1) whether procedural due process was accorded; (2) whether essential requirements of the law were observed; and (3) whether the findings and judgment were supported by competent substantial evidence. *Dep't of Highway Safety & Motor Vehicles v. Wejebe*, 954 So. 2d 1245, 1248 (Fla. 3d DCA 2007).

Procedural due process rights are afforded to an individual when the person receives notice and an opportunity to be heard. *Joshua v. City of Gainesville*, 768 So. 2d 432, 438 (Fla. 2000). The Board argues that the Mr. Valdez was afforded procedural due process because he received notice and a hearing before the Board of County Commissioners. Mr. Valdez contends that he was denied his right to due process of law because of a commissioner's comments at the hearing.² The record reflects that Mr. Valdez did not object to the commissioner's comments

¹ Resolution No. Z-6-07 states in part that ". . . it was the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that the grounds and reasons alleged by the appellants specified in the appeal were insufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. CZAB10-62-06 and that the appeal should be denied and decision of the Community Zoning Appeals Board 10 should be sustained. . . ." (R. at 2.)

² Mr. Valdez argues that Rule 7.01(g) of the Rules of Procedure governing the Board of County Commissioners was violated because Commissioner Souto made comments that implied that Mr. Valdez and his counsel were friends. The Commissioner even referred to Mr. Valdez as family. On April 26, 2007, Commissioner Souto made the following comments at the hearing:

[Commissioner Souto]: And I'm in the same situation here basically. These fellows in front of me are some of my best friends. Simon over there, Simon Ferro, is one of my best friends. Mr. Valdes [sic] too, my best friends. His brother was one of my best friends. And to the extent the word for this, we're friends, like family. But this has nothing to do with family or friends. This has to do with what's right or what's not right, and I hope they understand that and that everyone understands that.

Hr'g Tr. 32:8-20, Apr. 26, 2007 (R. at 37.)

even after the votes were recorded.³ We find that Mr. Valdez was afforded due process because he had notice and ample opportunity to participate at the Board hearing. Moreover, Mr. Valdez's failure to object at the hearing precludes him from raising the issue for the first time on appeal. *First City Sav. Corp. of Tex. v. S & B Partners*, 548 So. 2d 1156, 1158 (Fla. 5th DCA 1989) (circuit court on certiorari review of zoning decision will not consider issues not presented to the county commission), *review dismissed*, 554 So. 2d 1168 (Fla. 1989).

A departure from the essential requirements of law occurs when there has been a violation of a clearly established principle of law resulting in a miscarriage of justice. *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, 528 (Fla. 1995).

The Florida Supreme Court has utilized the fairly debatable test to uphold zoning ordinances. *City of Miami Beach v. Lachman*, 71 So. 2d 148, 152 (Fla. 1953). So long as a zoning restriction is fairly debatable, that is, when it is "open to dispute or controversy on grounds that make sense, whether the zoning restriction advances the public health, welfare, safety, or morals of the community, the subject restriction is considered to be constitutional." *City Comm'n of City of Miami v. Woodlawn Park Cemetery Co.*, 553 So. 2d 1227, 1230 (Fla. 3d DCA 1989) (footnote and citations omitted).

However, if the zoning ordinance results in reverse spot zoning, then the restriction is not fairly debatable because it is confiscatory and invalid. *City of Miami Beach v. Robbins*, 702 So. 2d 1329, 1330 (Fla. 3d DCA 1997). In *Robbins*, the Third District Court of Appeal noted:

Reverse spot zoning occurs when the ordinance prevents a property owner from utilizing his or her property in a certain way, when virtually all of the adjoining neighbors are not subject to such a restriction, creating, in effect, a veritable

³ Out of thirteen Commissioners voting, three commissioners were absent. The remaining ten Commissioners voted to deny Mr. Valdez's appeal with prejudice and sustain the Community Zoning Appeal Board 10's decision. (R. at 3.)

zoning island or zoning peninsula in a surrounding sea of contrary zoning classification.

Id.

In the case at bar, Mr. Valdez's property is located at 2425 S.W. 82nd Avenue in unincorporated Miami-Dade County, Florida. Mr. Valdez requested a zoning change from RU-1, single residential district, to RU-5A, semi-professional office district *or in the alternative* a use variance to permit an RU-5A classification to allow an architect's office on the premises. However, the Board decided that Mr. Valdez's request for a zoning change was incompatible with the area concerned and inconsistent with the intent of the land development plan for Miami-Dade County.

Upon this Court's review of the aerial, hearing, radius, and hand sketched maps of Mr. Valdez's property and the surrounding area (R. at 113-17), we are not persuaded by the Board's argument. Immediately north of Mr. Valdez's property is a travel agency and insurance company. Both of these properties have been granted use variances allowing RU-5A uses in an RU-2 zoning district. (Resp't Resp. to Pet. for Writ. of Cert., 4.) To the south of Mr. Valdez's property is a group home for the elderly which is still classified as RU-1. The Board avers that the group home is permitted to have RU-1 classification pursuant to section 419.001, Florida Statutes (2007). (Resp't Resp. to Pet. for Writ. of Cert., 4.) Typically, group homes have caretakers assisting the occupants or providing services to assist the elderly with daily activities. This Court is mindful of these activities and agrees with Mr. Valdez that operating a group home for the elderly is commercial in nature. To the east of Mr. Valdez's property, the land is classified as a single-family residence. (R. at 42.) However, the property to the west of Mr. Valdez's property is zoned single-family residence with a permitted office use.

Despite the large concentration of nonresidential activity surrounding Mr. Valdez's property, the Board denied Mr. Valdez similar zoning privileges as the surrounding property

owners. In *Woodlawn*, 553 So. 2d at 1233, the Third District held it confiscatory when a property owner is prevented from utilizing his property in a certain manner, even though adjoining property owners are not subject to the same restrictions.

The Board's denial of Mr. Valdez's request for a zoning change or use variance to permit an architectural office appears to us as arbitrary and not fairly debatable. As such, the Board's actions amount to reverse spot zoning which is impermissible. See *Debes v. City of Key West*, 690 So. 2d 700, 701 (Fla. 3d DCA 1997) (court noting that singling out the owner's property for disparate treatment represented an instance of "discriminatory spot zoning-or, in this context, spot planning-in reverse."); see also *Tollius v. City of Miami*, 96 So. 2d 122, 125 (Fla. 1957) (Supreme Court of Florida reversing a rezoning restriction because the property no longer retained the features at the time the zoning ordinance was passed and the block where the property was located was a veritable island); *Olive v. City of Jacksonville*, 328 So. 2d 854, 856 (Fla. 1st DCA 1976) (court holding that to deny the appellants' commercial zoning classification would constitute reverse spot zoning and the subject property was a literal peninsula); *Manilow v. City of Miami Beach*, 213 So. 2d 589, 592-93 (Fla. 3d DCA 1968) (court holding that to deny relief to the property owner would constitute reverse spot zoning and the property, except for the northern most part, was similar to a "veritable island"); *Kugel v. City of Miami Beach*, 206 So. 2d 282, 285 (Fla. 3d DCA 1968) (court holding that since the character of the property had been changed by other actions of the municipality, the zoning regulation was arbitrary and could not be characterized as fairly debatable). Similar to the reverse spot zoning examples we have cited, Mr. Valdez's property is a veritable island or, at the very least, a peninsula in a sea of commercially zoned property that substantially diminishes or renders its value to be virtually

worthless as a residential property. *See City of Miami Beach v. Robbins*, 702 So. 2d 1329, 1330 (Fla. 3d DCA 1997).

Therefore, we grant certiorari because the Board's decision does not comport with the essential requirements of the law and results in a miscarriage of justice. *Haines City Cmty. Dev. V. Heggs*, 658 So. 2d 523, 528 (Fla. 1995). The County Commission's decision to sustain the Community Zoning Appeals Board's decision to deny Mr. Valdez's application for a boundary change from RU-1 (single family use) to RU-5A (semi-professional office district), or in the alternative a use variance to permit a RU-5A use in the RU-1 zoning district, is quashed. The matter is remanded to the Board with instructions to act in accordance with this opinion.

Certiorari granted.

SOTO and LEBAN, JJ., concur.

COPIES FURNISHED TO COUNSEL
OF RECORD AND TO ANY PARTY
NOT REPRESENTED BY COUNSEL

COPIES FURNISHED TO
COUNSEL OF RECORD AND
TO ANY PARTY NOT REPRESENTED
BY COUNSEL



Memorandum

Date: 01-FEB-11
To: Marc LaFerrier, Director
 Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
 Miami-Dade Fire Rescue Department
Subject: Z2005000364

Fire Prevention Unit:

No objection.

Service Impact/Demand

Development for the above Z2005000364
 located at 2425 SW 82 AVE, MIAMI-DADE COUNTY, FLORIDA.
 in Police Grid 1441 is proposed as the following:

<u>N/A</u>	dwelling units	<u>N/A</u>	square feet
residential		industrial	
<u>1,286</u>	square feet	<u>N/A</u>	square feet
Office		institutional	
<u>N/A</u>	square feet	<u>N/A</u>	square feet
Retail		nursing home/hospitals	

Based on this development information, estimated service impact is: 0.29 alarms-annually.
 The estimated average travel time is: 6:05 minutes

Existing services

The Fire station responding to an alarm in the proposed development will be:
 Station 3 - Tropical Park - 3911 SW 82 Avenue
 Rescue, ALS Engine

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:
 None.

Fire Planning Additional Comments

Current service impact calculated based on Letter of Intent dated November 8, 2005. Substantial changes to the Letter of Intent will require additional service impact analysis.

For information regarding the aforementioned comments, please contact the Miami-Dade Fire Rescue Department Planning Section at 786-331-4540.

BUILDING AND NEIGHBORHOOD
COMPLIANCE DEPARTMENT

ENFORCEMENT HISTORY OF VIOLATIONS OF CHAPTER 19 AND
CHAPTER 33 OF THE MIAMI-DADE COUNTY CODE

RENE MIGUEL VALDEZ

2425 SW 82 AVE, MIAMI-DADE
COUNTY, FLORIDA.

APPLICANT

ADDRESS

Z2005000364

HEARING NUMBER

HISTORY:

No current/open cases from Neighborhood Compliance and/or Building Divisions.
No prior cases from either division for the last 12 months.
None

**OUTSTANDING FINES, PENALTIES, COST OR LIENS
INCURRED PURSUANT TO CHAPTER 8CC:**

None

REPORTER NAME:

L. Cuellar

SURROUNDING PROPERTY

NORTH:

RU-2; TRAVEL AGENCY & INSURANCE OFFICE.

SOUTH:

RU-1; EXISTING GORUP HOME - 6 RESIDENTS.

EAST:

RU-1; SINGLE-FAMILY RESIDENCE.

WEST:

RU-1; SINGLE-FAMILY RESIDENCE & OFFICE USE.

SURROUNDING AREA

THE SUBJECT PROPERTY IS SURROUNDED BY OFFICE/RESIDENTIAL CONVERSIONS THAT HAVE BEEN GRANTED ON PARCELS FRONTING CORAL WAY LOCATED TO THE NORTH AND WEST OF SITE AND ONE STORY SINGLE FAMILY RESIDENCES TO THE EAST AND SOUTH.

NEIGHBORHOOD CHARACTERISTICS

THIS AREA IS CHARACTERIZED BY A NUMBER OF OFFICE/RESIDENTIAL CONVERSIONS THAT HAVE TAKEN PLACE ON PROPERTIES FRONTING CORAL WAY. HOWEVER, ALL OF THE AREA TO EAST AND SOUTH REMAINS RESIDENTIAL.

COMMENTS:

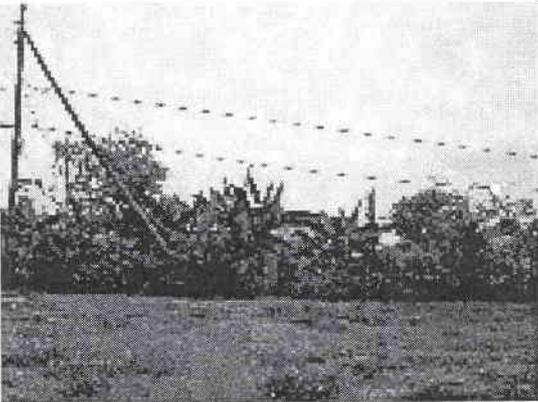
PICTURES OF SITE AND SURROUNDING AREA MAY BE VIEWED FROM THE WEST DADE FILE UNDER ZONING EVALUATION.

HASSUN 02/09/2011: ENFORCEMENT HISTORY UPDATED.

Inspector **MARTINEZ, RAMIRO**

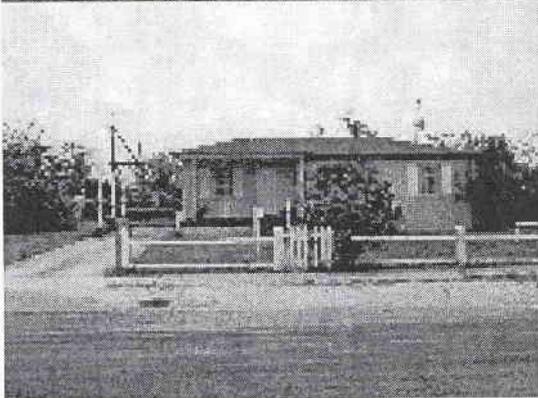
Evaluator **JAMES MURPHY**

Process Number: **Z2005000364** Applicant Name **RENE MIGUEL VALDEZ**



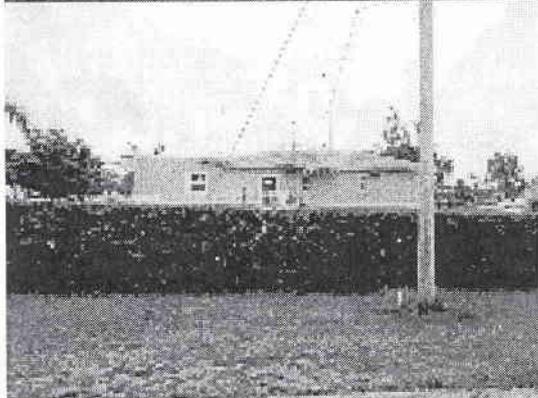
Date: 28-APR-06

Comments: East View From Backyard of Subject Property.



Date: 28-APR-06

Comments: Front View of Subject Property



Date: 28-APR-06

Comments: North View from Subject property - Travel Agency.

Inspector **MARTINEZ, RAMIRO**

Evaluator **JAMES MURPHY**

Process Number: **Z2005000364** Applicant Name **RENE MIGUEL VALDEZ**



Date: 28-APR-06

Comments: Northeast View from Subject Property - Insurance Office.



Date: 28-APR-06

Comments: South from Subject Property - adjacent residence.



Date: 28-APR-06

Comments: Southeast Corner View of Subject Property

Inspector **MARTINEZ, RAMIRO**

Evaluator **JAMES MURPHY**

Process Number: **Z2005000364** Applicant Name **RENE MIGUEL VALDEZ**



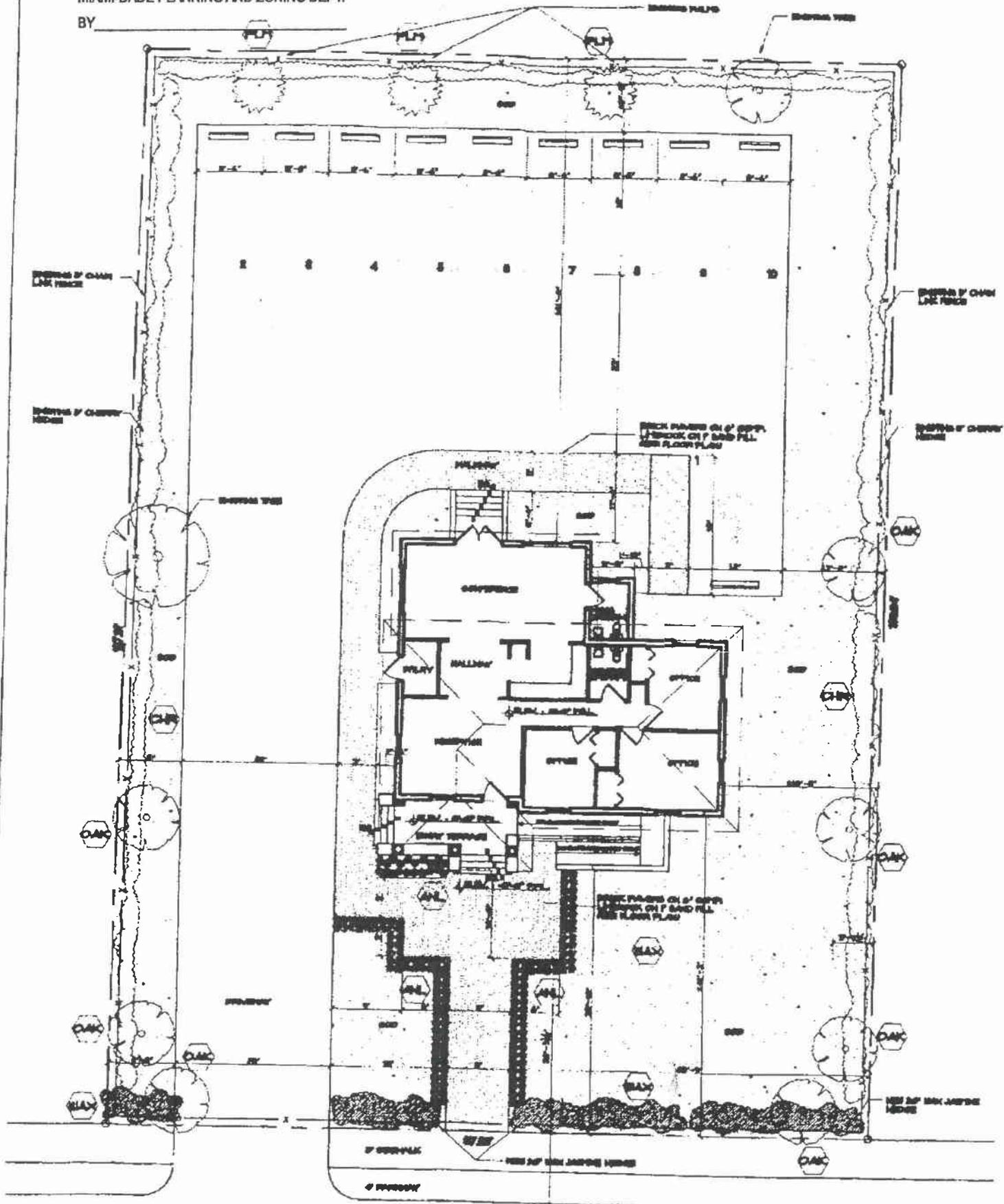
Date: 28-APR-06

Comments: West View From Subject Property.

RECEIVED
205.364
NOV 18 2015

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

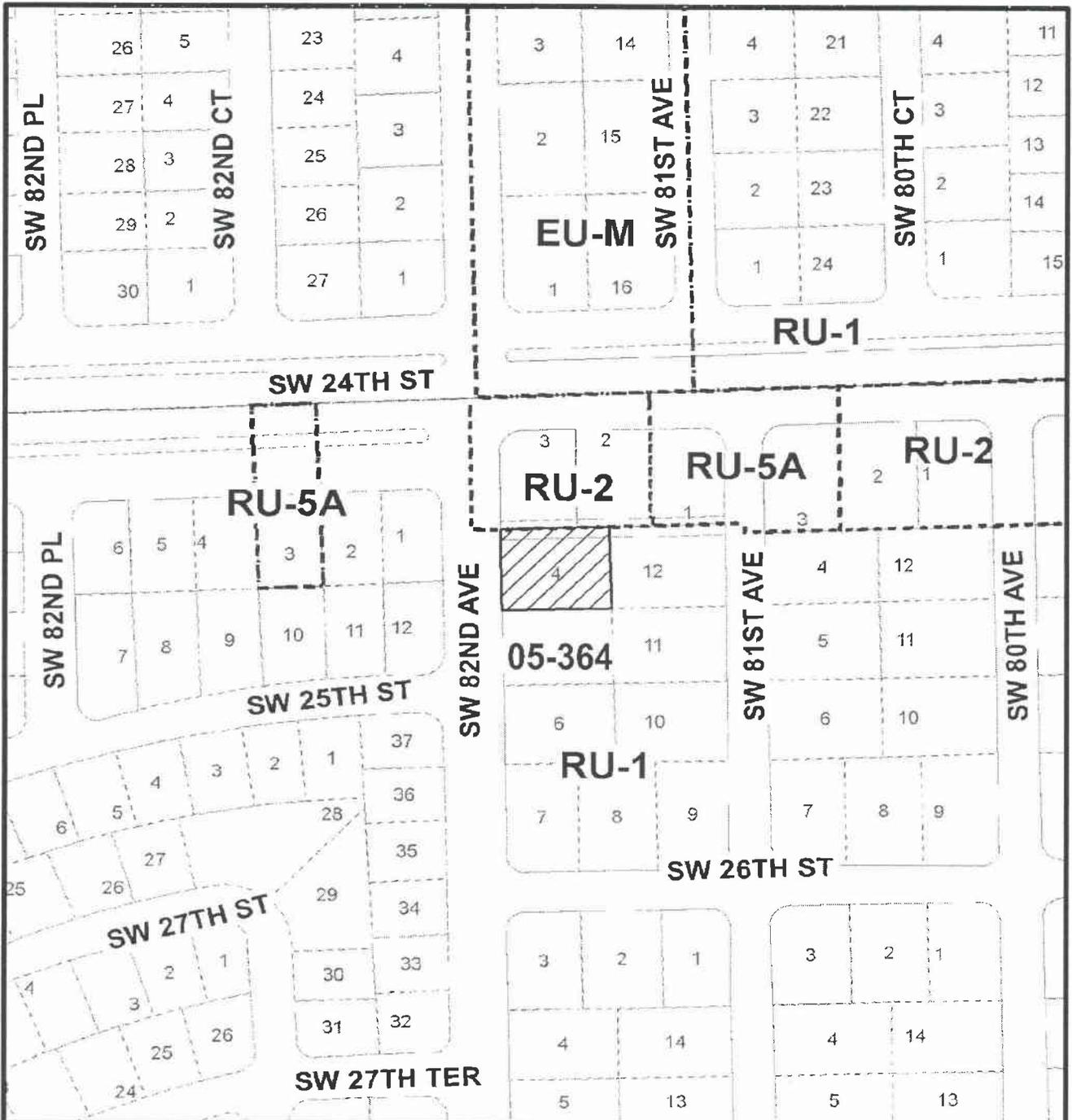
BY _____



ENLARGED SITE PLAN

SW 82nd AVE

46



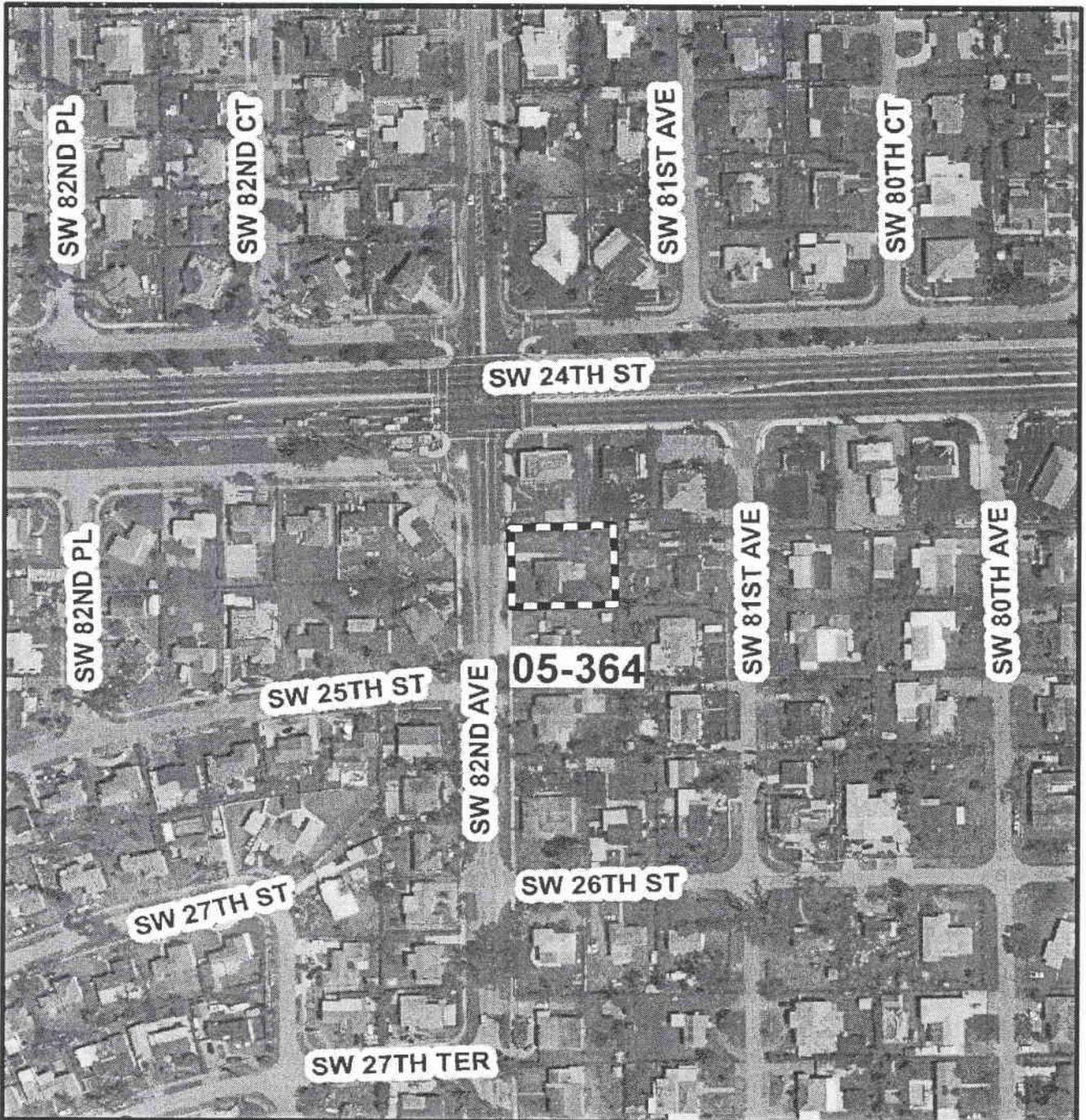
MIAMI-DADE COUNTY
HEARING MAP

Section: 15 Township: 54 Range: 40
 Process Number: 05-364
 Applicant: RENE MIGUEL VALDEZ
 Zoning Board: C10
 District Number: 10
 Drafter ID: ALFREDO
 Scale: 1:200'



 SUBJECT PROPERTY





MIAMI-DADE COUNTY
AERIAL

Section: 15 Township: 54 Range: 40
Process Number: 05-364
Applicant: RENE MIGUEL VALDEZ
Zoning Board: C10
District Number: 10
Drafter ID: ALFREDO
Scale: NTS



1. RENE MIGUEL VALDEZ
(Applicant)

06-10-CZ10-2 (05-364)
BCC/District 10
Hearing Date: 2/8/07

Property Owner (if different from applicant) **Same.**

Is there an option to purchase /lease the property predicated on the approval of the zoning request? Yes No

Disclosure of interest form attached? Yes No

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
				NONE

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS**

APPLICANT: Rene Miguel Valdez

PH: Z05-364 (06-10-CZ10-2)

SECTION: 15-54-40

DATE: February 8, 2007

COMMISSION DISTRICT: 10

ITEM NO.: 1

A. INTRODUCTION

o **REQUESTS:**

Rene Miguel Valdez is appealing the decision of the Community Zoning Appeals Board #10 which denied with prejudice the following:

- (1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

- (2) Use Variance to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Zoning Department entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated 4/22/04. Plans may be modified at public hearing.

o **SUMMARY OF REQUESTS:**

The applicant is appealing the decision of the Community Zoning Appeals Board-10 that denied with prejudice a request to change the zoning on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, or in the alternative, seeks a use variance to permit office uses in the RU-1 zoning district.

- o **LOCATION:** 2425 SW 82 Avenue, Miami-Dade County, Florida.

- o **SIZE:** 0.307 Acres

- o **IMPACT:**

Approval of this application will allow the applicant to provide semi-professional office space for the community. However, the approval could adversely impact the abutting residential properties and could bring additional traffic and noise to the surrounding area.

B. ZONING HEARINGS HISTORY: None.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

- 1. The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Low Density Residential** use.

The residential densities allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre. This density category is generally characterized by single family housing, e.g., single family detached, cluster and townhouses. It could include low-rise apartments with extensive surrounding open space or a mixture of housing types provided that the maximum gross density is not exceeded.

2. Existing lawful residential and non-residential uses and zoning are not specifically depicted on the LUP map. They are however reflected in the average Plan Density depicted. All such lawful uses and zoning are deemed to be consistent with this Plan as provided in the section of this CDMP titled "Concepts and Limitations of the Land Use Plan Map." The limitation referenced in this paragraph pertain to existing zoning and uses. All approval of new zoning must be consistent with the provisions of the specific category in which the subject parcel exists, including the provisions for density averaging and definition of gross density.
3. **Office uses** smaller than five acres in size may be approved in areas designated as Residential Communities where other office, business or industrial use(s) which are not inconsistent with this plan already lawfully exist on the same block face. However, where such an office, business, or industrial use exists only on a corner lot of a subject block face or block end, approval of office use elsewhere on the block is limited to the one block face or block end which is the more heavily trafficked side of the referenced corner lot. Office uses may be approved on such sites only if consistent with the objectives and policies of the CDMP and the use or zoning district would not have an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by maintaining operating hours, outdoor lighting or signage out of character with the neighborhood; by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the natural environment including air, water and living resources; or where the character of the buildings, including height, bulk, scale, floor area ratio or design would be out of scale with the character of the neighboring uses or would detrimentally impact the surrounding area. In applying this provision, the maximum limits of an eligible residentially designated block face along which office uses may be extended shall not extend beyond the first intersecting public or private street, whether existing, platted or projected to be necessary to provide access to other property, or beyond the first railroad right-of-way, utility transmission easement or right-of-way exceeding 60 feet in width, canal, lake, public school, church, park, golf course or major recreational facility.

In addition, office uses may be approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations set forth in this paragraph. These office uses may occur in combination with or independent of residential use. Such limited office uses may be approved on such sites in residential community areas only where: a) the residential lot fronts directly

on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not eligible for consideration); b) the lot or site size does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does subject frontage face such an Estate Density area. Office use approvals, pursuant to this paragraph may only authorize: a) conversion of an existing residence into an office; b) addition of an office use to an existing residence; or, c) the construction of a new office building on lots which were finally platted prior to March 25, 1991 in a size one acre or smaller. Additionally, such office uses may be approved only if the scale and character of the prospective office use are compatible with the surrounding residential neighborhood and if the site has sufficient dimensions to permit adequate on-site parking and buffering of adjacent residences from the office. Other factors that will be considered in determining compatibility include, but are not limited to traffic, noise, lighting, shadows, access, signage, landscaping, and hours of operation. Signage shall be restricted both in size, style, and location to preclude a commercial appearance. Landscaping and buffering of adjacent residences and rear properties will be required. Emphasis shall be placed on retention of the general architectural style of the area, where the area is sound and attractive. Development Orders authorizing the conversion of existing homes into offices, the addition of offices to existing residences or the construction of new buildings encompassing office uses pursuant to this paragraph may be approved only where compatible and where the intensity and character of the new building including gross floor area, lot coverage and height, will be consistent with the homes which exist or which could be built on the immediately adjacent parcels.

4. **Policy LU-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.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE PLAN DESIGNATION

Subject Property:

RU-1; Single-family residence

Low Density Residential, 2.5 to 6 dua

Surrounding Properties:

NORTH: RU-2; Travel agency and
Insurance company

Low Density Residential, 2.5 to 6 dua

SOUTH: RU-1; Group home

Low Density Residential, 2.5 to 6 dua

EAST: RU-1; Single-family residence

Low Density Residential, 2.5 to 6 dua

WEST: RU-1; Office and
Single-family residence

Low Density Residential, 2.5 to 6 dua

The subject property is located at 2425 SW 82 Avenue. Office/residential conversions, and single-family homes characterize the surrounding area.

E. SITE AND BUILDINGS:

Site Plan Review:	(Site plans submitted.)
Scale/Utilization of Site:	Unacceptable
Location of Buildings:	Acceptable
Compatibility:	Unacceptable
Landscape Treatment:	Acceptable
Open Space:	Acceptable
Buffering:	Acceptable
Access:	Acceptable
Parking Layout/Circulation:	Acceptable
Visibility/Visual Screening:	Acceptable
Energy Considerations:	N/A
Roof Installations:	N/A
Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

In evaluating an application for a **district boundary change**, **Section 33-311** provides that the Board take into consideration, among other factors, the extent to which:

- (1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;
- (2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;
- (3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;
- (4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;

- (5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

Section 33-311(A)(4)(a) Use Variance. The Board shall hear and grant applications for **use variances** from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum use variance that will permit the reasonable use of the premises. A "use variance" is a variance which permits a use of land other than which is prescribed by the zoning regulations and shall include a change in permitted density.

G. NEIGHBORHOOD SERVICES:

DERM	No objection*
Public Works	No objection*
Parks	No comment
MDTA	No comment
Fire Rescue	No objection
Police	No objection
Schools	No comment

*Subject to the conditions indicated in their memoranda.

H. ANALYSIS:

On October 17, 2006, pursuant to Resolution CZAB10-62-06, the Community Zoning Appeals Board – 10 (CZAB-10) denied with prejudice this application by a vote of 5 to 0. On November 6, 2006, the applicant appealed the CZAB-10's decision. The applicant indicated on the appeal application that the subject property fronts on SW 82 Avenue, a half section-line road, and is located one lot to the south of the SW 24 Street (Coral Way). Additionally, the applicant notes that the subject property is affected by substantial traffic along this portion of SW 82 Avenue, and indicates that the subject property is impacted by the neighboring office uses found to the north and west, and by the adult congregate living facility to the south. The applicant maintains that that the property is no longer appropriate for residential use. Staff notes that all existing uses and zoning are consistent with the CDMP. As such, the CZAB-10's decision to deny this application and retain the existing RU-1 zoning on the subject property is **consistent** with the CDMP.

The subject property is located at 2425 SW 82 Avenue, approximately 140' south of SW 24 Street (Coral Way), in an area characterized by single-family homes and office/residential conversions. The 0.307-acre subject site is currently improved with a one-story single-family residence. The applicant seeks to change the zoning on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, or in the alternative, to permit RU-5A uses in the RU-1 zoning

district. RU-5A uses include, but are not limited to, office buildings for accountants, architects, attorneys, dentists, medical doctors, notary publics, real estate, and travel agencies as well as banks without drive-in teller facilities. However, the applicant has proffered a covenant restricting the development of the site to the plans submitted and restricting the office use on the site to only that of an architect's office. Plans submitted by the applicant demonstrate that the subject site is adequately sized to accommodate all RU-5A zoning requirements for setbacks and lot coverage, including the compulsory parking requirements needed for office use.

The Department of Environmental Resources Management (**DERM**) has **no objections** to this application and has indicated that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County. The **Public Works Department** has **no objections** to this application and has indicated that this application does not generate any additional daily peak hour vehicle trips. However, the following conditions will need to be addressed at time of permitting: that parking space #10 have 5' of aisle end back-out, and that landscaping and fences must comply with safe-site distance triangle requirements.

Approval of either request would allow the applicant to provide semi-professional office services for the community. This area is designated for **Low Density Residential** use on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). The CDMP provides that office uses may be approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations set forth in the CDMP. These office uses may occur in combination with or independent of residential use. Such limited office uses may be approved on such sites in residential community areas only where: a) the residential lot fronts directly on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not eligible for consideration); b) the lot or site size does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does the subject frontage face such an Estate Density area. The subject property does not meet the aforementioned criteria of the Master Plan for approval of office uses within residential designations although the subject property is less than one acre in size and is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential. However, although the subject property is located on a half-section line roadway (SW 82 Avenue) it does not front on a "major roadway" as designated on the Land Use Plan map.

The Master Plan also indicates that where other office, business or industrial uses exist on the same block face, approval of similar requests may be granted. However, where such an office, business or industrial use exists on a corner lot of a subject block face or block end, approval of office uses elsewhere on the block is limited to the one block face or block end which is the more heavily trafficked side of the referenced corner lot. One of the two neighboring parcels to the north, situated on the corner of SW 82 Avenue and Coral Way, was granted a use variance to permit all RU-5A uses in an RU-1 zone, pursuant to Resolution No. #Z-192-90; but cannot be considered as part of the same block face where the subject property lies, since it fronts Coral Way, the more heavily trafficked side. Moreover, Resolution No. 4-ZAB-133-71 also approved a use variance on the other neighboring parcel to the north of the subject property also facing Coral Way. Additionally, the parcel to the south of the subject property on the same block face has an

existing group home which staff notes is a permitted RU-1 use, is considered a single-family residential use and is limited to no more than 6 people residing on the premises. Therefore, staff is of the opinion that the introduction of RU-5A uses south of Coral Way along SW 82 Avenue would detrimentally impact the existing residential uses that are predominantly found in the area and would set a negative precedent for semi-professional office uses along non-major roadways. Further, the introduction of an office use will promote incompatible zoning and set a negative precedent for land use and building intensification in an established residential area. Moreover, the proposed rezoning to RU-5A would not be in keeping with Policy LU-4C of the CDMP that states that residential neighborhoods shall be protected from intrusion by uses that would disrupt or degrade the health, safety, tranquility and overall welfare of the neighborhood. As such, staff is of the opinion that the proposed RU-5A rezoning would be **incompatible** with the surrounding area and **inconsistent** with the CDMP.

When considering district boundary changes, the Board shall hear and grant or deny applications by taking into consideration if the proposed development conforms to the Comprehensive Development Master Plan for Miami-Dade County. As previously mentioned, the proposed development would be **inconsistent** with the interpretative text of the CDMP and **incompatible** with the neighboring residential area to the south, east and west of the subject property. Staff acknowledges that the proposed architect's office will not have an unfavorable impact on the water, sewer, solid waste disposal, or other public services and will not have an unfavorable impact on the environment as indicated by the memorandum submitted by DERM. Additionally when considering zone changes, the Board shall consider if the development will have a favorable or unfavorable impact on the economy of Miami-Dade County. The approval of this application will not have an unfavorable impact on the economy nor on the environmental and natural resources of Miami-Dade County. Furthermore, the proposed development does not unduly burden or affect public transportation facilities as indicated in the Public Works Department's memorandum submitted for this application. The applicant seeks to change the zoning on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, to allow the applicant to provide semi-professional office services for the community. The applicant has proffered a covenant specifically restricting the office use on the site to that of an architect's office. Most of the single-family residential lots fronting on SW 24 Street, between SW 82 Place and SW 79 Court, have gradually converted to non-residential uses and offices. Specific research indicates that of the 15 lots that front on Coral Way between those four blocks, only three lots are still in residential use; numerous public hearings have approved use variances as early as 1963 and as recent as an RU-5A district boundary change approval in 2005. Most, if not all, of these land use conversions are due to the increase in traffic and noise associated with Coral Way, which over the years have negatively impacted the quality of life of residents with homes fronting said corridor. Additionally, the placement of office uses is better located where traffic activity is intense and the roadway is well traveled, as opposed to having residences front such a busy vehicular corridor. However, the proposed office use will not occur on Coral Way as the subject site fronts on SW 82 Avenue, is separated from Coral Way by another property, and is neighbored by two RU-1 zoned properties, one to the east and one to the south. As previously mentioned, the current use of the neighboring property to the south is a residential group home, permissible within the RU-1 zoning district and considered a single-family residential use. As indicated in the submitted plans, the 10 proposed parking spaces are located along the eastern property

line. Staff is of the opinion that approval of the requested zone change would begin a trend to approve semi-professional office uses southward along SW 82 Avenue, and would serve as a precedent to deteriorate the established residential area found to the south along SW 82 Avenue. Therefore, staff opines that office uses and, where applicable, RU-5A zoning should be limited to those lots fronting on SW 24 Street (Coral Way) and as such, staff opines that the proposed RU-5A use would be **incompatible** with the adjacent residential area.

In the alternative to the district boundary change (request #1), the applicant is requesting a use variance to permit RU-5A uses in the RU-1 zone. A use variance, as stated in Section 33-311(A)(4)(a), is a variance which permits a use of land other than that which is prescribed by the zoning regulations. As previously mentioned, use variances were approved on two parcels of land abutting the subject property to the north, pursuant to Resolution Nos. Z-192-90 and 4-ZAB-133-71. However, these two properties front on Coral Way. Research indicates that no other property in the same block face fronting on SW 82 Avenue has been granted a use variance allowing RU-5A uses. Section 33-311(A)(4)(a) also states that the Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulations. Because the applicant has not demonstrated that special conditions exist related to the subject site where the literal enforcement of the Zoning Code provisions would not permit the reasonable use of the land, and because the subject property can be utilized for single-family residential use under the present RU-1 zoning, staff opines that no unnecessary hardship exists. Therefore, the use variance request does not meet the standards set forth in Section 33-311(A)(4)(a) and should be denied without prejudice under same.

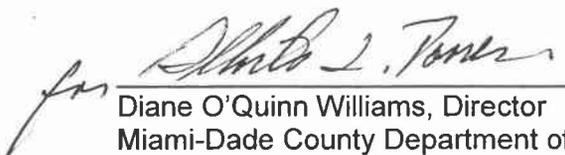
Based on the foregoing, staff is of the opinion that the proposed RU-5A rezoning (request #1), and the alternative request for a use variance to permit RU-5A uses in the RU-1 zone (request #2), would be **incompatible** with the surrounding area and **inconsistent** with the CDMP. Therefore, staff recommends denial without prejudice of this application.

I. RECOMMENDATION:

Denial without prejudice of the appeal and denial without prejudice of the application.

J. CONDITIONS: None.

DATE INSPECTED: 04/28/06
DATE TYPED: 08/22/06
DATE REVISED: 08/24/06; 09/01/06; 09/06/06; 09/14/06; 10/04/06; 11/20/06;
11/30/06; 01/23/07
DATE FINALIZED: 01/23/06
DO:QW:AJT:MTF:LVT:JCH:JGM


Diane O'Quinn Williams, Director
Miami-Dade County Department of
Planning and Zoning

Memorandum



Date: April 6, 2006

To: Diane O'Quinn-Williams, Director
Department of Planning and Zoning

From: Jose Gonzalez, P.E., Assistant Director
Environmental Resources Management

Subject: C-10 #Z2005000364-Revised
Rene Miguel Valdez
2425 SW 82nd Avenue
District Boundary Change from RU-1 to RU-5A
(RU-1) (0.31 Ac.)
15-54-40

RECEIVED
APR 10 2006

MIAMI-DADE COUNTY
DIRECTOR'S OFFICE
DEPT. OF PLANNING & ZONING

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code). Accordingly, DERM may approve the application, and the same may be scheduled for public hearing.

Potable Water Service:

Public water can be made available to the subject property. Therefore, connection of the proposed development to the public water supply system shall be required, in accordance with Code requirements.

Existing public water facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards, subject to compliance with the conditions required by DERM for this proposed development order.

Wastewater Disposal:

Public sanitary sewers are not available for connection to the subject property. Consequently, any proposed development would have to be served by a septic tank and drainfield as a means for the disposal of domestic liquid waste.

DERM would not object to the continued use of a septic tank and drainfield system provided that the site is connected to the public water supply system and the proposed development meets the sewage loading requirements of Section 24-43.1(4) of the Code. Based upon the available information, the proposal meets said requirements. Furthermore, since the proposed request is for a non-residential land use, the property owner has submitted a properly executed covenant running with the land in favor of Miami-Dade County, as required by Section 24-43.1(4)(a) of the Code, which provides that the only liquid waste, less and except the exclusions contained therein, which shall be generated, disposed of, discharged or stored on the property, shall be domestic sewage discharged into a septic tank.

Notwithstanding the foregoing, the applicant is advised that certain land uses, such as medical offices utilizing x-ray equipment, and others that generate liquid waste other than domestic sewage, cannot be permitted by DERM since it would violate the aforesaid Code Section and would also violate the

covenant. Approval of land uses that are not compatible with the usage of a septic tank and drainfield system as a means for the disposal of the domestic liquid waste, would require a variance from the Environmental Quality Control Board (EQCB) from the aforesaid Code Section.

Stormwater Management:

Site grading and development shall comply with the requirements of Chapter 11C of the Code.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the LOS standards for flood protection set forth in the CDMP, subject to compliance with the conditions required by DERM for this proposed development order.

Wetlands:

The subject property does not contain jurisdictional wetlands, as defined by Section 24-5 of the Code. Therefore, a Class IV Wetland Permit will not be required.

The applicant is advised that permits from the Army Corps of Engineers (305-526-7181), the Florida Department of Environmental Protection (561-681-6600), and the South Florida Water Management District (1-800-432-2045) may be required for the proposed project. It is the applicant's responsibility to contact these agencies.

Tree Preservation:

The subject property contains tree resources. Section 24-49 of the Code requires the preservation of tree resources. A Miami-Dade County Tree Removal Permit is required prior to the removal or relocation of any trees. A tree survey showing all the tree resources on-site will be required prior to reviewing the tree removal permit application. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Enforcement History:

DERM has reviewed the Permits and Enforcement database and the Enforcement Case Tracking System, and has found no open or closed formal enforcement records for the subject properties identified in the subject application.

Concurrency Review Summary:

DERM has conducted a concurrency review for this application, and has determined that the same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal, and flood protection. Therefore, the application has been approved for concurrency, subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement, and is valid only for this initial development order, as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

In summary, the application meets the minimum requirements of Chapter 24 of the Code and therefore, may be scheduled for public hearing. Furthermore, this memorandum shall constitute DERM's written approval to that effect, as required by the Code.

cc: Lynne Talleda, Zoning Evaluation-P&Z
Ron Connally, Zoning Hearings- P&Z
Franklin Gutierrez, Zoning Agenda Coordinator-P&Z

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: RENE MIGUEL VALDEZ

This Department has no objections to this application subject to the following:

Parking space #10 must have 5 feet of aisle end back-out at time of permitting.

Landscaping and fences must comply with safe site distance triangle requirements set forth in Sec. 33-11 of the Miami-Dade County Code.

The proposed use of this application generates the same number of vehicle trips as the existing usage and will not generate any new vehicle trips; therefore this application meets the Initial Traffic Concurrence Criteria.



Raul A Pino, P.L.S.

05-DEC-05

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

CHECKED BY AV AMOUNT OF FEE \$ 1,902.⁸²

RECEIPT # I 200621126

DATE HEARD: 10 17 06

BY CZAB # 10

RECEIVED
05-364
NOV 06 2006

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY _____ 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. 06-10-C210-2 (05-364)

Filed in the name of (Applicant) Rene Miguel Valdes

Name of Appellant, if other than applicant _____

Address/Location of APPELLANT'S property: 2425 S.W. 82nd Avenue

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

Entire Appealable Application

Appellant (name): Rene Miguel Valdes

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)

The property fronts on SW 82 Avenue, a half-section line road. The property is one lot removed from the intersection of Coral Way (S.W. 24th Street). This section of SW 82 Avenue is affected by substantial traffic. The property is also impacted by office use to the south and west, and an adult congregate living facility to the north. The property is no longer appropriate for residential use.

APPELLANT MUST SIGN THIS PAGE

Date: 6 day of November, year: 2008

Signed

[Signature]

René M. Valdes

Print Name

2425 SW 82 AVE MIAMI, FL 331

Mailing Address

(305) 579-0644 (305) 961-5644

Phone

Fax

REPRESENTATIVE'S AFFIDAVIT

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

[Signature]
Representing

[Signature]
Signature

Simon Ferru

Print Name

1221 Buckel Ave

Address

Miami FL 33131

City

State

Zip

305 579-0644

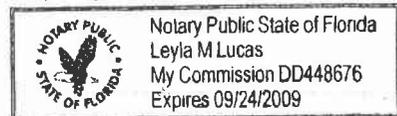
Telephone Number

Subscribed and Sworn to before me on the 6 day of November, year 2008

[Signature]
Notary Public

(stamp/seal)

Commission expires:



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 Rene M. Valdes
(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 objections, waivers 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:

<u>[Signature]</u> Signature	<u>Rene M. Valdes</u> Appellant's signature
---------------------------------	--

Simon Ferry
Print Name

Rene M. Valdes
Print Name

Leyla M. Lucas
Signature

Leyla M. Lucas
Print Name

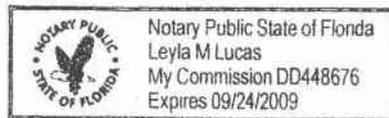
Sworn to and subscribed before me on the 6 day of November, year 2008

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

[Signature]
Notary
(Stamp/Seal)

Commission Expires:

[b:forms/affidapl.sam(11/03)]



RESOLUTION NO. CZAB10-62-06

WHEREAS, **RENE MIGUEL VALDEZ** applied for the following:

- (1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

- (2) USE VARIANCE to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Zoning Department entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated 4/22/04.

SUBJECT PROPERTY: Lot 4, Block 8, CORAL WAY HOMESITES, Plat book 46, Page 21.

LOCATION: 2425 S.W. 82 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 10 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, 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 RU-5A (Item #1), or in the alternative, the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) 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

WHEREAS, a motion to deny Items #1 & 2 with prejudice was offered by Julio R. Caceres, seconded by Jose Garrido, and upon a poll of the members present the vote was as follows:

Juan Carlos Acosta	aye	Manuel Casas	aye
Javier A. Betancourt	absent	Jose Garrido	aye
Julio R. Caceres	aye		
	Carlos A. Manrique		aye

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 10, that the requested district boundary change to RU-5A (Item #1), be and the same is hereby denied with prejudice.

BE IT FURTHER RESOLVED, that the requested use variance to permit RU-5A uses in the RU-1 zone (Item #2) be and the same is hereby denied with prejudice.

The Director is hereby authorized to make the necessary notations upon the records of the Miami-Dade County Department of Planning and Zoning.

PASSED AND ADOPTED this 17th day of October, 2006.

Hearing No. 06-10-CZ10-2
ls

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Luis Salvat, 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 Miami-Dade County Community Zoning Appeals Board 10, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB10-62-06 adopted by said Community Zoning Appeals Board at its meeting held on the 17th day of October 2006.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 24th day of October 2006.



Luis Salvat, Deputy Clerk (2678)
Miami-Dade County Department of Planning and Zoning



Memorandum



Date: 17-NOV-05
To: Diane O'Quinn Williams, Director
Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue
Subject: Z2005000364

Fire Prevention Unit:

Fire Water & Engineering has no objection to plans presented with letter of intent dated November 8 2005. Applicant must submit changes to this plan for review and approval.

Service Impact/Demand:

Development for the above Z2005000364
located at 2425 SW 82 AVE
in Police Grid 1441 is proposed as the following:

<u> </u> single	dwelling units	<u> </u> industrial	square feet
<u> </u> multifamily	dwelling units	<u> </u> institutional	square feet
<u>1,286</u> commercial	square feet	<u> </u> nursing home	square feet

Based on this development information, estimated service impact is: 0.33 alarms-annually.

Existing services:

The Fire station responding to an alarm in the proposed development will be:
Station 3 - Tropical Park - 3911 SW 82 Avenue
Rescue, ALS Engine

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:
Station 13 - East Kendall - 6000 SW 87 Ave. April 07

Fire Planning Additional Comments:

Current service impact calculated based on letter of intent dated November 8 2005. Substantial changes to the letter of intent will require additional service impact analysis.

TEAM METRO

ENFORCEMENT HISTORY

RENE MIGUEL VALDEZ

2425 SW 82 AVE, MIAMI-DADE
COUNTY, FLORIDA.

APPLICANT

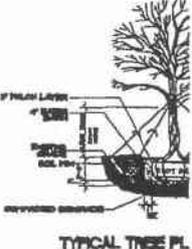
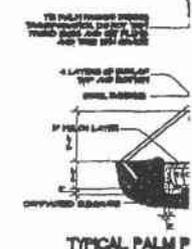
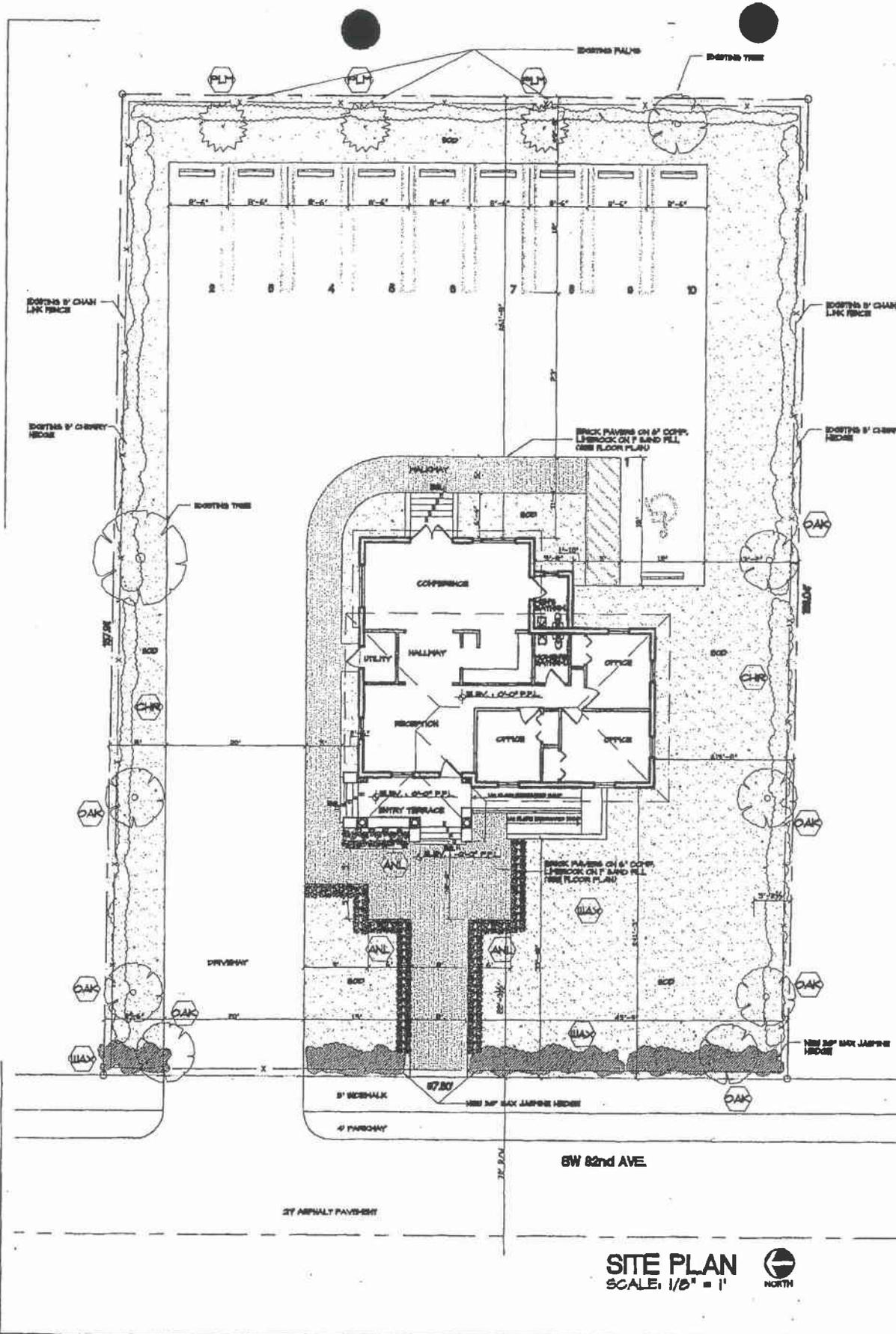
ADDRESS

Z2005000364

HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

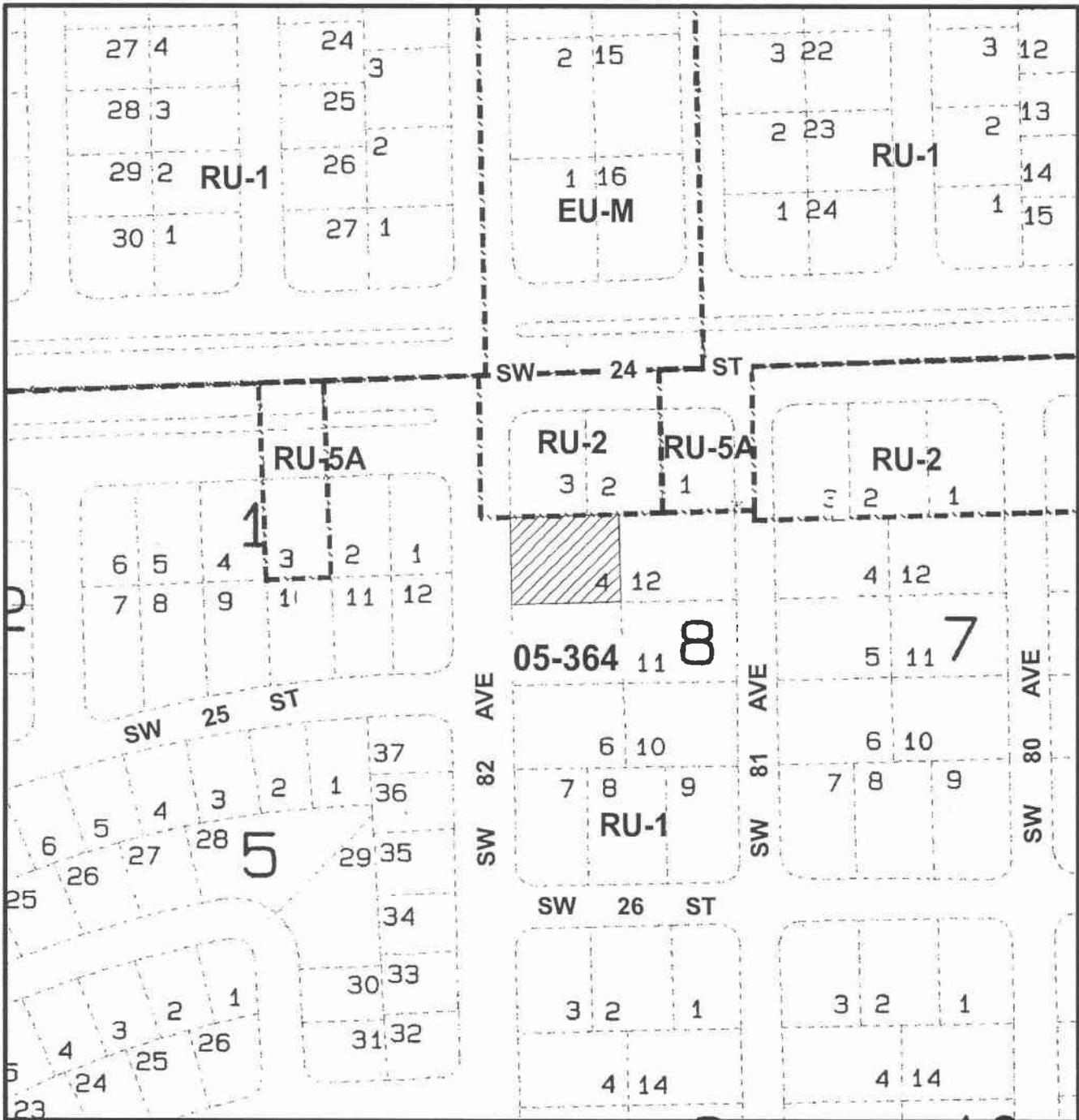
No open cases. No current violations.



- LANDSCAPE NOTES**
01. Non Cypress variety shall be used in border if contract is 1/2\"/>
 02. All plants shall meet the above standard plants as published by the Division of Parks.
 03. All shrubs to be planted a minimum of 24\"/>
 04. All trees and palms over 8' in height shall be planted. Other trees to be planted, shall be planted at 18\"/>
 05. All plants except the cypress shall be to the best of care, during or any damage caused.
 06. All work by the Landscape Contractor shall be done in accordance with the Landscape Manual.
 07. Landscape Contractor is responsible for any damage to existing plants, but conditions necessary for the successful completion of the work shall be based on final marking drawings.
 08. Landscape Contractor and his subcontractors or any labor governmental agency receiving a work.
 09. All work shall conform to Miami-Dade County landscape ordinance in effect at the time of work.
 10. Street trees, if part of the contract work.
 11. Landscape Contractor is required to give the property owner or neighbors, 14 days notice of any work to be done on the property.
 12. Landscape material shall not be allowed to be placed on the property or adjacent, so as to cause damage.
 13. Landscape contractor shall call 311 for any work.

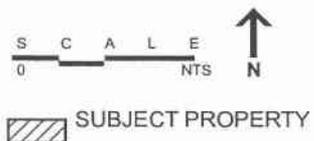
SITE PLAN
SCALE: 1/8" = 1'

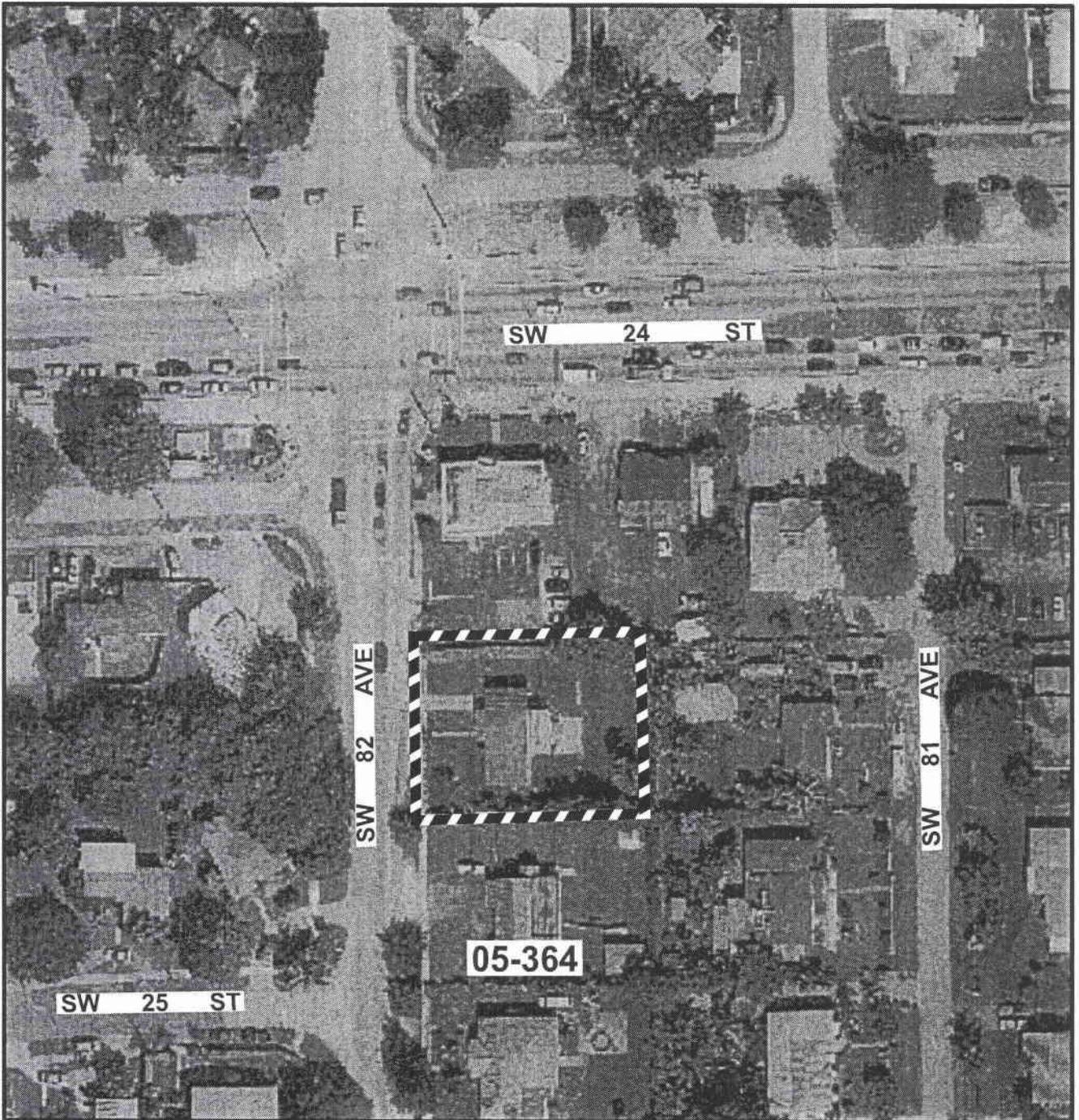




**MIAMI-DADE COUNTY
HEARING MAP**

Section: 15 Township: 54 Range: 40
 Process Number: 05-364
 Applicant: RENE MIGUEL VALDEZ
 Zoning Board: C10
 District Number: 10
 Drafter ID: ALFREDO
 Scale: 1:200'





MIAMI-DADE COUNTY
AERIAL

Section: 15 Township: 54 Range: 40
Process Number: 05-364
Applicant: RENE MIGUEL VALDEZ
Zoning Board: C10
District Number: 10
Drafter ID: ALFREDO
Scale: NTS

SCALE
0 NTS

↑
N

 SUBJECT PROPERTY



2. RENE MIGUEL VALDEZ
(Applicant)

06-10-CZ10-2 (05-364)
Area 10/District 10
Hearing Date: 10/17/06

Property Owner (if different from applicant) Same.

Is there an option to purchase /lease the property predicated on the approval of the zoning request?
Yes No

Disclosure of interest form attached? Yes No

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
				NONE

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions to approve or deny an Intermediate or Final Development Order on any grounds.

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO COMMUNITY COUNCIL No. 10**

APPLICANT: Rene Miguel Valdez

PH: Z05-364 (06-10-CZ10-2)

SECTION: 15-54-40

DATE: October 17, 2006

COMMISSION DISTRICT: 10

ITEM NO.: 2

=====

A. INTRODUCTION

o **REQUESTS:**

(1) RU-1 to RU-5A

OR IN THE ALTERNATIVE:

(2) USE VARIANCE to permit RU-5A uses in the RU-1 zone.

Plans are on file and may be examined in the Zoning Department entitled "Proposed RU-5A Zoning for Rene Miguel Valdes," as prepared by G. J. R. Architects, consisting of 2 sheets, dated 4/22/04. Plans may be modified at public hearing.

o **SUMMARY OF REQUESTS:**

The applicant seeks to change the zoning on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, or in the alternative, seeks a use variance to permit office uses in the RU-1 zoning district.

o **LOCATION:** 2425 SW 82 Avenue, Miami-Dade County, Florida.

o **SIZE:** 0.307 Acres

o **IMPACT:**

Approval of this application will allow the applicant to provide semi-professional office services for the community. However, the approval could adversely impact the abutting residential properties and could bring additional noise to the surrounding area.

B. ZONING HEARINGS HISTORY: None.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

1. The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for **Low Density Residential** use. The residential densities allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre. This density category is generally characterized by single family housing, e.g., single family detached, cluster and townhouses. It could include low-rise apartments with extensive

surrounding open space or a mixture of housing types provided that the maximum gross density is not exceeded.

2. Existing lawful residential and non-residential uses and zoning are not specifically depicted on the LUP map. They are however reflected in the average Plan Density depicted. All such lawful uses and zoning are deemed to be consistent with this Plan as provided in the section of this CDMP titled "Concepts and Limitations of the Land Use Plan Map." The limitation referenced in this paragraph pertain to existing zoning and uses. All approval of new zoning must be consistent with the provisions of the specific category in which the subject parcel exists, including the provisions for density averaging and definition of gross density.
3. **Office uses** smaller than five acres in size may be approved in areas designated as Residential Communities where other office, business or industrial use(s) which are not inconsistent with this plan already lawfully exist on the same block face. However, where such an office, business, or industrial use exists only on a corner lot of a subject block face or block end, approval of office use elsewhere on the block is limited to the one block face or block end which is the more heavily trafficked side of the referenced corner lot. Office uses may be approved on such sites only if consistent with the objectives and policies of the CDMP and the use or zoning district would not have an unfavorable effect on the surrounding area: by causing an undue burden on transportation facilities including roadways and mass transit or other utilities and services including water, sewer, drainage, fire, rescue, police and schools; by providing inadequate off-street parking, service or loading areas; by maintaining operating hours, outdoor lighting or signage out of character with the neighborhood; by creating traffic, noise, odor, dust or glare out of character with the neighborhood; by posing a threat to the natural environment including air, water and living resources; or where the character of the buildings, including height, bulk, scale, floor area ratio or design would be out of scale with the character of the neighboring uses or would detrimentally impact the surrounding area. In applying this provision, the maximum limits of an eligible residentially designated block face along which office uses may be extended shall not extend beyond the first intersecting public or private street, whether existing, platted or projected to be necessary to provide access to other property, or beyond the first railroad right-of-way, utility transmission easement or right-of-way exceeding 60 feet in width, canal, lake, public school, church, park, golf course or major recreational facility.

In addition, office uses may be approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations set forth in this paragraph. These office uses may occur in combination with or independent of residential use. Such limited office uses may be approved on such sites in residential community areas only where: a) the residential lot fronts directly on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not eligible for consideration); b) the lot or site size does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does subject frontage face such an

Estate Density area. Office use approvals, pursuant to this paragraph may only authorize: a) conversion of an existing residence into an office; b) addition of an office use to an existing residence; or, c) the construction of a new office building on lots which were finally platted prior to March 25, 1991 in a size one acre or smaller. Additionally, such office uses may be approved only if the scale and character of the prospective office use are compatible with the surrounding residential neighborhood and if the site has sufficient dimensions to permit adequate on-site parking and buffering of adjacent residences from the office. Other factors that will be considered in determining compatibility include, but are not limited to traffic, noise, lighting, shadows, access, signage, landscaping, and hours of operation. Signage shall be restricted both in size, style, and location to preclude a commercial appearance. Landscaping and buffering of adjacent residences and rear properties will be required. Emphasis shall be placed on retention of the general architectural style of the area, where the area is sound and attractive. Development Orders authorizing the conversion of existing homes into offices, the addition of offices to existing residences or the construction of new buildings encompassing office uses pursuant to this paragraph may be approved only where compatible and where the intensity and character of the new building including gross floor area, lot coverage and height, will be consistent with the homes which exist or which could be built on the immediately adjacent parcels.

4. **Policy LU-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.

D. NEIGHBORHOOD CHARACTERISTICS:

<u>ZONING</u>	<u>LAND USE PLAN DESIGNATION</u>
<u>Subject Property:</u>	
RU-1; Single-family residence	Low Density Residential, 2.5 to 6 dua
<u>Surrounding Properties:</u>	
<u>NORTH:</u> RU-2; Travel agency and Insurance company	Low Density Residential, 2.5 to 6 dua
<u>SOUTH:</u> RU-1; Group home	Low Density Residential, 2.5 to 6 dua
<u>EAST:</u> RU-1; Single-family residence	Low Density Residential, 2.5 to 6 dua
<u>WEST:</u> RU-1; Office and Single-family residence	Low Density Residential, 2.5 to 6 dua

The subject property is located at 2425 SW 82 Avenue. Office/residential conversions, and single-family homes characterize the surrounding area.

E. SITE AND BUILDINGS:

Site Plan Review:	(Site plans submitted.)
Scale/Utilization of Site:	Unacceptable
Location of Buildings:	Acceptable
Compatibility:	Unacceptable
Landscape Treatment:	Acceptable
Open Space:	Acceptable
Buffering:	Acceptable
Access:	Acceptable
Parking Layout/Circulation:	Acceptable
Visibility/Visual Screening:	Acceptable
Energy Considerations:	N/A
Roof Installations:	N/A
Service Areas:	N/A
Signage:	N/A
Urban Design:	N/A

F. PERTINENT REQUIREMENTS/STANDARDS:

In evaluating an application for a **district boundary change**, **Section 33-311** provides that the Board take into consideration, among other factors, the extent to which:

- (1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;
- (2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;
- (3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;
- (4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;
- (5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

Section 33-311(A)(4)(a) Use Variance. The Board shall hear and grant applications for **use variances** from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum use variance that will permit the reasonable use of the premises. A "use variance" is a variance which permits a use of land other than which is prescribed by the zoning regulations and shall include a change in permitted density.

G. NEIGHBORHOOD SERVICES:

DERM	No objection*
Public Works	No objection*
Parks	No comment
MDTA	No comment
Fire Rescue	No objection
Police	No objection
Schools	No comment

*Subject to the conditions indicated in their memoranda.

H. ANALYSIS:

The subject property is located at 2425 SW 82 Avenue, approximately 140' south of SW 24 Street (Coral Way), in an area characterized by single-family homes and office/residential conversions. The 0.307-acre subject site is currently improved with a one-story single-family residence. The applicant seeks to change the zoning on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, or in the alternative, to permit RU-5A uses in the RU-1 zoning district. RU-5A uses include, but are not limited to, office buildings for accountants, architects, attorneys, dentists, medical doctors, notary publics, real estate, and travel agencies as well as banks without drive-in teller facilities. However, the applicant is specifically requesting to permit only an architectural office, and has proffered a covenant tying the development of the site to the plans submitted and restricting the use on the lot to that of an architect's office. Plans submitted by the applicant demonstrate that the subject site is adequately sized to accommodate all RU-5A zoning specifications of setback and lot coverage, including the compulsory parking requirements needed for office use.

The Department of Environmental Resources Management (**DERM**) has **no objections** to this application and has indicated that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County. The **Public Works Department** has **no objections** to this application and has indicated that this application does not generate any additional daily peak hour vehicle trips. However, the following conditions will need to be addressed at time of permitting: that parking space #10 have 5' of aisle end back-out, and that landscaping and fences must comply with safe-site distance triangle requirements.

Approval of either request would allow the applicant to provide semi-professional office services for the community. This area is designated for **Low Density Residential** use on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). The CDMP provides that office uses may be approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations set forth in the CDMP. These office uses may occur in combination with or independent of residential use. Such limited office uses may be approved on such sites in residential community areas only where: a) the residential lot fronts directly on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not eligible for consideration); b) the lot or site size does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does the subject frontage face such an Estate Density area. The subject property does not meet the aforementioned criteria of the Master Plan for approval of office uses within residential designations. The subject property is less than one acre in size and is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential. However, although the subject property is located on a half-section line roadway (SW 82 Avenue) it does not front on a "major roadway" as designated on the Land Use Plan map.

The Master Plan also indicates that where other office, business or industrial uses exist on the same block face, approval of similar requests may be granted. However, where such an office, business or industrial use exists on a corner lot of a subject block face on block end, approval of office uses elsewhere on the block is limited to the one block face or block end which is the more heavily trafficked side of the referenced corner lot. One of the two neighboring parcels to the north, situated on the corner of SW 82 Avenue and Coral Way, was granted a use variance to permit all RU-5A uses in an RU-1 zone, pursuant to Resolution No. #Z-192-90; but cannot be considered as part of the same block face where the subject property lies, since it fronts Coral Way, the more heavily trafficked side. Moreover, Resolution No. 4-ZAB-133-71, also approved a use variance on the other neighboring parcel to the north of the subject property also facing east on Coral Way. Additionally, the parcel to the south of the subject property on the same block face has an existing group home which staff notes is a permitted RU-1 use as long as no more than 6 people reside in the group home. Therefore, staff is of the opinion that the introduction of RU-5A uses south of Coral Way along SW 82 Avenue would detrimentally impact the existing residential uses that are predominantly found in the area and would set a negative precedent for semi-professional office uses along non-major roadways. Further, the introduction of an office use will promote incompatible zoning and set a negative precedent for land use and building intensification in an established residential area. Moreover, the proposed rezoning to RU-5A would not be in keeping with Policy LU-4C of the CDMP that states that residential neighborhoods shall be protected from intrusion by uses that would disrupt or degrade the health, safety, tranquility and overall welfare of the neighborhood. As such, staff is of the opinion that the proposed RU-5A rezoning would be **incompatible** with the surrounding area and **inconsistent** with the CDMP.

When considering district boundary changes, the Board shall hear and grant or deny applications by taking into consideration if the proposed development conforms to the Comprehensive Development Master Plan for Miami-Dade County. As previously mentioned, the proposed development would be **inconsistent** with the interpretative text

of the CDMP and **incompatible** with the neighboring residential area to the south, east and west of the subject property. Staff acknowledges that the proposed architect's office will not have an unfavorable impact on the water, sewer, solid waste disposal, or other public services and will not have an unfavorable impact on the environment as indicated by the memorandum submitted by DERM. Additionally when considering zone changes, the Board shall consider if the development will have a favorable or unfavorable impact on the economy of Miami-Dade County. The approval of this application will not have an unfavorable impact on the economy or on the environmental and natural resources of Miami-Dade County. Furthermore, the proposed development does not unduly burden or affect public transportation facilities as indicated in the Public Works Department's memorandum submitted for this application. The applicant seeks to change the zoning on the subject property from RU-1, Single-Family Residential District, to RU-5A, Semi-Professional Office District, and allow the applicant to provide semi-professional office services for the community, specifically an architectural office. Most of the single-family residential lots fronting on SW 24 Street, between SW 82 Place and SW 79 Court, have gradually converted to non-residential uses and offices. Specific research indicates that of the 15 lots that front on Coral Way between those four blocks, only three lots are still in residential use; numerous public hearings have approved use variances as early as 1963 and as recent as an RU-5A district boundary change approval in 2005. Most, if not all, of these land use conversions are due to the increase in traffic and noise associated with Coral Way, which over the years have negatively impacted the quality of life of residents with homes fronting said corridor. Additionally, the placement of office uses is better located where traffic activity is intense and the roadway is well traveled, as opposed to having residences front such a busy vehicular corridor. However, the proposed office use will not occur on Coral Way as the subject site fronts on SW 82 Avenue and is neighbored by two RU-1 zoned properties, one to the east and one to the south. As previously mentioned, the current use of the neighboring property to the south is a residential group home, permissible within the RU-1 zoning designation. As indicated in the submitted plans, the 10 proposed parking spaces are located along the eastern property line. Staff is of the opinion that approval of the requested zone change would begin a trend to approve semi-professional office uses southward along SW 82 Avenue, and would serve as a precedent to deteriorate the established residential area found to the south along SW 82 Avenue. Therefore, staff opines that office uses and, where applicable, RU-5A zoning should be limited to those lots fronting on SW 24 Street (Coral Way) and as such, staff opines that the proposed RU-5A use would be **incompatible** with the surrounding properties.

In the alternative to the district boundary change (request #1), the applicant is requesting a use variance to permit RU-5A uses in the RU-1 zone. A use variance, as stated in Section 33-311(A)(4)(a), is a variance which permits a use of land other than that which is prescribed by the zoning regulations. As previously mentioned, use variances were approved on two parcels of land abutting the subject property to the north, pursuant to Resolution Nos. Z-192-90 and 4-ZAB-133-71. However, these two properties front on Coral Way. Research indicates that no other property in the same block face fronting on SW 82 Avenue has been granted a use variance allowing RU-5A uses. Section 33-311(A)(4)(a) also states that the Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and

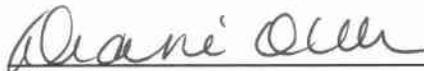
substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulations. Because the applicant has not demonstrated that special conditions exist related to the subject site where the literal enforcement of the Zoning Code provisions would not permit the reasonable use of the land, and because the subject property can be utilized for single-family residential use under the present RU-1 zoning, staff opines that no unnecessary hardship exists. Therefore, the use variance request does not meet the standards set forth in Section 33-311(A)(4)(a) and should be denied without prejudice under same.

Based on the foregoing, staff is of the opinion that the proposed RU-5A rezoning (request #1), and the alternative request for a use variance to permit RU-5A uses in the RU-1 zone (request #2), would be **incompatible** with the surrounding area and **inconsistent** with the CDMP. Therefore, staff recommends denial without prejudice of this application.

I. **RECOMMENDATION:** Denial without prejudice.

J. **CONDITIONS:** None.

DATE INSPECTED: 04/28/06
DATE TYPED: 08/22/06
DATE REVISED: 08/24/06; 09/01/06; 09/06/06; 09/14/06; 10/04/06
DATE FINALIZED: 10/04/06
DO'QW:AJT:MTF:CSE: JCH:JGM



Diane O'Quinn Williams, Director
Miami-Dade County Department of
Planning and Zoning

Memorandum



Date: April 6, 2006

To: Diane O'Quinn-Williams, Director
Department of Planning and Zoning

From: Jose Gonzalez, P.E., Assistant Director
Environmental Resources Management

A handwritten signature in black ink, appearing to read "Jose Gonzalez". The signature is written in a cursive, flowing style.

Subject: C-10 #Z2005000364-Revised
Rene Miguel Valdez
2425 SW 82nd Avenue
District Boundary Change from RU-1 to RU-5A
(RU-1) (0.31 Ac.)
15-54-40

The Department of Environmental Resources Management (DERM) has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of Miami-Dade County, Florida (the Code). Accordingly, DERM may approve the application, and the same may be scheduled for public hearing.

Potable Water Service:

Public water can be made available to the subject property. Therefore, connection of the proposed development to the public water supply system shall be required, in accordance with Code requirements.

Existing public water facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards, subject to compliance with the conditions required by DERM for this proposed development order.

Wastewater Disposal:

Public sanitary sewers are not available for connection to the subject property. Consequently, any proposed development would have to be served by a septic tank and drainfield as a means for the disposal of domestic liquid waste.

DERM would not object to the continued use of a septic tank and drainfield system provided that the site is connected to the public water supply system and the proposed development meets the sewage loading requirements of Section 24-43.1(4) of the Code. Based upon the available information, the proposal meets said requirements. Furthermore, since the proposed request is for a non-residential land use, the property owner has submitted a properly executed covenant running with the land in favor of Miami-Dade County, as required by Section 24-43.1(4)(a) of the Code, which provides that the only liquid waste, less and except the exclusions contained therein, which shall be generated, disposed of, discharged or stored on the property, shall be domestic sewage discharged into a septic tank.

Notwithstanding the foregoing, the applicant is advised that certain land uses, such as medical offices utilizing x-ray equipment, and others that generate liquid waste other than domestic sewage, cannot be permitted by DERM since it would violate the aforesaid Code Section and would also violate the

covenant. Approval of land uses that are not compatible with the usage of a septic tank and drainfield system as a means for the disposal of the domestic liquid waste, would require a variance from the Environmental Quality Control Board (EQCB) from the aforesaid Code Section.

Stormwater Management:

Site grading and development shall comply with the requirements of Chapter 11C of the Code.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the LOS standards for flood protection set forth in the CDMP, subject to compliance with the conditions required by DERM for this proposed development order.

Wetlands:

The subject property does not contain jurisdictional wetlands, as defined by Section 24-5 of the Code. Therefore, a Class IV Wetland Permit will not be required.

The applicant is advised that permits from the Army Corps of Engineers (305-526-7181), the Florida Department of Environmental Protection (561-681-6600), and the South Florida Water Management District (1-800-432-2045) may be required for the proposed project. It is the applicant's responsibility to contact these agencies.

Tree Preservation:

The subject property contains tree resources. Section 24-49 of the Code requires the preservation of tree resources. A Miami-Dade County Tree Removal Permit is required prior to the removal or relocation of any trees. A tree survey showing all the tree resources on-site will be required prior to reviewing the tree removal permit application. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Enforcement History:

DERM has reviewed the Permits and Enforcement database and the Enforcement Case Tracking System, and has found no open or closed formal enforcement records for the subject properties identified in the subject application.

Concurrency Review Summary:

DERM has conducted a concurrency review for this application, and has determined that the same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal, and flood protection. Therefore, the application has been approved for concurrency, subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement, and is valid only for this initial development order, as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

In summary, the application meets the minimum requirements of Chapter 24 of the Code and therefore, may be scheduled for public hearing. Furthermore, this memorandum shall constitute DERM's written approval to that effect, as required by the Code.

cc: Lynne Talleda, Zoning Evaluation-P&Z
Ron Connally, Zoning Hearings- P&Z
Franklin Gutierrez, Zoning Agenda Coordinator-P&Z

PUBLIC WORKS DEPARTMENT COMMENTS

Applicant's Names: RENE MIGUEL VALDEZ

This Department has no objections to this application subject to the following:

Parking space #10 must have 5 feet of aisle end back-out at time of permitting.

Landscaping and fences must comply with safe site distance triangle requirements set forth in Sec. 33-11 of the Miami-Dade County Code.

The proposed use of this application generates the same number of vehicle trips as the existing usage and will not generate any new vehicle trips; therefore this application meets the Initial Traffic Concurrency Criteria.



Raul A Pino, P.L.S.

05-DEC-05



Memorandum

Date: 17-NOV-05
To: Diane O'Quinn Williams, Director
 Department of Planning and Zoning
From: Herminio Lorenzo, Fire Chief
 Miami-Dade Fire Rescue
Subject: Z2005000364

Fire Prevention Unit:

Fire Water & Engineering has no objection to plans presented with letter of intent dated November 8 2005. Applicant must submit changes to this plan for review and approval.

Service Impact/Demand:

Development for the above Z2005000364
 located at 2425 SW 82 AVE
 in Police Grid 1441 is proposed as the following:

<u> </u> single	dwelling units	<u> </u> industrial	square feet
<u> </u> multifamily	dwelling units	<u> </u> institutional	square feet
<u>1,286</u> commercial	square feet	<u> </u> nursing home	square feet

Based on this development information, estimated service impact is: 0.33 alarms-annually.

Existing services:

The Fire station responding to an alarm in the proposed development will be:
 Station 3 - Tropical Park - 3911 SW 82 Avenue
 Rescue, ALS Engine

Planned Service Expansions:

The following stations/units are planned in the vicinity of this development:
 Station 13 - East Kendall - 6000 SW 87 Ave. April 07

Fire Planning Additional Comments:

Current service impact calculated based on letter of intent dated November 8 2005. Substantial changes to the letter of intent will require additional service impact analysis.

TEAM METRO

ENFORCEMENT HISTORY

RENE MIGUEL VALDEZ

2425 SW 82 AVE

APPLICANT

ADDRESS

Z2005000364

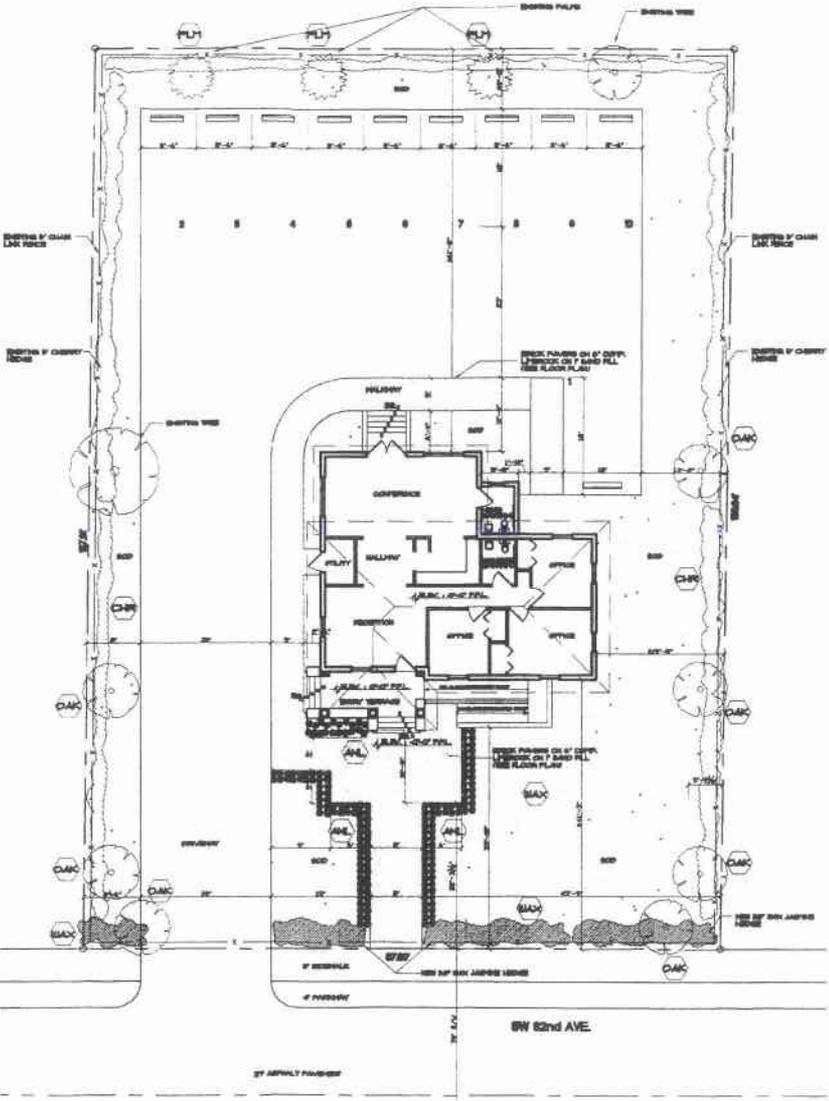
HEARING NUMBER

CURRENT ENFORCEMENT HISTORY:

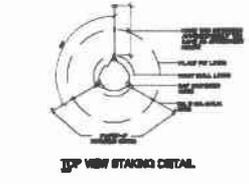
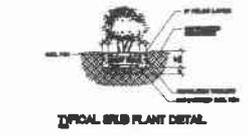
11/30/2005 Inspection conducted
11/30/2005 No current violations

RECEIVED
 NOV 18 2005

16



SITE PLAN
 SCALE: 1/8" = 1'



ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPARTMENT

LEGAL DESCRIPTION
 LOT 4 BLOCK 8 OF CORAL HAY HOMESITE, ACCORDING TO THE
 PLAN THEREOF AS RECORDED IN PLAT BOOK 48 AT PAGE 21 OF
 THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

LEGEND

EXISTING ZONING	RM-1
PROPOSED ZONING	RM-6A
LOT AREA	8,044 SQ. FT.
BUILDING AREA (A/C)	2,888 SQ. FT.
PAVED AREA (DRIVWAY)	3,388 SQ. FT.
GALESTRY/ENTRY TERRACE (PAVED)	128 SQ. FT.
LANDSCAPED AREA	5,128 SQ. FT. (64% LOT AREA)

LOT COVERAGE	REQUIRED	PROVIDED
HEIGHT	2 STORIES (34')	2'-4'

RETAINING WALL	REQUIRED	PROVIDED
FRONT	2'	4'-8" 3'
REAR	2'	4'-8" 4'
INTERIOR SIDE	2'	4'-8" 4'
PARADE SPACES INC. 2-PAV. OFFICE BLDGS.	1/20000' (5)	1/2 (Max. 1 HCPD)

PLANT MATERIAL

SYMBOL	TREE	SHRUB	GRASS
(Symbol)	SHRUB VIBURNUM LIME GLE	2'	1'
(Symbol)	SHRUB PALM	2'	0
(Symbol)	SHRUB JARDIN	2'	18' (4x4)
(Symbol)	GRASS HEDGE SHRUB	2'	
(Symbol)	ANNUAL PLANTING	2'	180' (4x4)

LANDSCAPE NOTES

1. Not shown variety with shall extend under all trees, shrubs and ground cover beds to the lowest level edge or cut border, if within 2' of depth.
2. All plants shall meet the minimum clearance of 7' from the edge of the driveway and 4' from the edge of the sidewalk as provided by the Division of Public Safety Florida Department of Agriculture, Inland culture.
3. All plants shall be planted at a distance of 2' from the edge of the driveway and 4' from the edge of the sidewalk. All plants shall be planted at a distance of 2' from the edge of the driveway and 4' from the edge of the sidewalk.
4. All trees and shrubs shall be planted at a distance of 2' from the edge of the driveway and 4' from the edge of the sidewalk. All plants shall be planted at a distance of 2' from the edge of the driveway and 4' from the edge of the sidewalk.
5. All plants shall be planted at a distance of 2' from the edge of the driveway and 4' from the edge of the sidewalk. All plants shall be planted at a distance of 2' from the edge of the driveway and 4' from the edge of the sidewalk.
6. All work by the Landscape Contractor shall be performed in a professional and careful manner in accordance with established standards and industry practices and standards.
7. Landscape Contractor is responsible for verifying plant quantities prior to planting. Quantities shown in this plan may vary due to natural site conditions. Landscape Contractor is responsible for providing for the correct plant and quantity for the completed site work. The preliminary plan shall not be used for planting purposes. Planting shall be based on final working drawings.
8. Landscape Contractor and its subcontractors shall be bonded and licensed as required by the municipality, county, state or any other governmental agency regarding its license or licensure in order for the Landscape Contractor to perform its work.
9. All work shall conform to standards through landscape architect (Register 20-4, Ordinance 198-2) and any other municipal landscape ordinance in effect at the project location.
10. Street trees, if part of the contract shall conform to standards through or municipal requirements.
11. Landscape Contractor is required to provide and obtain any necessary permits applicable for the successful completion of the project, including tree removal permits, if applicable.
12. Landscape material shall not be allowed to grow to such a extent as to be a hazard to the public or to the safety of the property or to the safety of the public. Branches shall be trimmed to a height of 8 feet and 8 feet.
13. Landscape Contractor shall not remove trees that are listed on the Florida Tree Inventory (FD-10) that are listed on the Florida Tree Inventory.

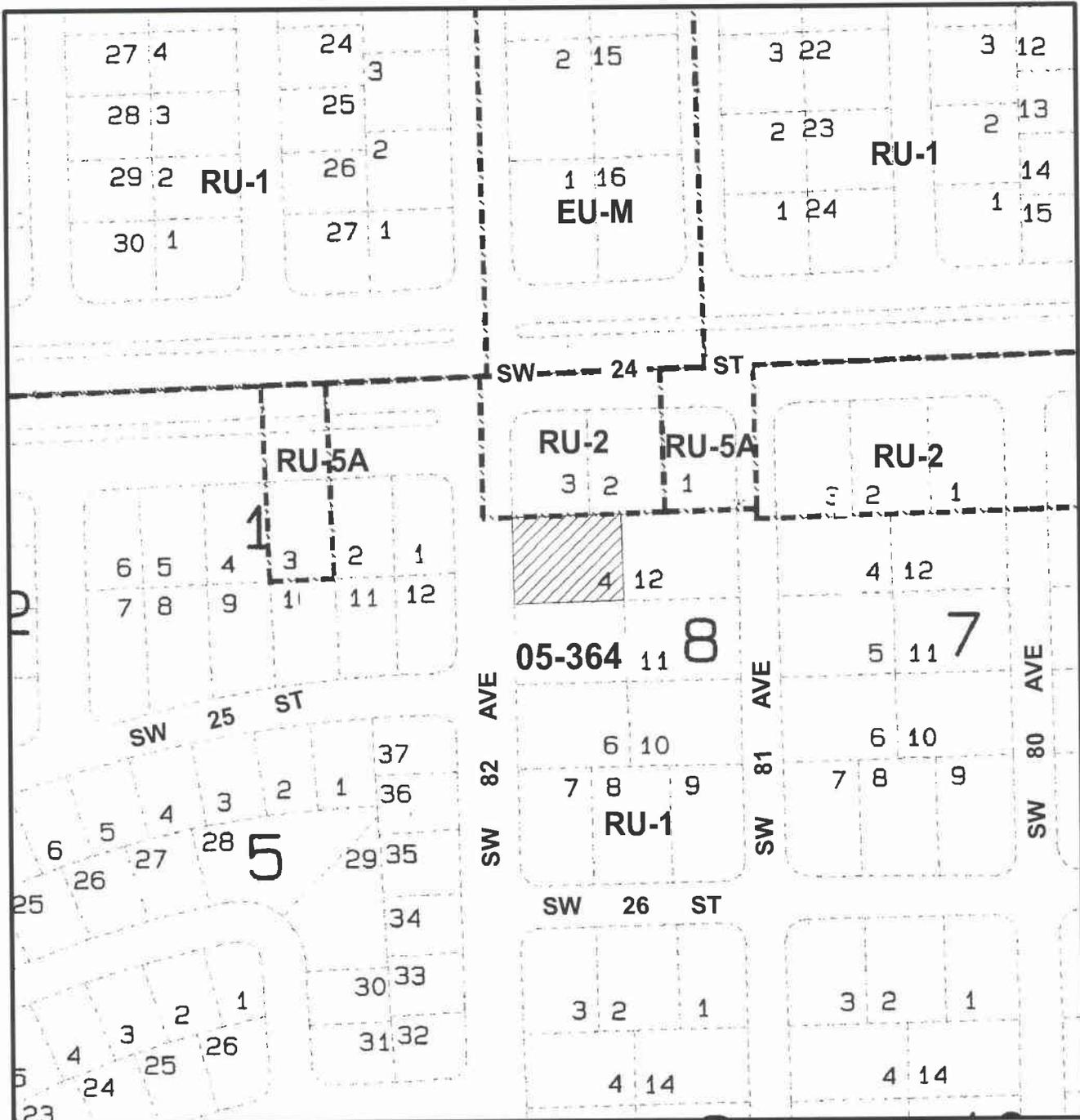


CLIENT: **PROPOSED RM-6A ZONING FOR RENE MIGUEL VALDES**
 2425 SW 82ND AVE MIAMI, FLORIDA
 PHONE: 305 890 4847

DATE: 04/22/04
 SCALE: AS NOTED
 DRAWN: LPV
 SHEET: 7
 OF: 7
 A-1

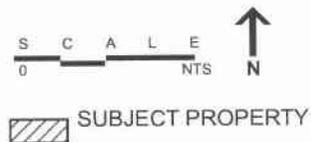
CJA ARCHITECTS GROUP
 ARCHITECTS / PLANNERS / INTERIORS
 1400 SW 14th St. # 1112, Miami, FL
 PHONE: 305 358 4847

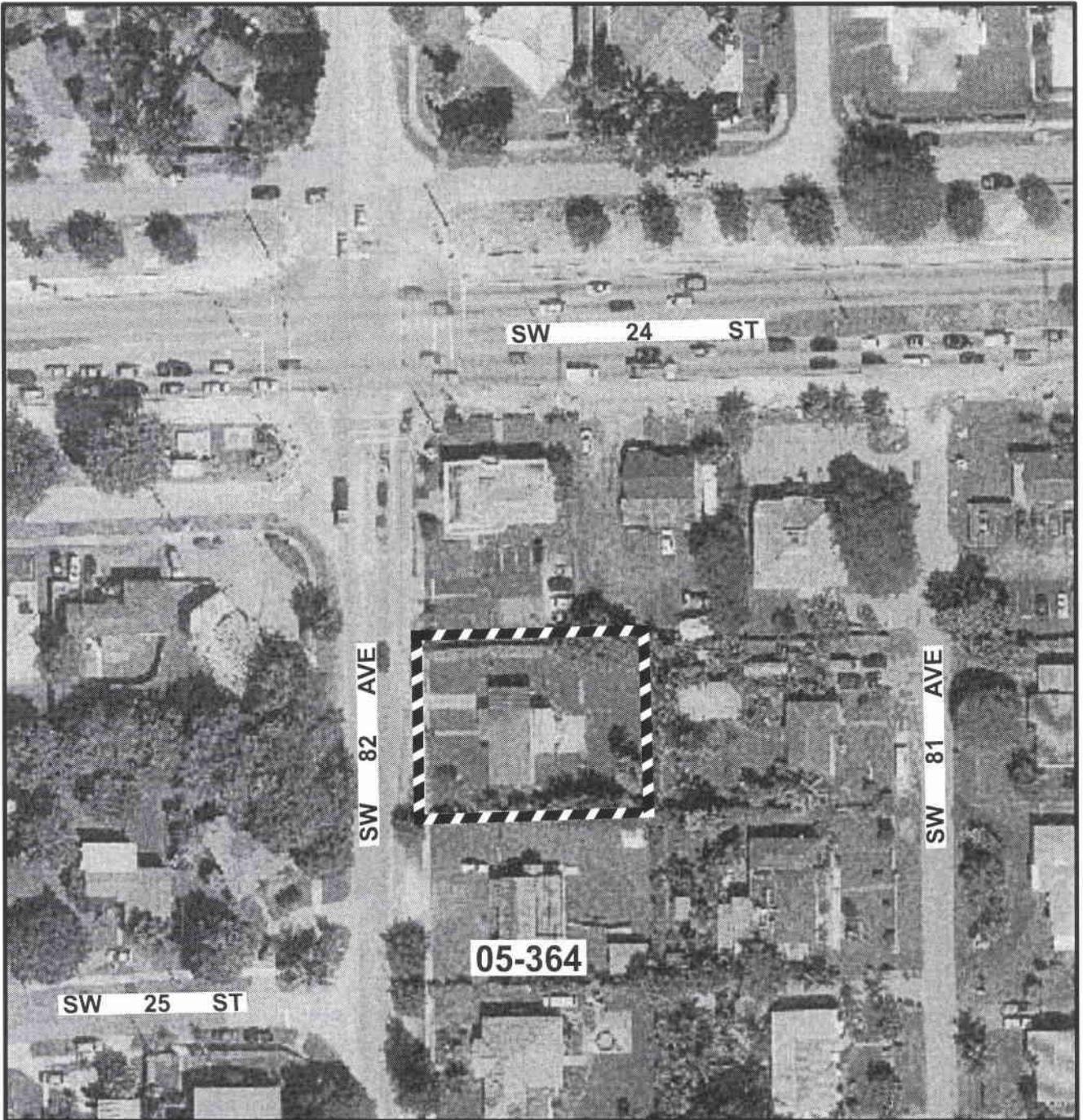
Handwritten signature
 5/17/04



**MIAMI-DADE COUNTY
HEARING MAP**

Section: 15 Township: 54 Range: 40
 Process Number: 05-364
 Applicant: RENE MIGUEL VALDEZ
 Zoning Board: C10
 District Number: 10
 Drafter ID: ALFREDO
 Scale: 1:200'





MIAMI-DADE COUNTY
AERIAL

Section: 15 Township: 54 Range: 40
Process Number: 05-364
Applicant: RENE MIGUEL VALDEZ
Zoning Board: C10
District Number: 10
Drafter ID: ALFREDO
Scale: NTS



Memorandum

MIAMI-DADE
COUNTY

Mark Subra
SCANNED

Date: August 23, 2010

To: Marc C. LaFerrier, AICP, Director
Department of Planning and Zoning - 3

From: Jack Kardys, Director
Park and Recreation Department

Subject: Blanket Concurrency Approval for Local Recreation Open Space

RECEIVED
2010 SEP - 3
SEP - 2 2010
PLANNING & ZONING
METROPOLITAN PLANNING SECT
Asst. Director Planning

This memorandum updates the blanket concurrency approval memo of October 1, 2009. There is an adequate level of service within each of the three Park Benefit Districts for all unincorporated areas, as shown on the attached table, and we project that there will be sufficient surplus capacity to maintain an adequate level of service for one additional year. Nevertheless, on a case-by-case basis, this Department will additionally evaluate the capacity of existing parks to support projected residential populations created by new development.

This approval is valid until September 30, 2011. If conditions change prior to that, I will inform Helen Brown, Concurrency Administrator of your department.

Attachment

JK: jb

cc: Helen Brown, Metropolitan Planning, DP&Z
W. Howard Gregg, Deputy Director, Planning & Development, PARD
Maria Nardi, Chief, Planning and Research Division, PARD

RECEIVED
AUG 31 2010

MIAMI-DADE COUNTY
DIRECTOR'S OFFICE
DEPT. OF PLANNING & ZONING

201008314

2010 Local Recreation Open Space Level of Service

Park Benefit District	Unincorporated Population ⁽¹⁾ Plus Permitted Development	Standard @ 2.75 Acres Per 1000 Residents	Public Park Acres ⁽²⁾	School Acres ⁽³⁾	Private Open Space Acres ⁽⁴⁾	Total Recreation Open Space Acreage	Surplus (Deficit) Acres	Percent of Standard (%)
1	369,030	1,014.83	1,005.65	299.82	110	1,415.47	400.64	139%
2	595,444	1,637.47	1,619.43	356.30	137	2,112.73	475.26	129%
3	149,463	411.02	526.78	96.62	17	640.40	229.38	156%
TOTAL	1,113,937	3,063.33	3,151.86	752.74	264	4,168.60	1,105.27	136%

Source: (1) Miami Dade Department of Planning and Zoning, June 2009

(2) Miami-Dade County Park and Recreation Department, Planning and Research Division, June 2009

(3) Miami-Dade County School Board, Site Planning Department 11/28/08

(4) Private Open Space is one-half of total private acres.

Memorandum



Date: September 30, 2010

To: Marc. C. LaFerrier, A.I.C.P., Director, Department of Planning and Zoning

From: Kathleen Woods-Richardson, Director, Department of Solid Waste Management

Subject: Solid Waste Disposal Concurrency Determination

The Department of Solid Waste Management determines compliance with the County's adopted level-of-service (LOS) standard for solid waste disposal based on the ability of the County Solid Waste Management System (System) to accommodate projected waste flows for concurrency. Only those System facilities that are constructed or subject to a binding executed contract for the provision of services are included in this determination, in accordance with Chapter 33G of the Miami-Dade County Code, Service Concurrency Management Program.

The attached spreadsheet presents the projected utilization of the System's remaining disposal capacity over a period of ten (10) years. The projection is based on the demand generated by those parties (municipalities and private haulers) who have committed their waste flows to the System through interlocal agreements, long term contracts and anticipated non-committed waste flows, in accordance with the LOS standard. The analysis shows adequate System capacity to meet the LOS through Fiscal Year 2015-16 or one (1) year beyond the minimum standard (five years capacity). This determination is contingent upon the continued ability of the County and its disposal service contract provider to obtain and renew disposal facility operating permits from the applicable federal, state and local regulatory agencies. Therefore, please be advised that the current LOS is adequate to issue development orders. This determination shall remain in effect for a period of one (1) fiscal year (ending September 30, 2011), at which time a new determination will be issued. If, however, a significant event occurs that substantially alters the projection, the Department will issue an updated determination.

Attachment

cc: Vicente Castro, Deputy Director, Operations
Paul Mauriello, Deputy Director, Operations (Designate)
Christopher Rose, Deputy Director, Administration
Asok Ganguli, Assistant Director, Technical Services
Michael Moore, Assistant Director, Disposal Operations

Department of Solid Waste Management (DSWM)
 Solid Waste Management Disposal Facility Available Capacity
 From Fiscal Year 2010-11 Through Fiscal Year 2018-20

FISCAL YEAR PERIOD	WASTE PROJECTION	RESOURCES RECOVERY ASHFILL *			SOUTH DADE LANDFILL **			NORTH DADE LANDFILL ***			WMI ****	TOTAL TO BE LANDFILLED
		Beginning Capacity	Landfilled	Ending Capacity	Beginning Capacity	Landfilled	Ending Capacity	Beginning Capacity	Landfilled	Ending Capacity		
OCT. 1, 2010 TO SEPT. 30, 2011	1,565,000	182,029	137,000	45,029	1,911,394	149,000	1,762,394	1,775,219	231,000	1,544,219	250,000	767,000
OCT. 1, 2011 TO SEPT. 30, 2012	1,565,000	45,029	45,029	0	1,762,394	240,971	1,521,423	1,544,219	231,000	1,313,219	250,000	767,000
OCT. 1, 2012 TO SEPT. 30, 2013	1,565,000	0	0	0	1,521,423	286,000	1,235,423	1,313,219	231,000	1,082,219	250,000	767,000
OCT. 1, 2013 TO SEPT. 30, 2014	1,565,000	0	0	0	1,235,423	286,000	949,423	1,082,219	231,000	851,219	250,000	767,000
OCT. 1, 2014 TO SEPT. 30, 2015	1,565,000	0	0	0	949,423	286,000	663,423	851,219	231,000	620,219	250,000	767,000
OCT. 1, 2015 TO SEPT. 30, 2016	1,565,000	0	0	0	663,423	383,500	279,923	620,219	383,500	236,719	0	767,000
OCT. 1, 2016 TO SEPT. 30, 2017	1,565,000	0	0	0	279,923	279,923	0	236,719	231,000	5,719	0	510,923
OCT. 1, 2017 TO SEPT. 30, 2018	1,565,000	0	0	0	0	0	0	5,719	5,719	0	0	5,719
OCT. 1, 2018 TO SEPT. 30, 2019	1,565,000	0	0	0	0	0	0	0	0	0	0	0
OCT. 1, 2019 TO SEPT. 30, 2020	1,565,000	0	0	0	0	0	0	0	0	0	0	0
REMAINING YEARS				1			6			7		6

ANNUAL DISPOSAL RATE (in tons)	
RESOURCES RECOVERY ASHFILL	137,000
SOUTH DADE LANDFILL	149,000
NORTH DADE LANDFILL	231,000
WMI CONTRACT	250,000
TOTAL TO BE LANDFILLED	<u>767,000</u>

* Ashfill capacity for Cell 19 (Cell 20 is not included). When Cell 19 is depleted Resources Recovery Plant Ash and Okeetanta Ash will go to South Dade Landfill and WMI until further cells are constructed.

** South Dade includes Cells 3 and 4 (Cell 5 is not included). Assumes unders from Resources Recovery consumes capacity whether or not it is used as cover.

*** North Dade capacity represents buildout of the facility. When North Dade Landfill capacity is depleted, trash goes to South Dade Landfill and WMI.

**** Maximum Contractual Tonnage per year to WMI is 500,000 tons, 250,000 tons to the Medley Landfill and 250,000 tons to the Pompano Landfill in Broward County. WMI disposal contract ends September 30, 2015.

All beginning capacity figures are derived from the Capacity of Miami-Dade County Landfills draft report prepared by the Malcolm Pirnie based on the actual July, 2010, survey with actual tons from July 2009, through June, 2010, and projected tons for August and September, 2010.

Memorandum



Date: September 15, 2010

To: Marc C. La Ferrier, Director
Department of Planning and Zoning

From: Harpal S. Kapoor, Director
Miami-Dade Transit

Subject: FY09 Blanket Concurrency Approval for Transit

Miami-Dade Transit (MDT) has been charged with the responsibility of reviewing and approving concurrency applications for mass transit levels of service as stated in County Ordinance 89-66, Administrative Order 4-85, and Section 33-G of the Miami-Dade County Code. Based on the latest socio-economic information provided by your department's Research Division, and a review of the June 2010 Metrobus/Metrorail service area we find that MDT meets or exceeds the Level-of-Service Standards (LOS) for mass transit established in the above-referenced County Rules and Regulations for most areas of Miami-Dade County with the exception of partial alignment segments of the following five routes:

- Route 24 alignment - 40-minute headway - the segment along SW 26th Street (Coral Way) from SW 137th Avenue to SW 153rd Court.
- Route 54 alignment - 40-minute headway - performing a turn around loop that encompasses the following segments: along NW 82nd Avenue, from NW 170th Street to NW 186th Street (Miami Gardens Drive); the segment west along NW 186th Street (Miami Gardens Drive) from NW 82nd Avenue to NW 87th Avenue; the segment north along NW 87th Avenue from NW 186th Street (Miami Gardens Drive) to NW 192nd Street; the segment east on NW 192nd Street from NW 87th Avenue to NW 82nd Avenue, and to complete the loop, the segment on NW 82nd Avenue from NW 192nd Street south to NW 186th Street (Miami Gardens Drive).
- Route 56 alignment - 60-minute headway - the segment along SW 107th Avenue from SW 56th Street (Miller Road) south to SW 72nd Street (Sunset Drive) and the segment along SW 117th Avenue from SW 72nd Street (Sunset Drive) south to SW 104th Street (Killian Parkway).
- Route 136 alignment - 50-minute headway - most of the route segments west of the South Miami-Dade Busway are not in compliance. These segments include the following: along SW 104th Street (Killian Parkway) from the South Miami-Dade Busway west to SW 87th Avenue; along SW 87th Avenue from SW 104th Street (Killian Parkway) south to SW 128th Street; along SW 128th Street from SW 87th Avenue to SW 92nd Avenue; the segment from SW 92nd Avenue making a half loop, going east on to SW 129th Terrace to SW 89th Place and then south to SW 136th Street; the segment along SW 136th Street from SW 89th Place west

to SW 107th Avenue; the segment along SW 107th Avenue from SW 136th Street to SW 128th Street; the segment along SW 128th Street from SW 107th Avenue to SW 117th Avenue; the segment along SW 120 Street from SW 117th Avenue to SW 147th Avenue; the segment along SW 147th Avenue from SW 120th Street north to SW 112th Street; and, the segment along SW 112th Street from SW 147th Avenue east to SW 137th Avenue.

- Route 252 alignment - 40-minute headway – The segment west of SW 152nd Avenue, along SW 152nd Street from SW 152nd Avenue west to SW 162nd Avenue; then performing a loop around going north on SW 162nd Avenue to SW 144th Street and east on SW 144th Street to SW 160th Avenue and back south on SW 160th Avenue to SW 152nd Street.

There are other segments of Routes not meeting the 30-minute peak headway; however, their alignment is intertwined with other Routes, therefore meeting the concurrency level for those segments.

This memo serves to re-authorize your department to review and approve concurrency applications in all areas of Miami-Dade County with the exception of those five areas mentioned above, where the routes do not meet the 30-minute headway concurrency threshold.

This authorization is intended to continue the arrangement between our respective Departments, and is effective for the period October 1, 2010 to September 30, 2011, or until canceled by written notice from my office.

If your staff needs further information or assistance with mass transit concurrency matters, they may wish to contact Maria Batista, Principal Planner in our Department. Your continued cooperation on these important matters is greatly appreciated.

cc: Susanna Guzmán-Arean
Maria C. Batista

Memorandum



Date: April 21, 2005
To: Alberto J. Torres, Assistant Director for Zoning
Department of Planning and Zoning
From: Manuel C. Mena, Chief
MDFR Fire Prevention Division
Subject: Concurrency Approval

Subject to compliance with Article XIV a. "Water Supply for Fire Suppression" of the Miami-Dade County Code, blanket approval for "Initial Development Orders" for any proposed use is hereby granted until further notice.

A subsequent review to assess compliance with Miami-Dade County Fire Flow Standards addressed under the concurrency requirements, as stated in Chapter 163, part 2. Florida Statute, will be necessary during the building permit process.

When zoning use variances are permitted the fire flow standards for the zone permitting the use will be applied

MCM:skr

c: Control File

Received by
Zoning Agenda Coordinator

JUL 27 2010



Miami-Dade Police Department

CDW INCIDENT REPORT



Rene Miguel Valdez 2011 Selected Crimes (Jan 1 - Dec 31) 500'

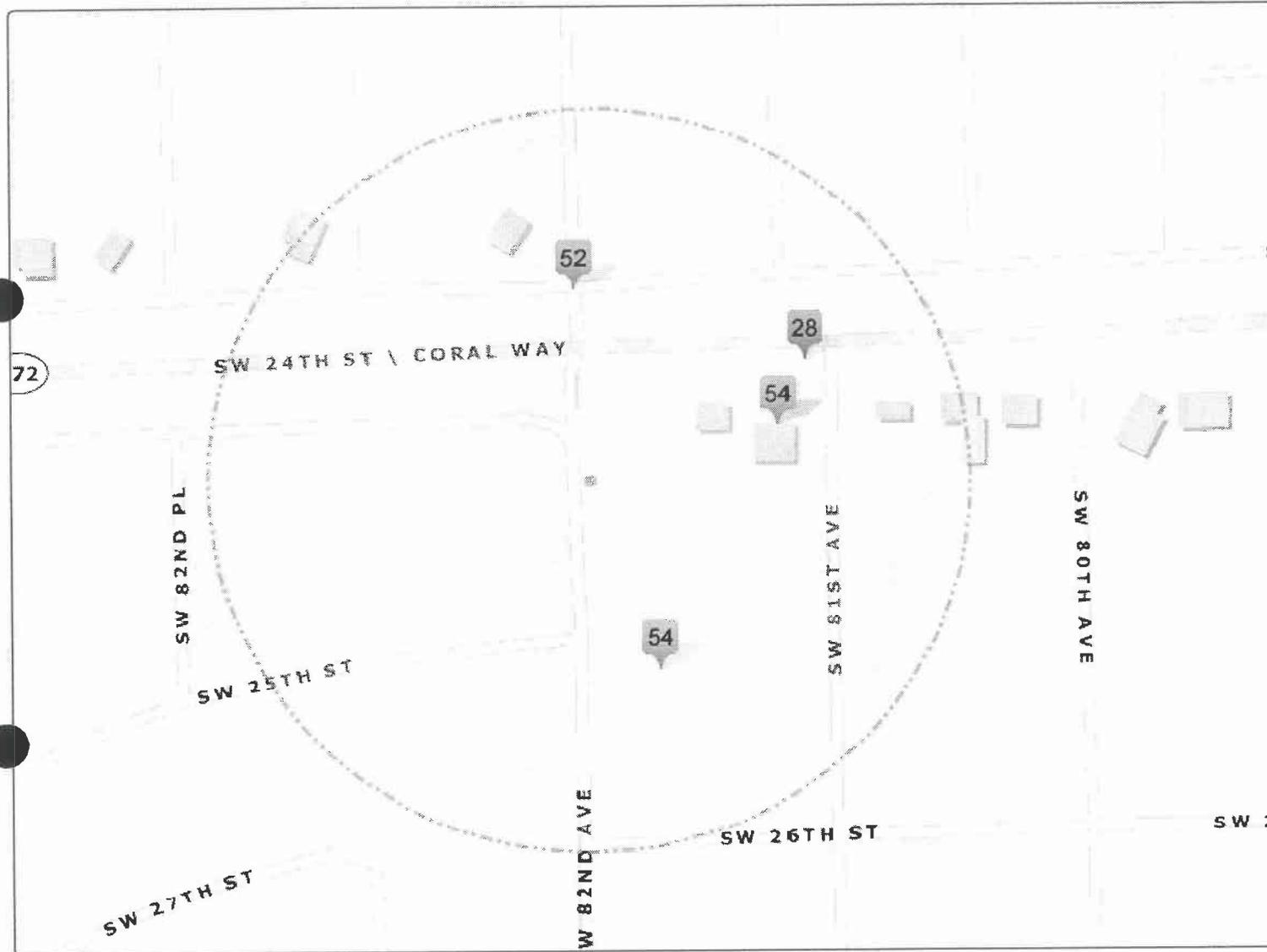
Z30401500550880

Case # Agency	From Date From Time From Day	Case Type Clearance	Signal	Classification M.O.	Drug Weapon Property	District Grid	Patrol Quadrant	Geo. Status Location Type Location (Business/Area)
PD110120027687 MDPD: COUNTY	2011-01-20 11:00 THU.	GENERAL INVESTIGATION OPEN / PENDING	28 - VANDALISM	N.A. N/A - UNKNOWN	N.A. OTHER N.A.	D 1486	3 3	X-Y COORDINATES DRUG STORE/HOSPITAL 8108 CORAL WAY
PD110228083249 MDPD: COUNTY	2011-02-28 15:35 MON.	GENERAL INVESTIGATION OPEN / PENDING	54 - FRAUD	N.A. N/A - UNKNOWN	N.A. OTHER STOLEN: MISCELLANEOUS	D 1486	3 3	X-Y COORDINATES OTHER 8100 SW 24TH ST
PD110228083349 MDPD: COUNTY	2011-02-28 16:42 MON.	GENERAL INVESTIGATION OPEN / PENDING	54 - FRAUD	N.A. N/A - UNKNOWN	N.A. OTHER STOLEN: MISCELLANEOUS	D 1486	3 3	X-Y COORDINATES OTHER 8100 SW 24TH ST
PD110416152583 MDPD: COUNTY	2011-04-16 07:08 SAT.	GENERAL INVESTIGATION CLEAR BY ARREST	52 - NARCOTICS INVESTIGATION	N.A. N/A - UNKNOWN	N.A. OTHER N.A.	D 1486	3 3	X-Y COORDINATES HIGHWAY/ROADWAY SW 24TH ST & SW 82ND AVE
PD110420158821 MDPD: COUNTY	2011-04-20 13:26 WED.	GENERAL INVESTIGATION OPEN / PENDING	54 - FRAUD	N.A. N/A - UNKNOWN	N.A. OTHER N.A.	D 1486	3 3	X-Y COORDINATES RESIDENCE-SINGLE 2501 SW 82ND AVE

5 Total Incidents

Rene Miguel Valdez 2011 Selected Crimes (Jan 1 - May 31) 500'

Z30400150050880



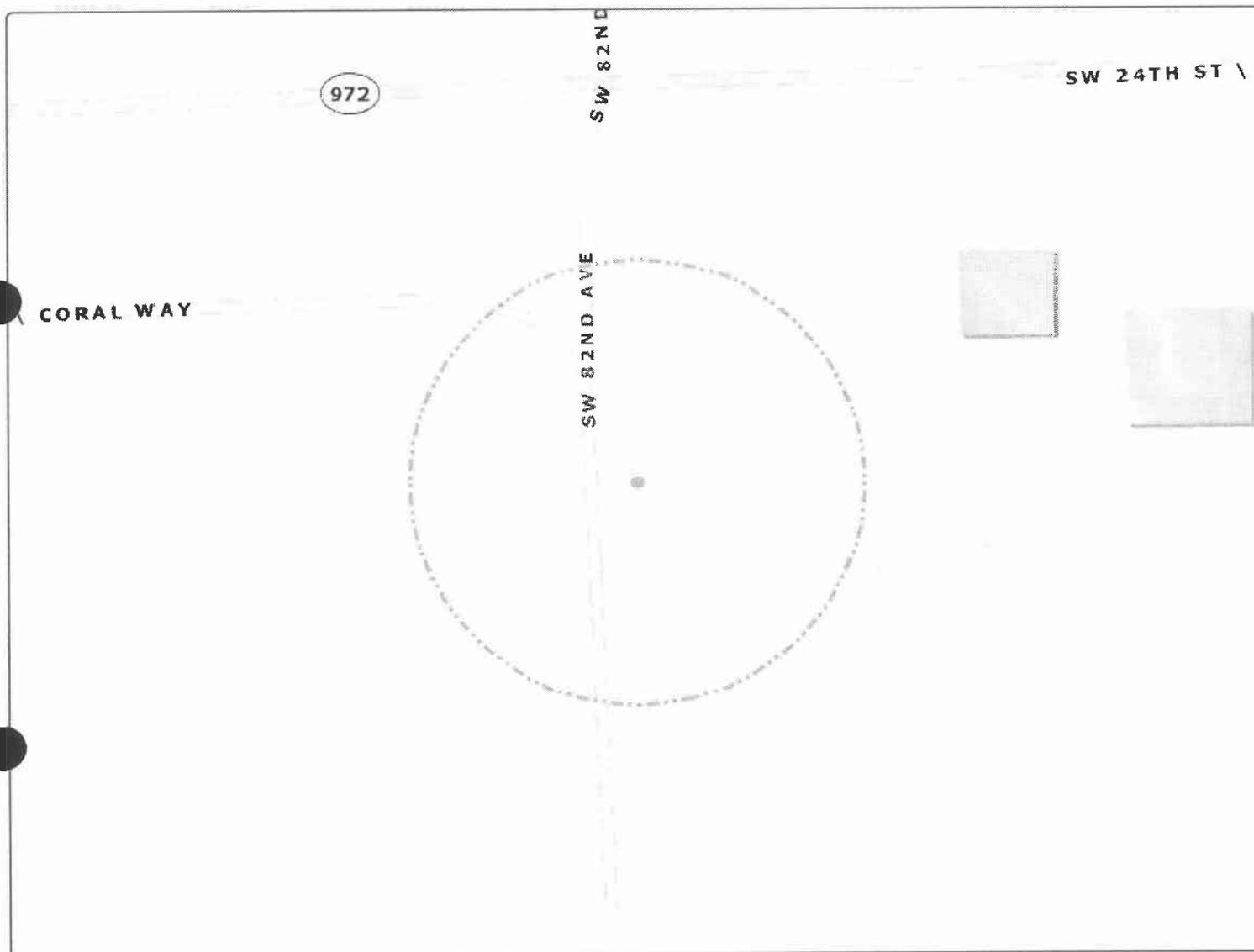
Map Legend	
	CDW Incidents (5)
54	54 - Fraud (3)
28	28 - Vandalism (1)
52	52 - Narcotics Investigation (1)

This map was prepared using Miami-Dade County's (MDC) Geographic Information System (GIS). As is the case with all public records information, the nature of the data and the collection processes limit the ability of any aggregator to independently validate data and content. Every effort has been made to ensure that the information represented is accurate, however, the results cannot be guaranteed. In order to ensure the accuracy of the information supplied by MDC, the requester should consult the official government record. Based on these limitations, MDC is unable to guarantee the accuracy of the information represented. Employees or agents disclaim all warranties, expressed or implied, as to any matter whatsoever and shall not be responsible for any loss or damage that may directly or indirectly arise as the result of use of information contained in the County's GIS.

Rene Miguel Valdez 2011 Selected Crimes (Jan 1 - May 31) 100'

Z30400150050880

Miami-Dade Police Department



Map Legend
No Features Selected



This map was prepared using Miami-Dade County's (MDC) Geographic Information System (GIS). As is the case with all public records information, the nature of the data and the collection processes limit the ability of any aggregator to independently validate data and content. Every effort has been made to ensure that the information represented is accurate, however, the results cannot be guaranteed. In order to ensure the accuracy of the information supplied by MDC, the requestor should consult the official government record. Based on these limitations, MDC is unable to guarantee the accuracy of the information represented. Employees or agents disclaim all warranties, expressed or implied, as to any matter whatsoever and shall not be responsible for any loss or damage that may directly or indirectly arise as the result of use of information contained in the County's GIS.



Miami-Dade Police Department

CDW INCIDENT REPORT



Rene Miguel Valdez 2010 Selected Crimes (Jan 1 - Dec 31) 500'

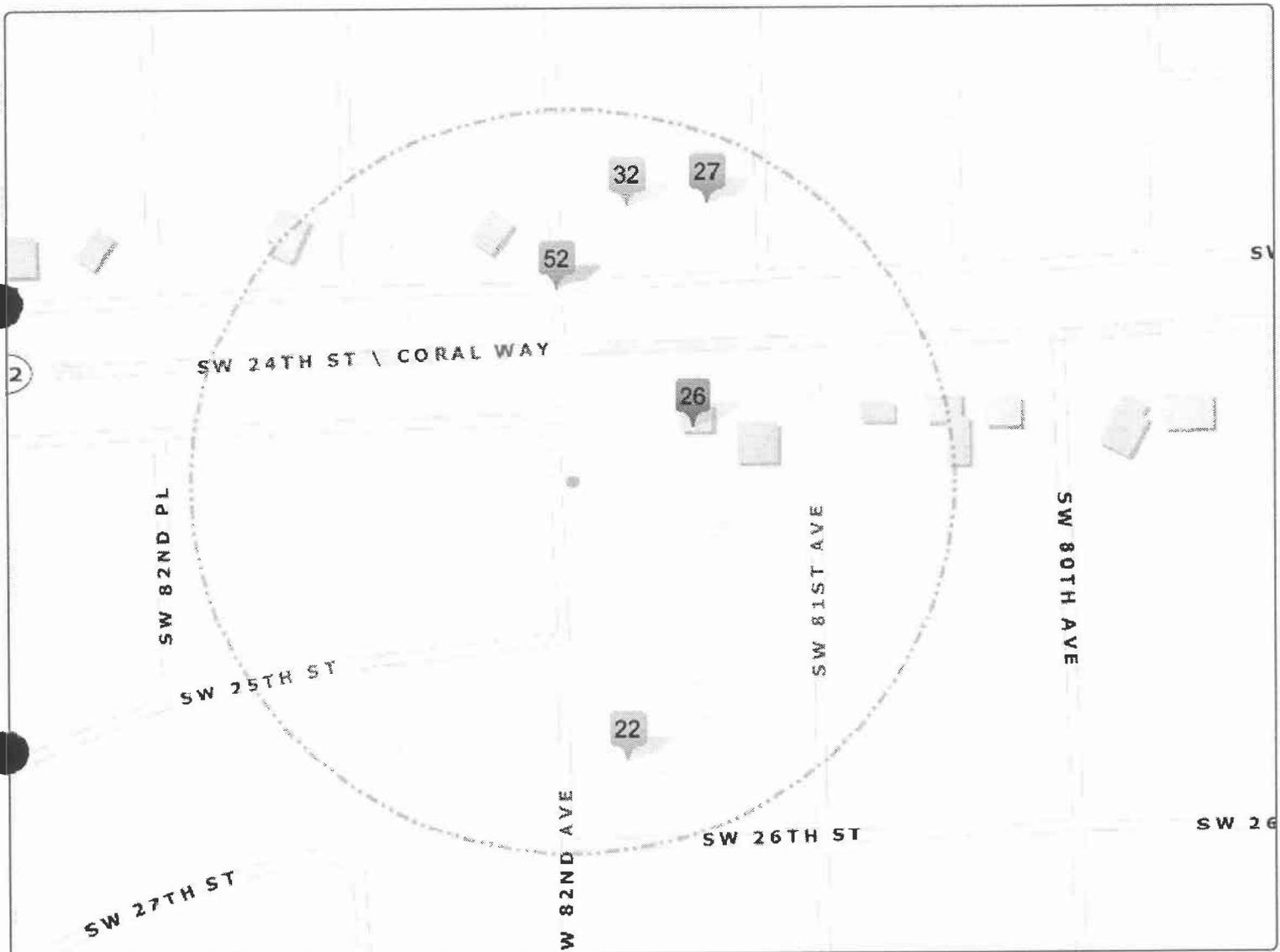
Z30401500550880

Case # Agency	From Date From Time From Day	Case Type Clearance	Signal	Classification M.O.	Drug Weapon Property	District Grid	Patrol Quadrant	Geo. Status Location Type Location (Business/Area)
PD100306097796 MDPD: COUNTY	2010-03-06 12:00 SAT.	GENERAL INVESTIGATION OPEN / PENDING	26C - BURGLARY COMMERCIAL	COMMERCIAL STORAGE / SHED	N.A. OTHER STOLEN: FOOD / LIQUOR / CONSUMABLE	D 1486	3 3	X-Y COORDINATES STORAGE 8120 SW 24TH ST (USI ORCHIDS)
PD100411153357 MDPD: COUNTY	2010-04-11 16:55 SUN.	GENERAL INVESTIGATION OPEN / PENDING	27 - LARCENY	N.A. N/A - UNKNOWN	N.A. OTHER STOLEN: FOOD / LIQUOR / CONSUMABLE	D 1441	3 3	X-Y COORDINATES GAS STATION 8101 SW 24TH ST
PD100426176050 MDPD: COUNTY	2010-04-26 09:00 MON.	GENERAL INVESTIGATION OPEN / PENDING	22S - AUTO THEFT STOLEN	VEHICLE N/A - UNKNOWN	N.A. OTHER N.A.	D 1486	3 3	X-Y COORDINATES DRIVEWAY/YARD 8135 SW 26TH ST
PD100531229281 MDPD: COUNTY	2010-05-31 09:25 MON.	GENERAL INVESTIGATION CLEAR BY ARREST	52 - NARCOTICS INVESTIGATION	N.A. N/A - UNKNOWN	N.A. OTHER N.A.	D 1440	3 2	X-Y COORDINATES HIGHWAY/ROADWAY SW 24TH ST & SW 82ND AVE
PD101026447574 MDPD: COUNTY	2010-10-26 17:55 TUE.	DOMESTIC CRIME CLEAR BY ARREST	32D - DOMESTIC ASSAULT	BATTERY N/A - UNKNOWN	N.A. HANDS / FIST / FEET N.A.	D 1441	3 3	X-Y COORDINATES RESIDENCE-SINGLE 8103 SW 24TH ST
PD101122487543 MDPD: COUNTY	2010-11-22 15:38 MON.	GENERAL INVESTIGATION OPEN / PENDING	32A - AGGRAVATED ASSAULT	N.A. ROAD RAGE	N.A. KNIFE / CUTTING INSTRUMENT N.A.	D 1486	3 3	X-Y COORDINATES ST/ALLEY/SIDEWALK SW 24TH ST & SW 82ND AVE (ROADWAY)
PD101221529837 MDPD: COUNTY	2010-12-21 12:18 TUE.	NARCOTICS CLEAR BY ARREST	52 - NARCOTICS INVESTIGATION	N.A. N/A - UNKNOWN	COCAINE OTHER N.A.	D 1486	3 3	X-Y COORDINATES HIGHWAY/ROADWAY SW 24TH ST & SW 82ND AVE

7 Total Incidents

Rene Miguel Valdez 2010 Selected Crimes (Jan 1 - Dec 31) 500'

Z30400150050880



This map was prepared using Miami-Dade County's (MDC) Geographic Information System (GIS). As is the case with all public records information, the nature of the data and the collection processes limit the ability of any aggregator to independently validate data and content. Every effort has been made to ensure that the information represented is accurate, however, the results cannot be guaranteed. In order to ensure the accuracy of the information supplied by MDC, the requestor should consult the official government record. Based on these limitations, MDC is unable to guarantee the accuracy of the information represented. Employees or agents disclaim all warranties, expressed or implied, as to any matter whatsoever and shall not be responsible for any loss or damage that may directly or indirectly arise as the result of use of information contained in the County's GIS.

Helen P. [Signature]

Memorandum



Date: September 22, 2009

To: Marc. C. LaFerrier, A.I.C.P., Director, Department of Planning and Zoning

From: Kathleen Woods-Richardson, Director, Department of Solid Waste Management

Subject: Solid Waste Disposal Concurrency Determination

Kathleen Woods-Richardson
 SEP 28 4:29
 PLANNING & ZONING
 METROPOLITAN PLANNING SECT

The Department of Solid Waste Management determines compliance with the County's adopted level-of-service (LOS) standard for solid waste disposal based on the ability of the County Solid Waste Management System (System) to accommodate projected waste flows for concurrency. Only those System facilities that are constructed or subject to a binding executed contract for the provision of services are included in this determination, in accordance with Chapter 33G of the Miami-Dade County Code, Service Concurrency Management Program.

The attached spreadsheet presents the projected utilization of the System's remaining disposal capacity over a period of ten (10) years. The projection is based on the demand generated by those parties (municipalities and private haulers) who have committed their waste flows to the System through interlocal agreements, long term contracts and anticipated non-committed waste flows, in accordance with the LOS standard. The analysis shows adequate System capacity to meet the LOS through Fiscal Year 2016 or two (2) years beyond the minimum standard (five years capacity). This determination is contingent upon the continued ability of the County and its disposal service contract provider to obtain and renew disposal facility operating permits from the applicable federal, state and local regulatory agencies and the assumption that waste tonnages will not grow. Therefore, please be advised that the current LOS is adequate to issue development orders. This determination shall remain in effect for a period of one (1) fiscal year (ending September 30, 2010), at which time a new determination will be issued. If, however, a significant event occurs that substantially alters the projection, the Department will issue an updated determination.

Attachment

- cc: Vicente Castro, Deputy Director, Operations
- Christopher Rose, Deputy Director, Administration
- Asok Ganguli, Assistant Director, Technical Services
- Michael Moore, Assistant Director, Disposal Operations

Received by
 Zoning Agenda Coordinator
 JUL 27 2010

RECEIVED RECEIVED
 SEP 28 2009

PLANNING AND ZONING
 AGENDA OFFICE
 JUL 27 4 32

Asst. Director Planning

SEP 25 2009
 MIAMI-DADE COUNTY
 DIRECTOR'S OFFICE
 DEPT. OF PLANNING & ZONING

Received by
Zoning Agenda Coordinator

JUL 27 2010

Department of Solid Waste Management (DSWM)
Solid Waste Management Disposal Facility Available Capacity
From Fiscal Year 2009-10 Through Fiscal Year 2018-19

Received by
Zoning Agenda Coordinator
JUL 27 2010

FISCAL YEAR PERIOD	WASTE PROJECTION	RESOURCES RECOVERY ASHFILL *			SOUTH DADE LANDFILL **			NORTH DADE LANDFILL ***			WMI ****	TOTAL TO BE LANDFILLED
		Beginning Capacity	Landfilled	Ending Capacity	Beginning Capacity	Landfilled	Ending Capacity	Beginning Capacity	Landfilled	Ending Capacity		
OCT. 1, 2009 TO SEPT. 30, 2010	1,578,000	367,259	155,000	212,259	2,193,471	151,000	2,042,471	1,913,664	219,000	1,694,664	250,000	775,000
OCT. 1, 2010 TO SEPT. 30, 2011	1,578,000	212,259	155,000	57,259	2,042,471	151,000	1,891,471	1,694,664	219,000	1,475,664	250,000	775,000
OCT. 1, 2011 TO SEPT. 30, 2012	1,578,000	57,259	57,259	0	1,891,471	248,741	1,642,730	1,475,664	219,000	1,256,664	250,000	775,000
OCT. 1, 2012 TO SEPT. 30, 2013	1,578,000	0	0	0	1,642,730	306,000	1,336,730	1,256,664	219,000	1,037,664	250,000	775,000
OCT. 1, 2013 TO SEPT. 30, 2014	1,578,000	0	0	0	1,336,730	306,000	1,030,730	1,037,664	219,000	818,664	250,000	775,000
OCT. 1, 2014 TO SEPT. 30, 2015	1,578,000	0	0	0	1,030,730	306,000	724,730	818,664	219,000	599,664	250,000	775,000
OCT. 1, 2015 TO SEPT. 30, 2016	1,578,000	0	0	0	724,730	556,000	168,730	599,664	219,000	380,664	0	775,000
OCT. 1, 2016 TO SEPT. 30, 2017	1,578,000	0	0	0	168,730	168,730	0	380,664	219,000	161,664	0	387,730
OCT. 1, 2017 TO SEPT. 30, 2018	1,578,000	0	0	0	0	0	0	161,664	161,664	0	0	161,664
OCT. 1, 2018 TO SEPT. 30, 2019	1,578,000	0	0	0	0	0	0	0	0	0	0	0
REMAINING YEARS				2			7			8		7

ANNUAL DISPOSAL RATE (in tons)	
RESOURCES RECOVERY ASHFILL	155,000
SOUTH DADE LANDFILL	151,000
NORTH DADE LANDFILL	219,000
WMI CONTRACT	250,000
TOTAL TO BE LANDFILLED	<u>775,000</u>

Received by
Zoning Agenda Coordinator

JUL 27 2010

* Ashfill capacity for Cell 19 (Cell 20 is not included). When Cell 19 is depleted Resources Recovery Plant Ash and Okeelanta Ash will go to South Dade Landfill.
 ** South Dade includes Cells 3 and 4 (Cell 5 is not included). Assumes unders from Resources Recovery consumes capacity whether or not it is used as cover.
 *** North Dade capacity represents buildout of the facility.

**** Maximum Contractual Tonnage per year to WMI is 500,000 tons, 250,000 tons to the Medley Landfill and 250,000 tons to the Pompano Landfill in Broward County. WMI disposal contract ends September 30, 2015.

All capacity figures are derived from the Capacity of Miami-Dade County Landfills draft report prepared by the Malcolm Pirnie based on the actual January, 2009, survey with actual tons from January, 2009, through July, 2009, and projected tons for August and September, 2009.

Received by
Zoning Agenda Coordinator
JUL 27 2010

Memorandum



Date: April 21, 2005

To: Alberto J. Torres, Assistant Director for Zoning
Department of Planning and Zoning

From: Manuel C. Mena, Chief
MDFR Fire Prevention Division

Subject: Concurrency Approval

Subject to compliance with Article XIV a. "Water Supply for Fire Suppression" of the Miami-Dade County Code, blanket approval for "Initial Development Orders" for any proposed use is hereby granted until further notice.

A subsequent review to assess compliance with Miami-Dade County Fire Flow Standards addressed under the concurrency requirements, as stated in Chapter 163, part 2. Florida Statute, will be necessary during the building permit process.

When zoning use variances are permitted the fire flow standards for the zone permitting the use will be applied

MCM:skr

c: Control File

Received by
Zoning Agenda Coordinator

JUL 27 2010

Memorandum

MIAMI-DADE
COUNTY

Date: January 15, 2008

To: Subrata Basu, Interim Director
Department of Planning and Zoning

From: Harpal Kapoor, Director
Miami-Dade Transit

Subject: FY08 Blanket Concurrency Approval for Transit

This memorandum serves as a blanket authorization for your Department to continue to review and approve concurrency applications for mass transit in all areas of Miami-Dade County.

Miami-Dade Transit (MDT) has been charged with the responsibility of reviewing and approving concurrency applications for mass transit levels of service as stated in County Ordinance 89-66, Administrative Order 4-85, and Section 33-G of the Miami-Dade County Code. Based on the latest socio-economic information provided by your department's Research Division, and a review of the Metrobus/Metrorail service area, we are able to re-authorize your department to review and approve concurrency applications since all areas of Miami-Dade County meet or exceed the Level-of-Service Standards (LOS) for mass transit established in the above-referenced County Rules and Regulations.

MDT continues with the development process for the North Corridor transit project along NW 27th Avenue from 62nd Street to the Broward County line. Please ask your staff to continue to flag any application whose address is on NW 27th Avenue, between these two points, so that they may be reviewed by MDT staff.

This authorization is intended to continue the arrangement between our respective Departments, and is effective for the period October 1, 2007 to September 30, 2008, or until canceled by written notice from my office.

Should your staff require additional information or assistance with mass transit concurrency matters, please have them contact John T. Spillman, Chief, Planning & Development Division, at 786-469-5289. Your continued cooperation on these important matters is greatly appreciated.

c: Albert Hernandez
John T. Spillman

Received by
Zoning Agenda Coordinator

JUL 27 2010

RECEIVED
JAN 17 2008

ASST. Director Planning

Memorandum



Florida

Date: October 1, 2009
To: Marc C. LaFerrier, A.I.C.P., Director
Department of Planning and Zoning
From: Jack Kardys, Director
Park and Recreation Department
Subject: Concurrency approval

2009 OCT 20 P 3:35

PLANNING & ZONING
METROPOLITAN PLANNING SECT

cc: Helen

This memorandum updates the blanket concurrency approval memo of May 27, 2009. There is an adequate level of service within each of the three Park Benefit Districts for all unincorporated areas, as shown on the attached table, and we project that there will be sufficient surplus capacity to maintain an adequate level of service for one additional year. Nevertheless, on a case-by-case basis, this Department will additionally evaluate the capacity of existing parks to support projected residential populations created by new development.

This approval is valid until September 30, 2010. If conditions change prior to that, I will inform Helen Brown, Concurrency Administrator of your department.

Attachment

JK: rk

cc: Helen Brown, Metropolitan Planning, DP&Z
W. Howard Gregg, Deputy Director, Planning & Development, PARD
Maria Nardi, Chief, Planning and Research Division, PARD

Received by
Zoning Agenda Coordinator

JUL 27 2010

RECEIVED
OCT - 9 2009

MIAMI-DADE COUNTY
DIRECTOR'S OFFICE
DEPT. OF PLANNING & ZONING

2009102874

2009 Local Recreation Open Space Level of Service

PBD	2009 Unincorporated Population	Standard @ 2.75 Acres Per 1000 population	Existing Local Open Space			Total Recreation Open Space Acreage	Surplus (Deficit) Acres	Percent of Standard (%)
			Public park Acres	School Acres	1/2 Private Open Space			
1	363,905	1000.74	1005.65	299.82	110	1415.47	414.73	141.44
2	619,408	1703.372	1619.43	356.3	137	2112.73	409.36	124.03
3	141,256	388.454	526.78	96.62	17	640.4	251.95	164.86
TOTAL	1,124,569	3,092.56	3,151.86	752.74	264.00	4,168.60	1,076.04	134.8

Received by
 Zoning Agenda Coordinator

JUL 27 2010

Memorandum



Date: October 12, 2006

To: Diane O'Quinn Williams, Director
Department of Planning and Zoning

From: Roosevelt Bradley, Director
Miami-Dade Transit

Subject: FY-07 Blanket Concurrency Approval for Transit

A handwritten signature in black ink, appearing to read "Roosevelt Bradley". The signature is written in a cursive, flowing style with a prominent loop at the end.

This memorandum serves as a blanket authorization for the Department of Planning and Zoning to continue to approve concurrency applications for mass transit in all areas of Miami-Dade County.

Miami-Dade Transit (MDT) has been charged with the responsibility of reviewing and approving concurrency applications for mass transit levels of service as stated in County Ordinance 89-66. Administrative Order 4-85 and Section 33-G of the Miami-Dade County Code. Based on the latest socio-economic information provided by your department's Research Division, and a review of the Metrobus/Metrorail service area included in the 2005 Transit Development Program (TDP) update (Figure IV-3, page IV-23), we are able to re-authorize your department to review and approve concurrency applications since it appears that all areas of Miami-Dade County meet or exceed the Level-of-Service (LOS) for mass transit established in the above referenced County Rules and Regulations.

MDT continues to advance the development process for the North Corridor transit project along NW 27th Avenue from 62nd Street to the Broward County Line. Please ask your staff to continue to signal any application whose address is on NW 27th Avenue, between these two points, so that they may be reviewed by MDT Staff.

This authorization is intended to continue the arrangement between our respective departments, and is effective for the period of October 1, 2006 to September 30, 2007, or until canceled by written notice from my office.

If your staff needs further information or assistance with mass transit concurrency matters, they may wish to contact Mario G. Garcia, Chief, System Planning Division, at (305) 375-1193. Your continued cooperation on these important matters is greatly appreciated.

Cc: Albert Hernandez, Deputy Director
MDT Planning and Engineering
Mario G. Garcia, Chief
MDT System Planning Division
Helen A. Brown, Concurrency Administrator
Department of Planning and Zoning

✓ H. Brown

Memorandum



Date: December 2, 2004

To: Dianne O'Quinn-Williams, Director
Department of Planning and Zoning

From: ~~A~~ Vivian Donnell Rodriguez, Director
Park and Recreation Department *VDR*

Subject: Update for Blanket Concurrency Approval

RECEIVED

DEC 14 2004

MIAMI-DADE COUNTY
DIRECTOR'S OFFICE
DEPT. OF PLANNING & ZONING

This memorandum updates the blanket concurrency approval memo of September 18, 2003. There is an adequate level of service within each of the three Park Benefit Districts for all unincorporated areas, as shown on the attached table, and we project that there will be sufficient surplus capacity to maintain an adequate level of service for one additional year. Nevertheless, on a case-by-case basis, this Department will additionally evaluate the capacity of existing parks to support projected residential populations created by new development.

This approval is valid until November 30, 2005. If conditions change prior to that, I will inform Helen Brown, Concurrency Administrator of your department.

Attachment

VDR: WHG:BF:RK

cc: Helen Brown, Metropolitan Planning, DP&Z
W. Howard Gregg, Asst. Director for Planning & Development, PARD
Barbara Falsey, Chief, Planning and Research Division, PARD

Memorandum



Date: April 21, 2005

To: Alberto J. Torres, Assistant Director for Zoning
Department of Planning and Zoning

From: Manuel C. Mena, Chief
MDFR Fire Prevention Division

Subject: Concurrency Approval

Subject to compliance with Article XIV a. "Water Supply for Fire Suppression" of the Miami-Dade County Code, blanket approval for "Initial Development Orders" for any proposed use is hereby granted until further notice.

A subsequent review to assess compliance with Miami-Dade County Fire Flow Standards addressed under the concurrency requirements, as stated in Chapter 163, part 2. Florida Statute, will be necessary during the building permit process.

When zoning use variances are permitted the fire flow standards for the zone permitting the use will be applied

MCM:skr

c: Control File

Memorandum



Date: September 15, 2006

To: Diane O'Quinn Williams, Director, Department of Planning and Zoning

From: *Kathleen Woods Richardson*
Kathleen Woods-Richardson, Director, Department of Solid Waste Management

Subject: Solid Waste Disposal Concurrency Determination

The Department of Solid Waste Management determines compliance with the County's adopted level-of-service (LOS) standard for solid waste disposal based on the ability of the County Solid Waste Management System (System) to accommodate projected waste flows for concurrency. Only those System facilities that are constructed or subject to a binding executed contract for the provision of services are included in this determination, in accordance with Chapter 33G of the Miami-Dade County Code, Service Concurrency Management Program.

The attached spreadsheet presents the projected utilization of the System's remaining disposal capacity over a period of ten (10) years. The projection is based on the demand generated by those parties (municipalities and private haulers) who have committed their waste flows to the System through interlocal agreements, long term contracts and anticipated non-committed waste flows, in accordance with the LOS standard. The analysis shows adequate System capacity to meet the LOS through Fiscal Year 2013 or two (2) years beyond the minimum standard (five years capacity). This determination is contingent upon the continued ability of the County and its disposal service contract provider to obtain and renew disposal facility operating permits from the applicable federal, state and local regulatory agencies. Therefore, please be advised that the current LOS is adequate to issue development orders. This determination shall remain in effect for a period of one (1) fiscal year (ending September 30, 2007), at which time a new determination will be issued. If, however, a significant event occurs which substantially alters the projection, the Department will issue an updated determination.

Attachment

cc: Vicente Castro, Deputy Director, Operations
Dana M. Moss, Sr., Deputy Director, Administration and Finance
James Bostic, Assistant Director, Operations
Asok Ganguli, Assistant Director, Technical Services
David Ritchey, Assistant Director, Administration

RECEIVED
13 2006

MIAMI-DADE COUNTY
DIRECTOR'S OFFICE
DEPT. OF PLANNING & ZONING

Department of Solid Waste Management (DSWM)
Solid Waste Management Disposal Facility Available Capacity
From Fiscal Year 2006-07 Through Fiscal Year 2015-16

FISCAL YEAR PERIOD	WASTE PROJECTION	RESOURCES RECOVERY ASHFILL *			SOUTH DADE LANDFILL **			NORTH DADE LANDFILL ***			WMI ****	TOTAL TO BE LANDFILLED	TO BE INCINERATED AND RECYCLED
		Beginning Capacity	Landfilled	Ending Capacity	Beginning Capacity	Landfilled	Ending Capacity	Beginning Capacity	Landfilled	Ending Capacity	CONTRACT DISPOSAL		
OCT. 1, 2006 TO SEPT. 30, 2007	1,776,000	783,085	167,000	616,085	2,499,001	180,000	2,319,001	1,896,521	354,000	1,542,521	250,000	951,000	825,000
OCT. 1, 2007 TO SEPT. 30, 2008	1,776,000	616,085	167,000	449,085	2,319,001	180,000	2,139,001	1,542,521	354,000	1,188,521	250,000	951,000	825,000
OCT. 1, 2008 TO SEPT. 30, 2009	1,776,000	449,085	167,000	282,085	2,139,001	180,000	1,959,001	1,188,521	354,000	834,521	250,000	951,000	825,000
OCT. 1, 2009 TO SEPT. 30, 2010	1,776,000	282,085	167,000	115,085	1,959,001	180,000	1,779,001	834,521	354,000	480,521	250,000	951,000	825,000
OCT. 1, 2010 TO SEPT. 30, 2011	1,776,000	115,085	115,085	0	1,779,001	231,915	1,547,086	480,521	354,000	126,521	250,000	951,000	825,000
OCT. 1, 2011 TO SEPT. 30, 2012	1,776,000	0	0	0	1,547,086	574,479	972,607	126,521	126,521	0	250,000	951,000	825,000
OCT. 1, 2012 TO SEPT. 30, 2013	1,776,000	0	0	0	972,607	701,000	271,607	0	0	0	250,000	951,000	825,000
OCT. 1, 2013 TO SEPT. 30, 2014	1,776,000	0	0	0	271,607	271,607	0	0	0	0	250,000	521,607	825,000
OCT. 1, 2014 TO SEPT. 30, 2015	1,776,000	0	0	0	0	0	0	0	0	0	250,000	250,000	825,000
OCT. 1, 2015 TO SEPT. 30, 2016	1,776,000	0	0	0	0	0	0	0	0	0	0	0	825,000
REMAINING YEARS				4			7			5			

ANNUAL DISPOSAL RATE (in tons)	
RESOURCES RECOVERY ASHFILL	167,000
SOUTH DADE LANDFILL	180,000
NORTH DADE LANDFILL	354,000
WMI CONTRACT	250,000
TOTAL TO BE LANDFILLED	<u>951,000</u>

* Ashfill capacity for Cell 19 (Cell 20 is not included). When Cell 19 is depleted Resources Recovery Plant Ash and Okeelanta Ash will go to South Dade Landfill and WMI.
 ** South Dade includes Cells 3 and 4 (Cell 5 is not included). Assumes unders from Resources Recovery consumes capacity whether or not it is used as cover.
 *** North Dade capacity represents buildout of the facility. When North Dade Landfill capacity is depleted trash goes to South Dade Landfill and WMI.
 **** Maximum Contractual Tonnage per year to WMI is 500,000 tons. WMI disposal contract ends September 30, 2015.
 All capacity figures are derived from the Capacity of Miami-Dade County Landfills report prepared by the Brown and Caldwell, Dated August, 2006.



MEMORANDUM

*Original to Helen Brown
by to Al Jones*

107.07-17A METRO/DADE/ISSA/MAT. MGT

TO: Diane O'Quinn Williams
Director
Department of Planning and Zoning

DATE: September 12, 2003
SUBJECT: Solid Waste Disposal
Concurrency Determination

FROM: Andrew Wilfork
Director
Department of Solid Waste Management

The Department of Solid Waste Management determines compliance with the County's adopted level-of-service (LOS) standard for solid waste disposal based on the ability of the County Solid Waste Management System (System) to accommodate projected waste flows for concurrency. Only those System facilities that are constructed, under construction, subject to a binding executed contract for construction, or subject to a binding executed contract for the provision of services are included in this determination, in accordance with Chapter 33G of the Miami-Dade County Code, Concurrency Management Program.

The attached spreadsheet presents the projected utilization of the System's remaining disposal capacity over a period of 15 years. The projection is based on the demand generated by those parties (municipalities and private haulers) who have committed their waste flows to the System through interlocal agreements and long term contracts as well as anticipated non-committed waste flows, in accordance with the LOS standard. The analysis shows adequate System capacity to meet the LOS until 2015 or seven (7) years beyond the minimum standard. This determination is contingent upon the continued ability of the County and its disposal service contract providers to obtain and renew disposal facility operating permits from the applicable federal, state and local regulatory agencies. Therefore, please be advised that the current LOS is adequate to permit development orders to be issued. This determination shall remain in effect for a period of three (3) fiscal years (ending September 30, 2006), at which time an updated determination will be issued. If, however, a significant event occurs which substantially alters these projections, the Department will issue an updated determination.

Attachment

cc: Pedro G. Hernandez, P.E., Assistant County Manager
Victoria Garland, Acting Deputy Director, DSWM
Vicente Castro, Assistant Director for Technical Services, DSWM
Paul J. Mauriello, Acting Assistant Director for Disposal Operations, DSWM
Charles W. Parkinson, Jr., Acting Assistant Director for Administration, DSWM

RECEIVED
SEP 18 2003

ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING

BY _____

Department of Solid Waste Management (DSWM)

Solid Waste Facility Capacity Analysis

Fiscal Year 2002-2003

Year	Waste Projections (tons)	RESOURCES RECOVERY FACILITY					RTI FACILITY				LANDFILLS			WHEELABRATOR (contract had ended on 12/31/02)	Total
		On-site Gross Tonnage	Unders to South Dade	Shredded Tires to South Dade	Ash to Ashfill	Net Tonnage	RTI Gross Tonnage	RTI Rejects to North Dade and Medley Landfill	Okeelanta Ash to R.R. Ashfill	Tonnage	SOUTH DADE Garbage	NORTH DADE Trash	WMI Garbage & Trash	Trash	
					[1]	[2]			[3]	[4]	[5]	[6]	[7]	[8]	[1]-[8]
2003 *	1,837,000	936,000	196,000	17,000	119,000	604,000	270,000	54,000	27,000	189,000	410,000	333,000	146,000	8,000	1,836,000
2004 **	1,715,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	273,500	395,000	100,000	0	1,715,500
2005	1,715,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	273,500	395,000	100,000	0	1,715,500
2006 ***	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500
2007	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500
2008	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500
2009	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500
2010	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500
2011	1,705,500	936,000	178,000	14,000	122,000	622,000	270,000	67,000	27,000	176,000	263,500	395,000	100,000	0	1,705,500
RESOURCES RECOVERY		GARBAGE	TRASH	TIRES	TOTAL										
* TOTAL @ 1.84M		853,000	69,000	14,000	936,000 (91% Garbage; 9% Trash, includes Tires)										
** TOTAL @ 1.72M		853,000	69,000	14,000	936,000 (91% Garbage; 9% Trash, includes Tires)										
*** TOTAL @ 1.71M		853,000	69,000	14,000	936,000 (91% Garbage; 9% Trash, includes Tires)										
TOTAL WASTE STREAM PERCENTAGES @1.84 MILLIONS TONS															
GARBAGE 54.3%		997,000													
TRASH 4.4%		816,000													
SPECIAL (includes Tires) 1.3%		24,000													
TOTAL		1,837,000													

REMAINING CAPACITY BY FACILITY AT END OF FISCAL YEAR				
Year	Ashfill Capacity *	South Dade Capacity **	North Dade Capacity ***	WMI **** Disposed
Base Capacity	207,000	4,352,000	3,130,000	146,000
2003	61,000	3,942,000	2,797,000	100,000
2004	0	3,668,500	2,402,000	188,000
2005	0	3,395,000	2,007,000	249,000
2006	0	3,131,500	1,612,000	249,000
2007	0	2,868,000	1,217,000	249,000
2008	0	2,604,500	822,000	249,000
2009	0	2,341,000	427,000	249,000
2010	0	2,077,500	32,000	249,000
2011	0	1,702,000	0	500,000
2012	0	1,294,500	0	500,000
2013	0	887,000	0	500,000
2014	0	479,500	0	500,000
2015	0	72,000	0	500,000
2016	0	0	0	0
2017	0	0	0	0
2018	0	0	0	0
Total Remaining Years	0	12	6	

* Ashfill capacity includes cells 17 and 18; cells 19-20 have not been constructed. When cells 17 and 18 are depleted Resources Recovery Plant Ash and Okeelanta Ash go to South Dade Landfill and Medley Landfill (WMI).

** South Dade includes cells 3 and 4; cell 5 has not been constructed. Assumes all unders consumes capacity whether or not it is used as cover.

*** North Dade capacity represents buildout of the facility. When North Dade Landfill capacity is depleted trash goes WMI and South Dade Landfill.

**** Maximum Contractual Tonnage per year to WMI is 600,000 tons; Minimum Contractual Tonnage per year is 100,000 tons. WMI disposal contract ends September 30, 2015. After WMI disposal contract ends tonnage goes to South Dade Landfill.

All capacity figures are derived from the Capacity of Miami-Dade County Landfills report prepared by the Brown and Caldwell, Dated October 2002.

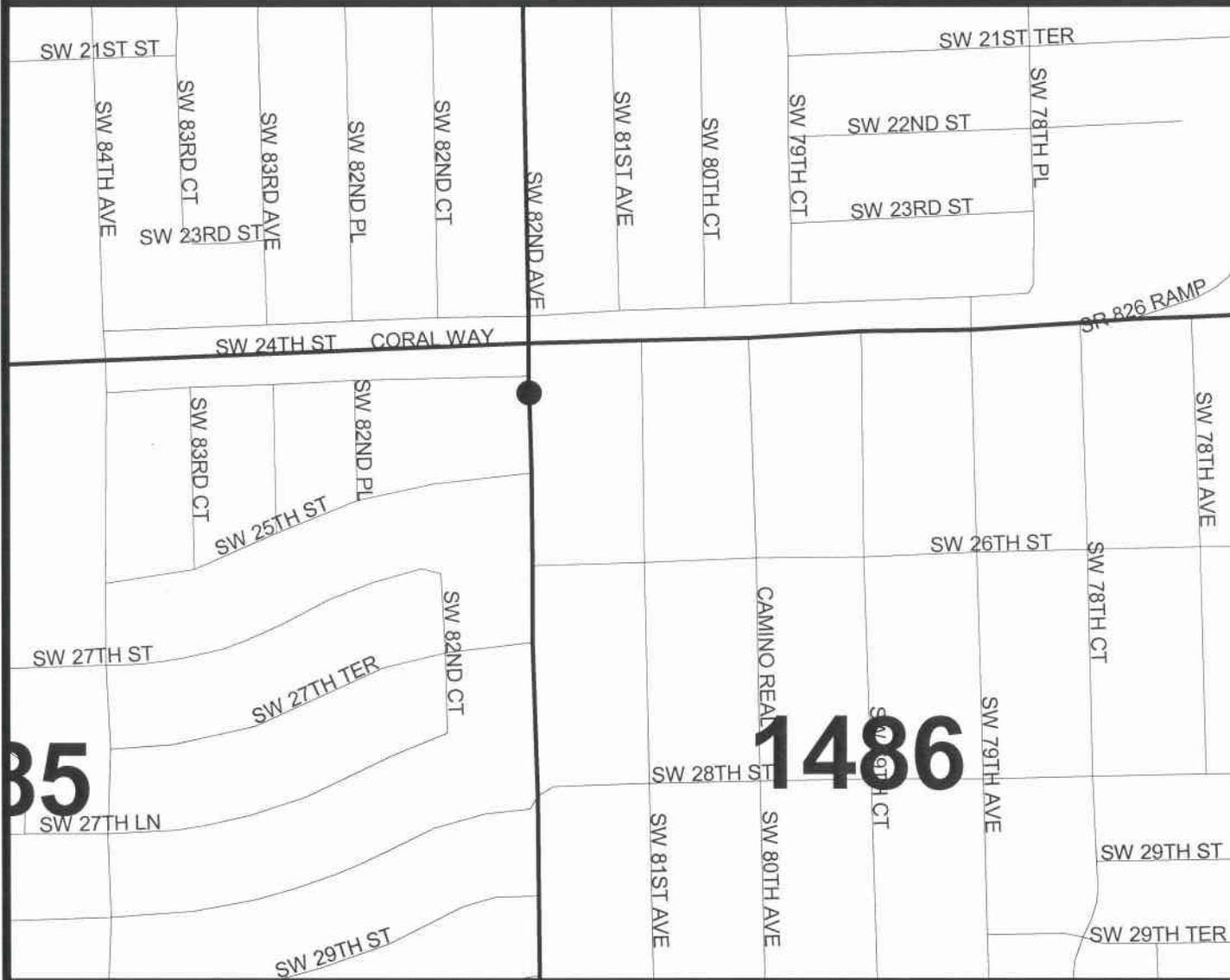


Miami-Dade Police Department

Address

RENE MIGUEL VALDEZ; HEARING # 05-364

C-10



Police Grids Boundaries

35

0 0.05 0.1 Miles



MDPD Crime Analysis System
December 16, 2005
Data in this document represents
successfully geocoded attributes.





Miami-Dade Police Department

Address Query for Events occurring at 2425 SW 82

For 2003-11-15 Thru 2005-11-15

Miami-Dade Police Department

Crime Information Warehouse

Detail Filter: Dis.Complaint Date >= "2003-11-15" and Dis.Complaint Date < "2005-11-16" and Dis.Police District Code in ("A", "B", "C", "D", "E", "G", "H", "I", "K", "L", "M", "N", "P", "Q", "R", "ZZ") and Dis.Incident Address contains "2425 SW 82" and Dis.Reporting Agency Code = substring ("030", 1, 3) and Common and Dis.Signal Code in ("13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55")

Incident Address	Dis	Grid	A O P	Complaint Date	Day of Wk	Call Rcvd Time	Complaint Name	Case Number	Sig Pre	Sig Suf	Rcvd Time	Disp Time	1st Arriv Time	1st Arriv Unit	Event Number	Rp Wr YN
2425 SW 82 AV	D	1486	2	06/28/2004	MON	23:15:38		0350511C		14	23:15:38	23:15:42	23:15:42	D7203	41718579	Y
2425 SW 82 AV	D	1486	3	06/28/2004	MON	13:26:46				13	13:26:46	13:26:46	13:26:46	D7201	41713847	N



Miami-Dade Police Department Zoning Hearing Report - Dispatch Information For 2003 and 2004



Miami-Dade Police Department

Detail Filter: (Dis.Complaint Date >= FirstDate and Dis.Complaint Date < LastDate) and (Dis.Grid in ("0676", "1019", "1204", "1351", "1399", "1486", "1744", "1762", "1786", "1857", "1893", "1918", "1991", "2079", "2610")) and ((Dis.Signal Code in ("13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55") or ('ALL' in ("13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55"))) and Common

2003 2004

Grid	Signal Code	Signal Description	2003	2004
1486	13	SPECIAL INFORMATION/ASSIGNMENT	59	44
	14	CONDUCT INVESTIGATION	103	100
	15	MEET AN OFFICER	341	268
	16	D.U.I.	3	2
	17	TRAFFIC ACCIDENT	127	124
	18	HIT AND RUN	23	17
	19	TRAFFIC STOP	66	33
	20	TRAFFIC DETAIL	4	18
	21	LOST OR STOLEN TAG	11	4
	22	AUTO THEFT	15	9
	25	BURGLAR ALARM RINGING	102	75
	26	BURGLARY	72	48
	27	LARCENY	14	22
	28	VANDALISM	13	17
	29	ROBBERY	3	2
	30	SHOOTING	0	1
	32	ASSAULT	25	27
	33	SEX OFFENSE	2	0
	34	DISTURBANCE	42	43
	36	MISSING PERSON	10	18
37	SUSPICIOUS VEHICLE	10	9	
38	SUSPICIOUS PERSON	9	6	
39	PRISONER	6	2	
41	SICK OR INJURED PERSON	24	33	
43	BAKER ACT	1	2	
44	ATTEMPTED SUICIDE	4	0	



Miami-Dade Police Department Zoning Hearing Report - Dispatch Information For 2003 and 2004



Miami-Dade Police Department

Detail Filter: (Dis.Complaint Date >= FirstDate and Dis.Complaint Date < LastDate) and (Dis.Grid in ("0676", "1019", "1204", "1351", "1399", "1486", "1744", "1762", "1786", "1857", "1893", "1918", "1991", "2079", "2610")) and ((Dis.Signal Code in ("13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55") or (ALL in ("13", "14", "15", "16", "17", "18", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", "46", "47", "48", "49", "50", "51", "52", "53", "54", "55"))) and Common

2003 2004

Grid	Signal Code	Signal Description		
1486	47	BOMB OR EXPLOSIVE ALERT	2	1
	48	EXPLOSION	0	1
	49	FIRE	5	2
	52	NARCOTICS INVESTIGATION	2	3
	54	FRAUD	6	3
Total Signals for Grid 1486 :			1,104	934



MIAMI-DADE POLICE DEPARTMENT
Zoning Hearing Report Part I and Part II Crimes w/o AOA
For Specific Grids
For 2003 and 2004



Miami-Dade Police Department

Grid(s): 0676, 1019, 1204, 1351, 1399, 1486, 1744, 1762, 1786, 1857, 1893, 1918, 1991, 2079, 2610

2003 2004

Grid 1486				
Part I				
130A		AGGRAVATED ASSAULT	3	5
2200		BURGLARY	24	10
110C		FONDLING	1	0
2400		MOTOR VEHICLE THEFT	9	6
230A		POCKET PICKING	0	1
1200		ROBBERY	1	2
230C		SHOPLIFTING	0	1
230G		SHOPLIFTING ALL OTHERS	13	15
230F		SHOPLIFTING FROM A MOTOR VEHICLE	35	28
Part I TOTAL			86	68
Part II				
2000		ARSON	1	0
260A		FRAUD CON/SWINDLE/FALSE PRET.	0	1
260B		FRAUD CREDIT CARD/ATM	1	1
260D		IMPERSONATION	1	2
350A		NARCOTIC BUY/SELL/POSS/IMPORT/MANUF	4	2
130B		SIMPLE ASSAULT	3	2
Part II TOTAL			10	8
Grid 1486 TOTAL			96	76