

Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-3-08

WHEREAS, **JULIO C. MOLINA** applied to Community Zoning Appeals Board 14 for the following:

(1) AU to EU-1

REQUEST #1 ON PARCEL "A"

(2) MODIFICATION of Conditions #2 and #9 of Resolution 5-ZAB-201-97, passed and adopted by the Zoning Appeals Board, reading as follows:

FROM: "2. That in the approval of the plans, the same be substantially in accordance with that submitted for the hearing entitled 'Assisted Living Facility,' as prepared by Taxis, Inc., consisting of 2 sheets dated October 31, 1998."

TO: "2. That in the approval of the plans, the same be substantially in accordance with that submitted for the hearing entitled 'Assisted Living Facility,' as prepared by Taxis, Inc., consisting of 2 sheets dated October 31, 1998 and a plan entitled 'Site Plan,' as prepared by Manuel G. Vera and Associates, Inc., consisting of 1 sheet and dated stamped received 2/2/06."

FROM: "9. That the operator of the facility must be the owner of the property and permanently reside on the property."

TO: "9. That the owner provide full-time staff 24 hours a day, 7 days a week for the care facility."

REQUEST #2 ON PARCEL "B"

The purpose of request #2 is to submit a revised site plan showing less property for the previously approved home for the aged and to remove the condition that the owner be the operator of the facility and reside on the site permanently; to allow staffing of the site by others than the owner.

Upon a demonstration that the applicable standards have been satisfied, approval of request #2 may be considered under §33-311(A)(7) (Generalized Modification Standards) or §33-311(A)(17) (Modification or Elimination of Conditions or Covenants After Public Hearing).

The aforementioned plans are on file and may be examined in the Zoning Department.

SUBJECT PROPERTY: PARCEL "A" : Tract "A" , THE SECOND AMENDED PLAT OF A PORTION of PORVENIR NO. 4, Plat book 43, Page 17, less the south ½ of said Tract "A" and less the east 330' thereof. AND: PARCEL " B": The east 330' of Tract "A", THE SECOND AMENDED PLAT OF A PORTION of PORVENIR NO. 4, Plat book 43, Page 17, less the south ½ of said Tract "A".

LOCATION: 29100 S.W. 172 Avenue, Miami-Dade County, Florida, and

WHEREAS, a public hearing of Community Zoning Appeals Board 14 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant proffered a Declaration of Restrictions, and

WHEREAS, upon due and proper consideration having been given to the matter it was the opinion of Community Zoning Appeals Board 14 that the requested modification of Conditions #2 and #9 of Resolution 5-ZAB-201-97 on Parcel "B " (Item #2), would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance, and should be approved, and that the requested district boundary change to EU-1 on Parcel "A" (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and said application was denied in part by Resolution No. CZAB14-28-07, and

WHEREAS, **JULIO C. MOLINA** appealed the decision of Community Zoning Appeals Board 14 to the Board of County Commissioners for the following:

- (1) AU to EU-1

REQUEST #1 ON PARCEL "A"

- (2) MODIFICATION of Conditions #2 and #9 of Resolution 5-ZAB-201-97, passed and adopted by the Zoning Appeals Board, reading as follows:

FROM: "2. That in the approval of the plans, the same be substantially in accordance with that submitted for the hearing entitled 'Assisted Living Facility,' as prepared by Taxis, Inc., consisting of 2 sheets dated October 31, 1998."

TO: "2. That in the approval of the plans, the same be substantially in accordance with that submitted for the hearing entitled 'Assisted Living Facility,' as prepared by Taxis, Inc., consisting of 2 sheets dated October 31, 1998 and a plan entitled 'Site Plan,' as prepared by Manuel G. Vera and Associates, Inc., consisting of 1 sheet and dated stamped received 2/2/06."

FROM: "9. That the operator of the facility must be the owner of the property and permanently reside on the property."

TO: "9. That the owner provide full-time staff 24 hours a day, 7 days a week for the care facility."

REQUEST #2 ON PARCEL "B"

The purpose of request #2 is to submit a revised site plan showing less property for the previously approved home for the aged and to remove the condition that the owner be the operator of the facility and reside on the site permanently; to allow staffing of the site by others than the owner.

Upon a demonstration that the applicable standards have been satisfied, approval of request #2 may be considered under §33-311(A)(7) (Generalized Modification Standards) or §33-311(A)(17) (Modification or Elimination of Conditions or Covenants After Public Hearing).

The aforementioned plans are on file and may be examined in the Zoning Department. Plans may be modified at public hearing.

SUBJECT PROPERTY: PARCEL "A": Tract "A", THE SECOND AMENDED PLAT OF A PORTION of PORVENIR NO. 4, Plat book 43, Page 17, less the south ½ of said Tract "A" and less the east 330' thereof. AND: PARCEL "B": The east 330' of Tract "A", THE SECOND AMENDED PLAT OF A PORTION of PORVENIR NO. 4, Plat book 43, Page 17, less the south ½ of said Tract "A".

LOCATION: 29100 S.W. 172 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 at which time the applicant proffered a Declaration of Restrictions which among other things provided:

1. That said Property shall be developed substantially in accordance with the plans previously submitted, prepared by Manuel G. Vera & Associates, dated 02-02-06, last revised 06-30-06 and dated stamped received May 25, 2007 (hereinafter referred to as the "Site Plan"), said plans being on file with the Miami-Dade County Department of Planning and Zoning, and by reference made a part of this agreement. Tract A of the Site Plan has been previously approved as a home for the aged and may continue to be operated as such, however, if said use is terminated, Tract A may be developed in accordance with EU-1 zoning regulations including the use of SUR's if the owner desire.
2. That prior to final plat approval, owner shall purchase and submit to Miami-Dade County Severable Use Rights (SURs) to develop the Property in accordance with the Site Plan.
3. That the existing home for the aged located on Tract A of the Site Plan shall be staffed with at least one caregiver 24 hours a day.

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

WHEREAS, after reviewing the record and decision of the Metropolitan Dade County Zoning Appeals Board 14 and after having given an opportunity for interested parties to be heard, it is the opinion of the Board of County Commissioners, Miami-Dade County, Florida, that that the grounds and reasons alleged by the appellants specified in the appeal were sufficient to merit a reversal of the ruling made by the Zoning Appeals Board in Resolution No. CZAB14-28-07 and that the appeal should be approved, and that the decision of Community Zoning Appeals Board 14 should be overruled, and

WHEREAS, it is the opinion of the Board that the requested district boundary change to EU-1 on Parcel A (Item #1) would be compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that the requested modification of Conditions #2 and #9 of Resolution 5-ZAB-201-97, passed and adopted by the Zoning Appeals Board on Parcel B (Item #2) would be compatible with the

area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance, and that the proffered Declaration of Restrictions should be accepted, and

WHEREAS, a motion to grant the appeal and overrule the decision of Community Zoning Appeals Board 14, accept the proffered Declaration of Restrictions, approve Item #1, approve Item #2 under Section 33-311(A)(7), and deny Item #2 without under Section 33-311(A)(17) was offered by Commissioner Katy Sorenson, seconded by Commissioner Jose "Pepe" Diaz, and upon a poll of the member s present the vote was as follows:

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

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

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

BE IT FURTHER RESOLVED that the requested of Conditions #2 and #9 of Resolution 5-ZAB-201-97, passed and adopted by the Zoning Appeals Board on Parcel B (Item #2) be and the same is hereby approved under Section 33-311(A)(7), subject to the following conditions:

1. That all the conditions of Resolution No. 5-ZAB-201-97 remain in full force and effect except as herein modified.
2. That the owner provide full time staffing for the care of the residents 24 hours a day, 7 days a week at the home for the aged on Parcel "B".

BE IT FURTHER RESOLVED that the requested modification of Conditions #2 and #9 of Resolution 5-ZAB-201-97, passed and adopted by the Zoning Appeals Board on Parcel B (Item #2), shall read as follows:

2. That in the approval of the plans, the same be substantially in accordance with that submitted for the hearing entitled 'Assisted Living Facility,' as prepared by Taxis, Inc., consisting of 2 sheets dated October 31, 1998 and a plan entitled 'Site Plan,' as prepared by Manuel G. Vera and Associates, Inc., consisting of 1 sheet and dated stamped received 2/2/06.
9. That the owner provide full-time staff 24 hours a day, 7 days a week for the care facility.

BE IT FURTHER RESOLVED that Item #2 be and the same is hereby denied without prejudice under Section 33-311(A)(17).

BE IT FURTHER RESOLVED that Resolution No. CZAB14-28-07 is hereby null and void.

BE IT FURTHER RESOLVED that, pursuant to Section 33-6 of the Code of Miami-Dade County, Florida, the County hereby accepts the proffered covenant and does exercise its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations.

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 24th day of January, 2008, 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. 07-9-CZ14-1

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 31ST DAY OF JANUARY, 2008.

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-3-08 adopted by said Board of County Commissioners at its meeting held on the 24th day of January, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 31st day of January, 2008.



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

SEAL





January 31, 2008

miamidade.gov

Carlos Alvarez, Mayor

Julio C. Molina
c/o Simon Ferro
Greenberg Traurig, P.A.
1221 Brickell Avenue
Miami, Florida 33131

Re: Hearing No. 07-9-CZ14-1
Location: 29100 S.W. 172 Avenue,
Miami-Dade County,

Dear Applicant:

Enclosed herewith is Resolution No. Z-3-08, adopted by the Board of County Commissioners, which **accepted your Declaration of Restrictions and approved your request for a district boundary change to EU-1 (Item #1), and approved Item #2** on the above described property. Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. Failure to comply with stipulated conditions, if any, will result in the immediate issuance of a civil violation notice for each condition violated. Each notice issued may require payment of a daily monetary fine.

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

The Board's decision may be appealed by an aggrieved party to Circuit Court within 30 days of the date of transmittal of the resolution to the Clerk of the County Commission. The transmittal date is **January 31, 2008**. In the event an appeal is filed, any building permit sought shall be at the risk of the party seeking said permit. Copies of any court filings concerning this matter should be served upon both my office and:

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

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

Sincerely,

Earl Jones
Deputy Clerk

Enclosure

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