

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

CHECKED BY CAL AMOUNT OF FEE \$975.11

RECEIPT # 7200825717

DATE HEARD: 07/08/2008

BY CZAB # 11

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ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY CAL

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. 07-417

Filed in the name of (Applicant) Krome Gold Ranches II, LLLP

Name of Appellant, if other than applicant Same

Address/Location of APPELLANT'S property: Lying north of S.W. 136th Street, between S.W. 177th Avenue and S.W. 187th Avenue, Miami-Dade County, Florida.

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

Appellant (name): Krome Gold Ranches II, LLLP 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 make 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)

See Attached Letter of Intent

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MIAMI-DADE PLANNING AND ZONING DEPT.

BY JA

APPELLANT MUST SIGN THIS PAGE

Date: 9th day of ~~June~~ ^{July}, 2008

Signed _____

Krome Gold Ranches II, LLLP
Armando Guerra, Managing Member of Krome
Gold Ranches Management, LLC, its General
Partner

Print Name

1390 South Dixie Highway, Coral Gables, Florida
33146-2947

Mailing Address

786-621-5226

Phone

305.789.7799

Fax

REPRESENTATIVE'S AFFIDAVIT

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

Krome Gold Ranches II, LLLP, a Florida limited liability
limited partnership

Representing

Signature

Juan J. Mayol, Jr., Esq. & Jorge A. Lima, Esq.

Print Name

701 Brickell Avenue, Suite 3000

Address

Miami

City

FL

State

33131

Zip

305-789-7787

Telephone Number

Subscribed and Sworn to before me on the 9th day of ~~June~~ ^{July}, year 2008

Notary Public

(stamp/seal)

Commission Expires



ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT

BY [Signature]

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 Armando Guerra, Managing Member of Krome Gold Ranches Management, LLC, the General Partner of Krome Gold Ranches II, LLLP (Appellant) who was sworn and says that the Appellant has standing to file the attached appeal of a Community Zoning Appeals Board decision.

The Appellant further states that they have standing by virtue of being of record in Community Zoning Appeals Board matter because of the following:

(Check all that apply)

- 1. Participation at the hearing
2. Original Applicant
3. Written objection, waiver or consent

Appellant further states they understand the meaning of an oath and the penalties for perjury, and that under penalties of perjury, Affiant declares that the facts stated herein are true.

Further Appellant says not.

Witnesses:

Handwritten signature of Christina Scicchitano

Christina Scicchitano
Print Name

Handwritten signature of Armando Guerra

Armando Guerra
Managing Member of Krome Gold Ranches Management, LLC, the General Partner of Krome Gold Ranches II, LLLP

Handwritten signature of Juan V. Mayol, Sr.

JUAN V. MAYOL, SR.
Print Name

Sworn to and subscribed before me on the 9th day of July, 2008.

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

Handwritten signature of Notary Miguel Freire

Notary (Stamp/Seal) Commission Expires:



ZONING HEARINGS SECTION MIAMI-DADE PLANNING AND ZONING DEPT. BY



Juan J. Mayol, Jr., Esq.
305 789 7787
juan.mayol@hklaw.com

July 10, 2008

VIA HAND DELIVERY

Marc C. LaFerrier, A.I.C.P.
Director
Miami-Dade County Department of Planning and Zoning
111 N.W. First Street, 11th Floor
Miami, Florida 33128

Re: Krome Gold Ranches II, LLLP / PH 07-417 / Petition for Appeal

Dear Mr. La Ferrier:

This Petition of Appeal is submitted on behalf of Krome Gold Ranches II, LLLP (the "Applicant") and seeks to appeal the decision of the Miami-Dade Community Zoning Appeals Board 11 ("CZAB 11") which denied, without prejudice, Zoning Application No. 07-417 (the "Application"), on July 8th, pursuant to Resolution No. CZAB11-14-08 (copy attached).

In accordance with the original letter of intent, the Application affects that certain 465-acre property lying north of S.W. 136th Street, between S.W. 177th Avenue and S.W. 187th Avenue in Miami-Dade County, Florida (the "Property"). Specifically, the Application requests: (1) a district boundary change ("DBC") from GU (Interim District) to EU-2 (Five-Acre Single Family Estate District) (hereinafter, the "Rezoning Request"); (2) an unusual use to permit a lake excavation (hereinafter, the "Lake Excavation Request"); (3) an unusual use to permit a private recreational facility; (4) a variance of the zoned rights-of-way for theoretical S.W. 182 Avenue and theoretical S.W. 128th Street; (5) variance to allow three parcels with reduced lot frontage; and (6) a variance to allow access to the parcels by means of private drives.

While the underlying GU zoning allows the development of up to ninety-three (93) farm residences as a matter of right, the original plans submitted indicate fifty-eight (58) 5-gross acre farm residences and an ancillary fish-stocked lake. Moreover, under the terms of a proposed Declaration of Restrictions introduced at the public hearing, the Applicant sought to further reduce the density to forty-eight (48) 5-gross acre farm residences, a permitted density reduction of 52%. Each homestead will be improved with a farm residence and be permitted every customary incidental use, but not necessarily limited to, a guesthouse, servant's quarters, and

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recreational amenities such as swimming pools, boat piers or slips for the docking of privately owned watercraft, and stables for livestock and the keeping of horses including horse boarding. Agricultural uses such as raising of poultry and fowl, horses and livestock, truck gardening, and beekeeping will also be permitted. Access to the homesteads will be provided by private roadways and an equestrian path. The proposed equestrian path is ideally situated in close proximity to the Everglades Trail, a designated public trail for hikers, bikers, and equestrians which forms part of the South Dade Greenway Network. The trail is approximately 24-miles (38.6 km) in length and spans from S.W. 136th Street southward to S.R. 9336.

We hereby submit that the denial of the Application was not based on substantial competent evidence inasmuch as the CZAB 11 based its decision on incorrect statements by objectors and on the report prepared by the Department of Planning and Zoning (the "DP&Z Report") which contained an analysis that was flawed, based on mere speculation with regard to its finding that the Application would be incompatible with the surrounding area, an incorrect interpretation of a principal use vs. an ancillary uses in the Agricultural land use designation, and an incorrect interpretation and application of the goals, policies, and objectives of the Miami-Dade County Comprehensive Development Master Plan (CDMP) as they pertain to the Agricultural land use designation. The incorrect interpretation of the CDMP, including, but not limited to, land use policy LU-3F, resulted in an incorrect voting requirement of the CZAB 11. In effect, the incorrect voting requirement reversed a 4-3 vote by the CZAB 11 to approve the Application subject to revised standard conditions and acceptance of the proffered covenant.

Additionally, the DP&Z Report is flawed as to the Rezoning Request, Lake Excavation Request and accompanying variances. The Rezoning Request's proposed EU-2 zoning district is compatible and consistent with the Agricultural land use designation which allows 5-acre residences. The EU-2 zoning classification allows certain agricultural uses that are also permitted within the Agricultural zoning district, as per Miami-Dade County Code Sec. 33-279. Staff fails to recognize this compatibility and offers no analysis as to why it concludes otherwise.

The DP&Z Report, while acknowledging that the proposed community would be compatible and consistent with the CDMP, indicated that limited agricultural uses would be incompatible with the unlimited agricultural uses permitted in the surrounding area. Yet, the DP&Z Report provided no evidence that limited agriculture and unlimited agriculture are incompatible with one another. It is a well known that: (1) there is no spacing requirement in the Code of Miami-Dade County (the "Code) between parcels that is applicable to the Agriculture areas, and (2) the Agriculture areas contain parcels of land with varying yard dimensions and sizes, many of which are improved with farm residences on parcels that are smaller than 5 gross acres due to road rights-of-way and other reservations upon their properties, the creation of the parcels prior to the adoption of the 5-gross acre standard lot size in 1974, or the approval of non-use variances of the lot area and lot frontage regulations pursuant to zoning actions at public hearings. As such, farm residences with varying degrees of agricultural activities can and do occur on both large and small parcels of land throughout the Agriculture areas, such combinations are often contiguous and compatible with one another.

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Marc La Ferrier, A.I.C.P.

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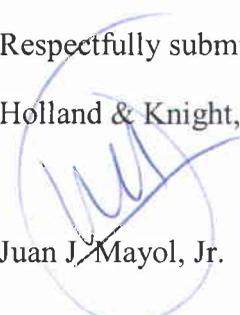
We further submit that the DP&Z Report and decision by the CZAB 11 with regard to the Lake Excavation Request was based upon an incorrect interpretation of the goals, policies, and objectives of the Miami-Dade County Comprehensive Development Master Plan (CDMP) as they pertain to the Agricultural land use designation. The proposed lake use is ancillary to the proposed rural residential community and not a principal use. Unlike the draft report, the final DP&Z Report failed to acknowledge that the lake excavation is ancillary to and necessary to support the development of residences on the Property as evidenced by the report prepared by the staff of the Department of Environmental Resources Management (DERM) (the "DERM Report"). The DERM Report not only approved the Application, having satisfied all environmental code requirements, but also noted that the lake satisfied stormwater management regulations which require at least 28.5% of the total land for a lake, and recognized that the lake helped to alleviate the insufficient flood protection in the area. As such, the DERM Report acknowledges that the lake provides a water management area designed to retain the rainfall generated by a 100-year/3-day storm event.

CZAB 11's decision must observe the essential requirements of the law and be supported by substantial competent evidence. Florida courts have described substantial competent evidence as such evidence that will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. It is such relevant evidence that a reasonable mind would accept as adequate to support a conclusion. CZAB 11's decision to deny the Application neither observed the essential requirements of the law nor was based on substantial competent evidence. The evidence used by CZAB 11 to support its decision fails to adequately support the conclusion.

Based on the foregoing, we respectfully request the Department's favorable consideration of this Petition of Appeal. Thank you for your considerate attention to this matter. As always, should you have any questions or require additional information, please do not hesitate to contact me at (305) 789-7787.

Respectfully submitted,

Holland & Knight, LLP.


Juan J. Mayol, Jr.

cc: Mr. Armando Guerra
Mr. Sergio Pino
Jorge A. Lima, Esq.

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in the matter were given an opportunity to be heard, at which time the applicant proffered a Declaration of Restrictions, 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 EU-2 (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the requested unusual uses to permit a lake excavation (Item #2) and a private recreational facility; to wit: a clubhouse, including stables and boat storage (Item #3), and the requests to waive the zoning regulations requiring half-section line rights-of-way to be 70' in width; to permit no dedication for theoretical S.W. 182 Avenue and theoretical S.W. 128 Street (Item #4), to permit Lots 33, 34 and 35 with frontages varying from 94.52' to 138.02' (Item #5) and to waive the zoning and subdivision regulations requiring non-residential lots to have frontage on a public street; to permit a lot containing the private recreation facility with no frontage on a public street and to have access to the said lot by means of a private easement (Item #6), would not be compatible with the area and its development and would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and that the requested unusual uses (Items #2 & 3) would have an adverse impact upon the public interest and should be denied, and

WHEREAS, a motion to deny Items #1 through 6 without prejudice, was offered by Ileana R. Vazquez, seconded by Jay Reichbaum, and upon a poll of the members present the vote was as follows:

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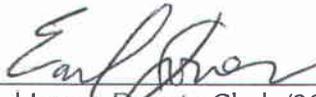
BY 

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Earl Jones, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Miami-Dade County Community Zoning Appeals Board 11, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB11-11-08 adopted by said Community Zoning Appeals Board at its meeting held on the 8th day of July, 2008.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 16th day of July, 2008.



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

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