Miami-Dade County Permitting, Environment and Regulatory Affairs Department
Staff Report to Community Council No. 5

PH: Z11-077 (12-06-CZ05-1) **June 28, 2012**
Item No. 1

Recommendation Summary	
Commission District	1
Applicant	Miami Gardens Commons, LLC
Summary of Requests	The applicant is seeking a zone change to BU-2 and to permit less classroom space, outdoor recreation space and stacking spaces than required. Additionally, the applicant is seeking to waive the required 5' high masonry wall and permit one (1) tenant two (2) wall signs, where one sign per tenant is permitted.
Location	5901 Miami Gardens Drive, Miami-Dade County, Florida.
Property Size	2.95 acres
Existing Zoning	IU-C
Existing Land Use	Office Building
2015-2025 CDMP Land Use Designation	Business and Office (see attached Zoning Recommendation Addendum)
Comprehensive Plan Consistency	Consistent with interpretative text, goals, objectives and policies of the CDMP
Applicable Zoning Code Section(s)	Section 33-311 District Boundary Change Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations (see attached Zoning Recommendation Addendum)
Recommendation	**Approval with conditions of requests #1 - #4 and denial without prejudice of requests #5 and #6.**

REQUESTS:

(1) DISTRICT BOUNDARY CHANGE from IU-C (Controlled Industrial District) to BU-2 (Special Business District).

(2) NON-USE VARIANCE to permit a classroom space of 17,158 sq. ft. (22,675 sq. ft. required).

(3) NON-USE VARIANCE to permit an outdoor recreation space of 1,711.95 sq. ft. (200,550 sq. ft.).

(4) NON-USE VARIANCE to permit zero (0) stacking spaces (5 stacking spaces required).

(5) NON-USE VARIANCE of sign regulations to permit one (1) tenant with two (2) wall signs (1 wall sign per tenant permitted).

(6) NON-USE VARIANCE to waive the required 5' high masonry wall where a business lot abuts a residentially zoned property from the rear (north) property line.

Plans are on file and may be examined in the Permitting, Environment and Regulatory Affairs or its successor Department entitled "Miami Garden Commons," as prepared by Gutierrez & Lozano Architects and dated stamped received 3/21/12 consisting of 6 sheets. Plans may be modified at public hearing.

PROJECT DESCRIPTION: The subject property is an existing 3-story 72,682 sq. ft. multi-tenant office building.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	**Land Use Designation**
Subject Property	IU-C; office building	Business and Office
North	RU-4L; multi-family residential	Medium Density Residential (13 to 25 dua)
South	IU-C; commercial	Business and Office
East	IU-C; commercial and storage facility	Business and Office
West	IU-C; storage facility	Business and Office

NEIGHBORHOOD COMPATIBILITY:

The subject property is an existing office building located at 5901 Miami Gardens Drive. The surrounding area is characterized by commercial and residential uses.

SUMMARY OF THE IMPACTS:

Approval of this application will rezone the subject property to BU-2 and increase the visibility of tenants of the existing office building by increasing the number of signs. Additionally, approval would permit a private school with less classroom and outdoor recreational space and zero (0) auto stacking spaces for a private school. As such, the proposed school could result in additional traffic in the surrounding area and the proposed additional signage could result in visual clutter and have a negative visual impact on the surrounding area.

CDMP ANALYSIS:

The subject property is designated as **Business and Office** on the Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map. *This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, call centers, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes (also allowed in the institutional category), entertainment and cultural facilities, amusements and commercial recreation establishments such as private commercial marinas.* The approval of the requests sought in this application will permit the applicant to rezone the property from IU-C to BU-2, provide less classroom and outdoor space than required for a private school and increase the number of wall signs on the existing office building. Staff opines that the requested BU-2, Special Business District, is **consistent** with the Business and Office designation of the subject property on the CDMP Land Use Plan map. Additionally, the proposed educational use is consistent with Land Use Element interpretative text for Institutions, Utilities and Communications which states that *neighborhood or community-serving institutional uses, cell towers and utilities including* ***schools****, libraries, sanitary sewer pump stations and fire and rescue facilities in particular, and cemeteries may be approved where compatible in all urban land use categories, in keeping with any conditions specified in the applicable category, and where provided in certain Open Land subareas. Compatibility shall be determined in accordance to Policy LU-4A.* Staff notes that **Land Use Element Policy LU-4A** sets forth the criteria to determine compatibility and states when evaluating compatibility among proximate land uses, the County shall consider such factors as

noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable. Additionally staff notes that the existing office building will be utilized for the proposed educational use. The existing facility did not require a zoning hearing and was built as a matter of right and subject to the County's building permit process. Staff notes that submitted plans for this application depict the same building elevations, architectural elements, landscaping, buffering and parking areas as were previously approved although the floor plans have been modified to accommodate the proposed 907 students.

Further, the CDMP Land Use Element interpretative text for the Business and Office designation states that *in reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly compatibility with both adjacent and adjoining uses, and availability of highway capacity, ease of access and availability of other public services and facilities.* Staff notes that memoranda submitted by the Departments of Public Works and Waste Management, the Environment Division of the Permitting, Environment and Regulatory Affairs, Miami-Dade Fire Rescue and Parks, Recreation and Open Spaces do not indicate any negative impact from the requested district boundary change. Therefore, staff opines that the proposed district boundary change and educational use are **consistent** with the Business and Office designation and the Land Use Element interpretative text for Institutions, Utilities and Communications and **compatible** with the surrounding area based on the that Land Use Element Policy LU-4A compatibility criteria.

ZONING ANALYSIS:

When request #1, District Boundary Change from IU-C to BU-2, is analyzed under Section 33-311 of the Code, staff opines that the approval of this request would be **consistent** with the CDMP's LUP map Business and Office designation. The Environmental Division of the Permitting, Environment and Regulatory Affairs Department memorandum indicates that approval will not result in a reduction in the Level of Service (LOS) standards for potable water service, wastewater disposal, or stormwater management. Further, staff opines that said request would not have an unfavorable impact on the environmental and natural resources, or economy nor burden water, sewer solid waste disposal, recreation, education or public transportation facilities as evidenced by memoranda submitted by the Departments of Public Works and Waste Management; Parks, Recreation and Open Spaces; the Environmental Division of Permitting, Environment and Regulatory Affairs; and Miami-Dade Fire Rescue. Additionally, said departments indicate in their memoranda that they do not object to this application. As such, staff opines that the applicant's request for a zone change to BU-2 will not have a negative impact on the surrounding area. Staff notes that the existing office building and uses are allowed in the BU-2 zoning district. **Therefore, staff recommends approval of request #1 under Section 33-311 Standards for District Boundary Change.**

When requests #2, #3 and #4 are analyzed under Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations, staff opines that approval of the requests to permit the subject property with less classroom and outdoor recreation space than required and zero (0) stacking spaces would be **compatible** with the area. In staff's opinion, requests #2, #3 and #4 maintain the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community. Staff notes that the requested non-use variances are for a proposed private school which is allowed by right within the BU-2, Special Business District. The applicant has indicated in the letter of intent that the private school will be a post secondary

facility for college aged students. Staff notes that due to the size of the subject property, the proposed private college did not meet the main campus standards for private colleges and universities listed in Section 151.14 of the Zoning Code. Said Section of the Code states that private colleges and universities with sites of thirty (30) acres or less shall meet the minimum standards established for high schools; therefore, the requested non-use variances are based on the private school standards for a high school educational facility as outlined in Section 151.18. Staff notes that the requests to permit less classroom and outdoor recreation space (requests #2 and #3) are based on the proposed total of 907 students. Staff opines said requests are minimal because the school offers its students convenient class schedules that allow for attendance at anytime during the day or evening. Therefore the number of students on campus will vary and may not reach the requested 907 students at any given time. Further, staff opines that request #4 to permit zero (0) stacking spaces, where five (5) are required will not impact the traffic circulation within the parking lot or negatively impact the adjacent roadways. Additionally, staff opines that modes of transportation utilized vary for college aged students from personal vehicle, mass transit and carpooling. In the event a student is dropped off at the location, the layout of the parking lot is designed with ample space to for other vehicles to maneuver around a stopped vehicle without impacting the circulation throughout the parking lot. **As such, staff recommends approval with conditions of requests #2, #3 and #4 under the Non-Use Variance (NUV) Standards.**

When analyzing request #5 under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards, staff opines that approval of this request would be **incompatible** with the surrounding area. The applicant is requesting to permit two (2) wall signs for one (1) tenant, where only one (1) wall sign per tenant is permitted. Staff notes that the tenant will occupy 13,012.44 sq. ft. on the first floor and 10,473.04 sq. ft. on the second floor. In the existing 3-story building there are currently only two tenants; on the first floor one tenant occupies 1,135.66 sq. ft. of space and on the second floor the other tenant occupies 1,154.91 sq. ft. and the third floor is currently unoccupied. Staff opines that since the additional tenant sign and all other signs as depicted on the submitted elevations comply with the Zoning Code regulations with regard to size and type allowed in the requested BU-2 zoning district and in the existing IU-C district; the requested additional sign for the tenant will not have a negative impact on the adjacent right-of-way and surrounding uses. **As such, staff recommends approval with conditions of request #5 under the Non-Use Variance (NUV) Standards.**

However, when request #5 is analyzed under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards, staff opines that approval of this request would be out of character with the surrounding area. The applicant is requesting to permit two (2) wall signs for one (1) tenant, where only one (1) wall sign per tenant is permitted. In staff's opinion the request is incompatible with the surrounding area. Further, staff notes that in addition to the permitted one (1) wall sign per tenant, tenants of the existing office building are identified on an existing monument sign located along NW 183 Street (Miami Gardens Drive). Said monument sign faces east and west which aids in locating tenants in the existing office building by passersby traveling in either direction. Staff opines that the request is incompatible and would have a negative visual impact on the surrounding area. **As such, staff recommends denial without prejudice of request #5 under the Non-Use Variance (NUV) Standards.**

When analyzing request #6, to waive zoning regulations requiring a 5' high masonry wall where a business lot abuts a residentially zoned property from the rear (north) property line under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards, staff opines that the request is **incompatible**. Staff notes that the BU-2 zoning district requires a 5' high decorative masonry wall when abutting RU zoned properties; however, the existing IU-C zoning district does not

have the same requirement. Staff opines that the wall provides a buffer that can mitigate visual and noise impacts from the proposed educational use. **As such, staff recommends denial without prejudice of request #6 under the Non-Use Variance (NUV) Standards.**

ACCESS, CIRCULATION AND PARKING:

The submitted site plan depicts an existing office building with only one (1) ingress/egress point along NW 183 Street (Miami Gardens Drive). There are 247 parking spaces for the proposed private school and existing office uses.

NEIGHBORHOOD SERVICES PROVIDER COMMENTS: See attached.

OTHER: N/A

RECOMMENDATION: Approval with conditions of requests #1 - #4 and denial without prejudice of requests #5 and #6.

CONDITIONS FOR APPROVAL: (for requests #1 - #4 only)

1. That a site plan be submitted to and meet with the approval of the Director of the Permitting, Environment and Regulatory Affairs Department of its successor Department upon the submittal of an application for a building permit and/or Certificate of Use; said plan must include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, signs, etc.

2. *That in the approval of the plan, the same be substantially in accordance with that* submitted for the hearing entitled, "Miami Gardens Commons" as prepared by Gutierrez & Lorenzo Architects, dated stamped received, 03/21/2012 consisting of 6 sheets, except as herein modified to show the required 5' high masonry wall and removal of the additional tenant sign to show one sign per tenant.

3. That the use be established and maintained in accordance with the approved plan.

4. That at the time of Certificate of Use issuance and each subsequent renewal, the owner shall submit to the Permitting, Environment and Regulatory Affairs Department or successor Department a letter from the administrator of the school detailing the number of students that are currently enrolled in said facility.

5. That the enrollment of the private school be limited to 907 students.

ES:MW:GR:NN:CH:AN

Eric Silva, AICP, Assistant Director
Zoning and Community Design
Miami-Dade County Department of
Sustainability, Planning, and Economic Enhancement
Permitting, Environment and Regulatory Affairs

NDN
GMR

ZONING RECOMMENDATION ADDENDUM

Miami Gardens Commons, LLC
11-077

NEIGHBORHOOD SERVICES PROVIDER COMMENTS*	
Permitting, **Environment** and Regulatory Affairs	No objection
Public Works and Waste Management	No objection
Parks, Recreation and Open Spaces	No objection
Fire Rescue	No objection
Police	No objection
Schools	No objection
*Subject to conditions in their memorandum.	

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

Business and Office	*The Adopted 2015 and 2025 Land Use Plan designates the subject property, being within the Urban Development Boundary for* ***Business and Office****. This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, call centers, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes (also allowed in the institutional category), entertainment and cultural facilities, amusements and commercial recreation establishments such as private commercial marinas. Also allowed are telecommunication facilities (earth stations for satellite communication carriers, satellite terminal stations, communications telemetry facilities and satellite tracking stations). These uses may occur in self-contained centers, high-rise structures, campus parks, municipal central business districts or strips along highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly compatibility with both adjacent and adjoining uses, and availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be limited when necessary to protect both adjacent and adjoining residential use from such impacts as noise or traffic, and in most wellfield protection areas uses are prohibited that involved the use, handling, storage, generation or disposal of hazardous material or waste, and may have limitations as to the maximum buildable area, as defined in Chapter 24 of the County Code. When the land development regulations are amended pursuant to Land Use Element Policies LU-9P and LU-9Q, live-work and work-live developments shall be permitted on land designated as Business and Office, as transitional uses between commercial and residential areas.* *Residential uses, and mixing of residential use with commercial, office and hotels are also permitted in Business and Office areas provided that the scale and intensity, including height and floor area ratio of the residential or mixed use development, is not out of character with that of adjacent or adjoining development and zoning, and it does not detrimentally impact, and it provides a sensitive well designed transition to any adjacent or adjoining residentially developed or designated areas of different development intensity. Where these conditions are met residential development may be authorized to occur in the Business and Office category at a density up to one density category higher than the LUP-designated density of the adjacent or adjoining residentially designated area on the same side of the abutting principal roadway, or up to the density of any such existing residential development, or zoning if the adjacent or adjoining land is undeveloped, whichever is higher. If there is no adjacent or adjoining residential use existing, zoned or designated on the same side of the roadway, the maximum allowable residential density will be that which exists or which this plan allows across the roadway. Where there is no residential use, zoning or designation on either side of the roadway, the intensity of residential development, including height, bulk and floor area ratio shall be no greater than that which would be permitted for an exclusively commercial use of the site. Where SURs or TDRs are transferred to Business-designated parcels which are zoned or to be used for residential development, or when a residential project utilizes the inclusionary zoning program the allowances of the Residential communities section may be used within the limits provided in this paragraph.*

ZONING RECOMMENDATION ADDENDUM

Miami Gardens Commons, LLC
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Institutions, Utilities and Communications (Pg. I-53)	***Neighborhood or community-serving institutional uses**, cell towers and utilities including schools, libraries, sanitary sewer pump stations and fire and rescue facilities in particular, and cemeteries may be approved where compatible in all urban land use categories, in keeping with any conditions specified in the applicable category, and where provided in certain Open Land subareas. Compatibility shall be determined in accordance to Policy LU-4A. Co-location of communication and utility facilities are encouraged. Major utility and communication facilities should generally be guided away from residential areas; however, when considering such approvals, the County shall consider such factors as the type of function involved, the public need, existing land use patterns in the area and alternative locations for the facility. All approvals must be consistent with the goals, objectives and policies of the Comprehensive Development Master Plan*
Land Use Element Policy LU-4A (Pg. I-11)	*When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.*

PERTINENT ZONING REQUIREMENTS/STANDARDS

Section 33-311 District Boundary Change	(A) *The Community Zoning Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the County.* *(F)* ***Section 33-311*** *provides that the Board shall 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.*

ZONING RECOMMENDATION ADDENDUM

Miami Gardens Commons, LLC
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33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations	*Upon appeal or direct application in specific cases, the Board shall hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.*
33-151.14. – Private colleges and universities (a)	*Main campus requirements.* ***Private colleges and universities with sites of thirty (30) acres or less shall meet the minimum standards established herein for high school facilities.*** *Above thirty (30) acres, in addition to said minimum standards, said facilities shall be subject to intensive review by the Department and the County Commission utilizing the study entitled "Physical Standards for Proposed Private Educational Facilities in Unincorporated Miami-Dade County," adopted pursuant to Resolution No. R-633-77.*
33-151.18. - Physical standards(a, c & e)	*(a) Outdoor areas. Outdoor recreation/play areas shall be in accordance with the following minimum standards, calculated in terms of the proposed maximum number of children for attendance at the school at any one (1) time unless otherwise indicated.* *Minimum Standards for Outdoor Recreation Playground/Play Areas* *School categories* — *Required area* *Day nursery/kindergarten and preschool and after-school care* — *45 square feet per child calculated in terms of half of the proposed maximum number of children for attendance at the school at one (1) time* *Elementary school (grades 1—6)* — *500 square feet per student for the first 30 students; thereafter, 300 square feet per student* ***Junior and senior high school (grades 7—12)*** — ***800 square feet per student for the first 30 students; 300 square feet per student for the next 300 students; thereafter, 150 square feet per student*** *(c) Auto stacking. Stacking space, defined as that space in which pickup and delivery of children can take place, shall be provided for a minimum of two (2) automobiles for schools with twenty (20) to forty (40) children; schools with forty (40) to sixty (60) [children] shall provide four (4) spaces; thereafter there shall be provided a space sufficient to stack five (5) automobiles.* *(e) Classroom size. All spaces shall be calculated on the effective net area usable for instruction or general care of the group to be housed. This space shall not include kitchen areas, bathrooms, hallways, teachers' conference rooms, storage areas, or any other interior space that is not used for instruction, play or other similar activities. The minimum classroom space shall be determined by multiplying the maximum proposed number of pupils for attendance at any one (1) time by the minimum square footages, (1) through (4) below. Where a private educational facility is nongraded, calculations shall be based on the age level that corresponds to the grade level in the public school system. Where a school includes more than one (1) of the following categories, each category shall be individually computed:* *(1) Day nursery and kindergarten, preschool and afterschool care, 35 square feet per pupil.* *(2) Elementary (grades 1—6), 30 square feet per pupil.* ***(3) Junior high and senior high (grades 7—12), 25 square feet per pupil.*** *(4) Baby-sitting service, 22 square feet of room area per child.*