Miami-Dade County Department of Regulatory and Economic Resources
Staff Report to the Board of County Commissioners

PH: Z12-085 (12-12-CZ10-1) **July 18, 2013**
Item No. A

Recommendation Summary	
Commission District	11
Applicant	Julmar 147 Investment, LLC
Summary of Requests	The applicant is seeking a district boundary change from AU to RU-1M(a) to permit a private school and daycare and six (6) residential lots. A special exception to permit a private school, an unusual use to permit a daycare and non-use variances of setback and right-of-way requirements.
Location	Lying South of SW 15th Street, between SW 145th Ave and SW 147th Ave, Miami-Dade County, Florida.
Property Size	2.34 acres
Existing Zoning	AU
Existing Land Use	Vacant
2015-2025 CDMP Land Use Designation	Low Density Residential (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)(3), **Special Exceptions**, **Unusual Uses** and New uses, Section 33-311(A)(4)(b) **Non-Use Variances** From Other Than Airport Regulations (see attached Zoning Recommendation Addendum)
Recommendation	**Approval of appeal, approval of request #1, subject to the board's acceptance of the proffered covenant and approval with conditions of requests #2 through #6.**

On April 23, 2013, the Community Zoning Appeals Board (CZAB) #10, denied without prejudice the application.

On April 30, 2013, the appellants, Julmar 147 Investment, LLC, appealed the CZAB–10 decision to the Board of County Commissioners (BCC).

For the reasons outlined below in the CDMP and Zoning analysis of the requests and staff's recommendation, staff opines that the appellants' request for a reversal of the CZAB 10 decision should be approved.

REQUESTS:

REQUEST #1 ON PARCELS "1" & "2"

(1) DISTRICT BOUNDARY CHANGE from AU to RU1-MA.

REQUESTS #2, #3, #4 & #5 ON PARCEL "1"

(2) SPECIAL EXCEPTION to permit a private school.

(3) UNUSUAL USE to permit a day nursery.

(4) NON-USE VARIANCE to permit the school setback 6' (25' required) from the side street (north) property line.

(5) NON-USE VARIANCE to permit parking and drives within 25' of an official right-of-way (not permitted).

(6) NON-USE VARIANCE to permit an outdoor recreation area of 11,350 sq. ft. (21,600 sq. ft. required).

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "Higher Learning Educational Center and 6 Residential Lots" as prepared by Villa & Associates Inc. Sheets A-1, A-3 & L-1 dated stamped received 8/21/12 and the remaining 4 sheets dated stamped received 8/13/12 and consisting of 7 sheets. Plans may be modified at public hearing.

PROJECT DESCRIPTION: The applicant seeks to rezone a 2.34 acre parcel of land from AU, Agricultural to RU-1M(a), Modified Single Family Residential District and develop the site with a private school and daycare center and six residential lots.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	**Land Use Designation**
Subject Property	AU; vacant	Low Density Residential (2.5 to 6 dua)
North	RU-1MA; single-family residences	Low Density Residential (2.5 to 6 dua)
South	RU-1MA; single-family residences	Low Density Residential (2.5 to 6 dua)
East	RU-1MA; vacant	Low Density Residential (2.5 to 6 dua)
West	RU-1MA; vacant	Environmentally Protected Park

NEIGHBORHOOD COMPATIBILITY:

The subject property is a 2.34 acre site, located at the southeast corner of SW 15th Street between SW 147th Ave and SW 145th Ave. The subject property is surrounded by single-family residences, vacant land and an environmentally protected park.

SUMMARY OF IMPACT:

The approval of this application will allow the applicant to provide the community with additional educational services and housing in the area. The requested variances could have a minimal impact on traffic and a minimal visual impact on the surrounding area.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The subject property is designated as ***Low Density Residential*** on the Comprehensive Development Master Plan's (CDMP) Adopted 2015-2025 Land Use Plan (LUP) map. This

density category is generally characterized by single family housing, e.g., single-family detached, cluster, zero lot line and townhouses. This category allows a range in density from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre, which would result in the maximum development of 14 residential units on this 2.34 acre site. However, the requested RU-1M(a) zoning district would allow a density higher than six (6) units per acre, which would be *inconsistent* with the LUP map's density allowed without a covenant limiting the maximum number of units to no more than six (6) units per acre.

Therefore, the applicant has proffered a covenant restricting the development of the 2.34 acre parcel to a maximum of 6.0 dwelling units per gross acre, which is the maximum allowed under the density threshold of the LUP map. The applicant is proposing to develop 1.18 acres of the 2.34 acre parcel (Parcel 2) with six (6) single-family residences, which is less than the maximum of seven (7) units allowed on the 1.18 acre parcel. Therefore, the development of the site with the proffered covenant will be **consistent** with the density threshold of the LUP map of the CDMP.

The CDMP Education Element Objective EDU-3 discusses suitable sites for the development and expansion of public educational facilities. **Policy EDU-3A** provides that "it is the policy of Miami-Dade County that the Miami-Dade County Public Schools shall not purchase sites for schools nor build new schools outside of the Urban Development Boundary (UDB), and that new elementary schools constructed should be located at least 1/4 mile inside the UDB; new middle schools should be located at least 1/2 mile inside the UDB, and; new senior high schools should be located at least one mile inside the UDB. The same criteria of this paragraph that apply to public schools also pertain to private schools". In accordance with said policy, the subject property, which proposes a private elementary school and daycare, is located approximately 0.55 miles south of the UDB, which runs east to west along SW 8 Street in this area of the County, and 1.0 mile east of the UDB, which runs north to south along SW 157 Avenue in this area of the County and therefore **consistent** with said policy.

The adopted Interpretive Text of the CDMP Land Use Element under Residential Communities states that neighborhood and community services including **schools**, parks, houses of worship, **daycare centers**, group housing facilities, and utility facilities are permitted only when consistent with other goals, objectives and policies of the Master Plan and compatible with the neighborhood. Compatibility shall be determined in accordance to Policy LU-4A. **Policy LU-4A** states that 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.

Staff notes that memoranda submitted by the Departments of Public Works and Waste Management, the Environment Division of the Regulatory and Economic Resources, Miami-Dade Fire Rescue and Parks, Recreation and Open Spaces do not indicate any negative impact from the requested district boundary change and proposed educational use. Therefore, staff opines that for the reasons previously discussed the proposed requests with the proffered covenant restricting the development of the site to a maximum of 6.0 dwelling units per acre, are **consistent** with the *Low Density Residential* designation and the Land Use Element interpretative text for Residential Communities and compatible with the surrounding area based on the that Land Use Element Policy LU-4A compatibility criteria.

ZONING ANALYSIS:

The site plans submitted indicate that a private school and daycare for 200 children is proposed on the west portion of the site (parcel #1) and six (6) single-family lots are proposed on the east portion of the site (parcel #2).

When request #1, to permit a district boundary change from AU to RU-1MA is analyzed under Section 33-311, District Boundary Change, staff is of the opinion that the approval of this request, with the proffered covenant restricting the development of the site to a maximum of 6.0 dwelling units per acre, will not have an unfavorable impact on the economy or on the environmental and natural resources of Miami-Dade County. Staff opines that the developments proposed by this application will not unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities nor unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways based on the memoranda from the Miami-Dade County Departments concerned with reviewing this application. Therefore, staff opines that approval of request #1 is **compatible** with the neighborhood development trend and would serve a public benefit warranting the approval of the application. Furthermore, staff is of the opinion that the proposed zone change to RU-1M(a) is **compatible** with the residential development trend as evidenced by the similar rezonings in the surrounding area. Specifically, the abutting properties to the north, east and south of the subject property were respectively rezoned from AU to RU-1M(a), from 2002 to 2006, pursuant to Resolutions #CZAB10-33-02, CZAB10-53-07, CZAB10-54-07 and CZAB10-77-05. **Staff therefore, recommends approval of request #1, subject to the board's acceptance of the proffered covenant under Section 33-311, District Boundary Change.**

When requests #2, Special Exception to permit a private school and daycare, and #3, Unusual Use to permit a daycare are analyzed under Section 33-311(A)(3), Special Exception, Unusual and New Uses, staff opines that the approval of said requests, with the proffered covenant including but not limited to restricting the development of the site in accordance with the site plan provided, would be **compatible** with the surrounding area. In staff's opinion, approval of the requested special exception and unusual use, which would allow the applicant to develop the site with a private school and daycare would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate excessive noise, traffic, provoke excessive overcrowding of people, tend to create a fire or other equally or greater dangerous hazards, as evidenced by the memoranda submitted by the Departments of Public Works and Waste Management, the Environmental Resources Management Division of the Department of Regulatory and Economic Resources and the Miami-Dade Fire Rescue Department. Further, said memoranda also indicates that the approval of said requests would not have negative noise, traffic impacts or unduly burden County services in the surrounding area. Additionally, said departments indicate in their memoranda that they do not object to the application.

Notwithstanding the foregoing, staff notes that the subject property abuts an Environmentally Endangered Land (EEL) property to the west, which was a part of the Tree Island Governmental Facilities approval pursuant to Resolution No. R-447-12 on June 5, 2012. EEL lands are typically maintained by the use of periodic ecological prescribed burning. The Florida Legislature passed the Prescribed Fire Act in 1990 to promote the importance of prescribed fire and to provide liability protection. As stated in the Environmental Resources Management Division of the Department of Regulatory and Economic Resources memorandum, such burning is generally performed once every three years and the subject property lies within the potential smoke dispersion corridor. However, staff opines that the site plan provided indicates that the school site has been designed with sensitivity to the abutting EEL property by locating the

playground/recreation area on the east portion of parcel #1 of the subject property, placing the school building in between the playground area and the EEL property. Staff recommends as a condition for approval, that the proposed private school and daycare keep the children indoors on the days that prescribed burns occur.

In addition, staff notes that although the proposed playground abuts residential properties to the east and south, it is adequately buffered by a proposed continuous hedge and row of trees. However, as a condition for approval staff recommends that the proposed hedge grow to and be maintained at a height of 6' along the rear (east) and interior side (south) property lines abutting the residential properties. In addition, the plans submitted indicate that the proposed private school and daycare will be properly accessible by public roads, streets or highways, specifically SW 15th Street and SW 147th Avenue. Furthermore, the parking lot, which exceeds the parking requirement by 15 parking spaces, is located on the south portion of the subject property with the ingress and egress access provided from SW 147th Avenue. The site plan also indicates the drop-off/pickup area along SW 15th Street. As such, when considering the necessity for and reasonableness of such applied for exception and use in relation to the present and future development of the area concerned, staff opines that the same are **compatible** with the surrounding area. **Therefore, staff recommends approval with conditions of requests #2 and #3, subject to the board's acceptance of the proffered covenant, under Section 33-311(A)(3), Special Exceptions, Unusual Uses and New uses.**

When requests #4, to permit the school setback 6' (25' required) from the side street (north) property line, request #5, to permit parking and drives within 25' of an official right-of-way (not permitted), and request #6, to permit an outdoor recreation area of 11,350 sq. ft. (21,600 sq. ft. required) are analyzed under the Non-Use Variance (NUV) Standards, 33-311(A)(4)(b), staff is of the opinion that the approval of these requests would be **compatible** with the surrounding area.

Staff opines that requests #4, #5, and #6 are germane to the applicant's request to develop a private school and daycare (requests #2 and #3) on parcel #1. In staff's opinion, the proposed porte-cochere, which encroaches into the side setback area, will protect the children being dropped off from the elements and will add curb appeal to the subject property. Further, the main school building meets setback requirements and is located 26' from the side street property line. In addition, staff opines that the applicant's request to permit parking and drives within 25' of an official right-of-way will not have a negative visual impact on passersby along SW 15th Street. The submitted plans indicate that there will be adequate landscaping to the stacking area which will mitigate any potential negative visual impact. Furthermore, staff opines that the reduced outdoor recreation area will not have a negative impact on the children or neighborhood given that the applicant will stagger the children's recess and physical education at the outdoor recreation area by grade levels throughout the day. Consequently, staff opines that the proposed outdoor recreation area will adequately accommodate the children. As such, staff opines that the approval with conditions of these requests will not have a negative visual or aural impact on the surrounding area and would be **compatible** with the same. **Therefore, staff recommends approval with conditions of requests #4, #5 and #6 under Section 33-311(A)(4)(b), Non-Use Variances From Other Than Airport Regulations.**

ACCESS, CIRCULATION AND PARKING: The submitted plans indicate that the subject property has one (1) ingress and egress drive along SW 147th Avenue. The plans also show a total of 34 parking spaces, which exceeds the parking requirement by 15 parking spaces.

NEIGHBORHOOD SERVICES PROVIDER REVIEW: See attached.

OTHER: Not applicable.

RECOMMENDATION: Approval of request #1, subject to the board's acceptance of the proffered covenant and approval with conditions of requests #2 through #6.

CONDITIONS FOR APPROVAL: (for requests #2 through #6 only)

1. That a site plan be submitted to and meet with the approval of the Director of the Miami-Dade County Department of Regulatory and Economic Resources 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, and other requirements.

2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Higher Learning Educational Center and 6 Residential Lots" as prepared by Villa & Associates Inc., Sheets A-1, A-3 & L-1 dated stamped received 8/21/12 and the remaining 4 sheets dated stamped received 8/13/12 and consisting of 7 sheets.

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

4. That the proposed hedge grow to and be maintained at a height of 6' along the rear (east) and interior side (south) property lines abutting the residential properties

5. That the use be made to conform to the requirements and/or recommendations of the Miami-Dade County Fire Department, the Miami-Dade County Department of Public Health, and the State of Florida Department of Children and Families (Child Care Licensing Unit).

6. That the private school and daycare be restricted to Infant-2nd grade and to a maximum of two hundred (200) children.

7. That the hours of operation shall be from 7:00 AM to 6:30 PM.

8. That the use may be conducted on the premises on weekdays only, Monday through Friday inclusive.

9. That the school shall assign staff to monitor and direct on-site vehicular traffic during drop-off and pick-up times to facilitate the flow of traffic and prevent potential accumulation on the public right-of-way.

10. That the waste pick-up at the school shall be performed by a private commercial entity and shall be prohibited during arrival and dismissal times.

11. That the applicant stagger the children's recess and physical education at the outdoor recreation area by grade levels throughout the day.

12. That the applicant submit to the Department 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 final zoning inspection.

13. That the applicant obtain a new Certificate of Use from and promptly renew the same annually, with the Department of Regulatory and Economic Resources, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions.

14. That the applicant comply with all applicable conditions and requirements of the Department of Regulatory and Economic Resources and all other departments as contained in their memoranda pertaining to this application.

15. That the proposed private school and daycare keep the children indoors on the days that prescribed EEL property burns occur.

ES:MW:NN:CH:JC

Eric Silva, AICP, Assistant Director
Development Services Division
Miami-Dade County
Regulatory and Economic Resources Department

ZONING RECOMMENDATION ADDENDUM

Julmar 147 Investment, LLC
Z12-085

NEIGHBORHOOD SERVICES PROVIDER COMMENTS*	
Regulatory and Economic Resources (Environmental Resources Management Division)	No objection
Public Works and Waste Management	No objection
Parks, Recreation and Open Space	No objection
Miami-Dade Transit	No comment
Fire Rescue	No objection
Police	No objection
Schools	No comment
*Subject to conditions in their memorandum.	

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

Low Density Residential (Pg. I-31)	*The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for Low Density Residential use. This category allows a range in density from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre. The types of housing typically found in areas designated low density include 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.*
Residential Communities (Pg. I-26)	*The areas designated Residential Communities permit housing types ranging from detached single-family to attached multifamily buildings, as well as different construction systems. Also permitted in Residential Communities are neighborhood and community services including* ***schools****, parks, houses of worship,* ***daycare centers****, group housing facilities, and utility facilities, only when consistent with other goals, objectives and policies of this Plan and compatible with the neighborhood. The character of the "neighborhood" reflects the intensity and design of developments, mix of land uses, and their relationships.*
Land Use Objective 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.*
Education Element Objective EDU-3A (Pg. X-5)	*It is the policy of Miami-Dade County that the Miami-Dade County Public Schools shall not purchase sites for schools nor build new schools outside of the Urban Development Boundary (UDB), and that* ***new elementary schools*** *constructed should be located at least 1/4 mile inside the UDB; new middle schools should be located at least 1/2 mile inside the UDB, and; new senior high schools should be located at least one mile inside the UDB. In substantially developed areas of the County where suitable sites in full conformance with the foregoing are not available and a site or portion of a site for a new school must encroach closer to the UDB, the majority of the site should conform with the foregoing location criteria and the principal school buildings and entrances should be placed as far as functionally practical from the UDB. The same criteria of this paragraph that apply to public schools also pertain to* ***private schools****.*

ZONING RECOMMENDATION ADDENDUM

Julmar 147 Investment, LLC
Z12-085

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.*
33-311(A)(3) Special Exceptions, Unusual Uses and New Uses	*The Board shall hear an application for and grant or deny* ***special exceptions****; that is, those exceptions permitted by regulations only upon approval after public hearing, new uses and* ***unusual uses*** *which by the regulations are only permitted upon approval after public hearing; provided the applied for exception or use, including exception for site or plot plan approval, in the opinion of the Community Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the necessity for and reasonableness of such applied for exception or use in relation to the present and future development of the area concerned and the compatibility of the applied for exception or use with such area and its development.*

ZONING RECOMMENDATION ADDENDUM

Julmar 147 Investment, LLC
Z12-085

Section 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.*

Miami-Dade County Department of Regulatory and Economic Resources
Staff Report to Community Council No. 10

PH: Z12-085 (12-12-CZ10-1) **April 23, 2013**
Item No. A

Recommendation Summary	
Commission District	11
Applicant	Julmar 147 Investment, LLC
Summary of Requests	The applicant is seeking a district boundary change from AU to RU-1M(a) to permit a private school and daycare and six (6) residential lots. A special exception to permit a private school, an unusual use to permit a daycare and non-use variances of setback and right-of-way requirements.
Location	Lying South of SW 15th Street, between SW 145th Ave and SW 147th Ave, Miami-Dade County, Florida.
Property Size	2.34 acres
Existing Zoning	AU
Existing Land Use	Vacant
2015-2025 CDMP Land Use Designation	Low Density Residential (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(A)(4)(b) Non-Use Variances From Other Than Airport Regulations (see attached Zoning Recommendation Addendum)
Recommendation	**Approval of request #1, subject to the board's acceptance of the proffered covenant and approval with conditions of requests #2 through #6.**

This item was deferred from the March 19, 2013 meeting of the Community Zoning Appeals Board (CZAB) 10 due to a lack of time. This item was also deferred from the February 19, 2013 meeting of the CZAB 10 due to an inadvertent error in the advertisement. This item was also deferred from the December 5, 2012 meeting of the CZAB 10 to allow the applicant to work with the abutting neighbors and to request representation from the Department of Regulatory and Economic Resources (Division of Environmental Resources Management) and the Department of Public Works and Waste Management.

REQUESTS:

REQUEST #1 ON PARCELS "1" & "2"

(1) DISTRICT BOUNDARY CHANGE from AU to RU1-MA.

REQUESTS #2, #3, #4 & #5 ON PARCEL "1"

(2) SPECIAL EXCEPTION to permit a private school.

(3) UNUSUAL USE to permit a day nursery.

(4) NON-USE VARIANCE to permit the school setback 6' (25' required) from the side street (north) property line.

(5) NON-USE VARIANCE to permit parking and drives within 25' of an official right-of-way (not permitted).

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NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	**Land Use Designation**
Subject Property	AU; vacant	Low Density Residential (2.5 to 6 dua)
North	RU-1MA; single-family residences	Low Density Residential (2.5 to 6 dua)
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East	RU-1MA; vacant	Low Density Residential (2.5 to 6 dua)
West	RU-1MA; vacant	Environmentally Protected Park

NEIGHBORHOOD COMPATIBILITY:

The subject property is a 2.34 acre site, located at the southeast corner of SW 15th Street between SW 147th Ave and SW 145th Ave. The subject property is surrounded by single-family residences, vacant land and an environmentally protected park.

SUMMARY OF IMPACT:

The approval of this application will allow the applicant to provide the community with additional educational services and housing in the area. The requested variances could have a minimal impact on traffic and a minimal visual impact on the surrounding area.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The subject property is designated as ***Low Density Residential*** on the Comprehensive Development Master Plan's (CDMP) Adopted 2015-2025 Land Use Plan (LUP) map. This density category is generally characterized by single family housing, e.g., single-family detached, cluster, zero lot line and townhouses. This category allows a range in density from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre, which would result in the maximum development of 14 residential units on this 2.34 acre site. However, the requested RU-1M(a) zoning district would allow a density higher than six (6) units per acre, which would be *inconsistent* with the LUP map's density allowed without a covenant limiting the maximum number of units to no more than six (6) units per acre.

Therefore, the applicant has proffered a covenant restricting the development of the 2.34 acre parcel to a maximum of 6.0 dwelling units per gross acre, which is the maximum allowed under the density threshold of the LUP map. The applicant is proposing to develop 1.18 acres of the 2.34 acre parcel (Parcel 2) with six (6) single-family residences, which is less than the maximum of seven (7) units allowed on the 1.18 acre parcel. Therefore, the development of the site with the proffered covenant will be **consistent** with the density threshold of the LUP map of the CDMP.

The CDMP Education Element Objective EDU-3 discusses suitable sites for the development and expansion of public educational facilities. **Policy EDU-3A** provides that "it is the policy of Miami-Dade County that the Miami-Dade County Public Schools shall not purchase sites for schools nor build new schools outside of the Urban Development Boundary (UDB), and that new elementary schools constructed should be located at least 1/4 mile inside the UDB; new middle schools should be located at least 1/2 mile inside the UDB, and; new senior high schools should be located at least one mile inside the UDB. The same criteria of this paragraph that apply to public schools also pertain to private schools". In accordance with said policy, the subject property, which proposes a private elementary school and daycare, is located approximately 0.55 miles south of the UDB, which runs east to west along SW 8 Street in this area of the County, and 1.0 mile east of the UDB, which runs north to south along SW 157 Avenue in this area of the County and therefore **consistent** with said policy.

The adopted Interpretive Text of the CDMP Land Use Element under Residential Communities states that neighborhood and community services including **schools**, parks, houses of worship, **daycare centers**, group housing facilities, and utility facilities are permitted only when consistent with other goals, objectives and policies of the Master Plan and compatible with the neighborhood. Compatibility shall be determined in accordance to Policy LU-4A. **Policy LU-4A** states that 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.

Staff notes that memoranda submitted by the Departments of Public Works and Waste Management, the Environment Division of the Regulatory and Economic Resources, Miami-Dade Fire Rescue and Parks, Recreation and Open Spaces do not indicate any negative impact from the requested district boundary change and proposed educational use. Therefore, staff opines that for the reasons previously discussed the proposed requests with the proffered covenant restricting the development of the site to a maximum of 6.0 dwelling units per acre, are **consistent** with the *Low Density Residential* designation and the Land Use Element interpretative text for Residential Communities and compatible with the surrounding area based on the that Land Use Element Policy LU-4A compatibility criteria.

ZONING ANALYSIS:

The site plans submitted indicate that a private school and daycare for 200 children is proposed on the west portion of the site (parcel #1) and six (6) single-family lots are proposed on the east portion of the site (parcel #2).

When request #1, to permit a district boundary change from AU to RU-1MA is analyzed under Section 33-311, District Boundary Change, staff is of the opinion that the approval of this request will not have an unfavorable impact on the economy or on the environmental and natural resources of Miami-Dade County. Staff opines that the developments proposed by this application will not unduly burden water, sewer, solid waste disposal, recreation, education or

other necessary public facilities nor unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways based on the memoranda from the Miami-Dade County Departments concerned with reviewing this application. Therefore, staff opines that approval of request #1 is **compatible** with the neighborhood development trend and would serve a public benefit warranting the approval of the application. Furthermore, staff is of the opinion that the proposed zone change to RU-1M(a) is **compatible** with the residential development trend as evidenced by the similar rezonings in the surrounding area. Specifically, the abutting properties to the north, east and south of the subject property were respectively rezoned from AU to RU-1M(a), from 2002 to 2006, pursuant to Resolutions #CZAB10-33-02, CZAB10-53-07, CZAB10-54-07 and CZAB10-77-05. **Staff therefore, recommends approval of request #1, subject to the board's acceptance of the proffered covenant under Section 33-311, District Boundary Change.**

When requests #2, Special Exception to permit a private school and daycare, and #3, Unusual Use to permit a daycare are analyzed under Section 33-311(A)(3), Special Exception, Unusual and New Uses, staff opines that the approval of said requests would be **compatible** with the surrounding area. In staff's opinion, approval of the requested special exception and unusual use, which would allow the applicant to develop the site with a private school and daycare would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate excessive noise, traffic, provoke excessive overcrowding of people, tend to create a fire or other equally or greater dangerous hazards, as evidenced by the memoranda submitted by the Departments of Public Works and Waste Management, the Environmental Resources Management Division of the Department of Regulatory and Economic Resources and the Miami-Dade Fire Rescue Department. Further, said memoranda also indicates that the approval of said requests would not have negative noise, traffic impacts or unduly burden County services in the surrounding area. Additionally, said departments indicate in their memoranda that they do not object to the application.

Notwithstanding the foregoing, staff notes that the subject property abuts an Environmentally Endangered Land (EEL) property to the west, which was a part of the Tree Island Governmental Facilities approval pursuant to Resolution No. R-447-12 on June 5, 2012. EEL lands are typically maintained by the use of periodic ecological prescribed burning. The Florida Legislature passed the Prescribed Fire Act in 1990 to promote the importance of prescribed fire and to provide liability protection. As stated in the Environmental Resources Management Division of the Department of Regulatory and Economic Resources memorandum, such burning is generally performed once every three years and the subject property lies within the potential smoke dispersion corridor. However, staff opines that the site plan provided indicates that the school site has been designed with sensitivity to the abutting EEL property by locating the playground/recreation area on the east portion of parcel #1 of the subject property, placing the school building in between the playground area and the EEL property. Staff recommends as a condition for approval, that the proposed private school and daycare keep the children indoors on the days that prescribed burns occur.

In addition, staff notes that although the proposed playground abuts residential properties to the east and south, it is adequately buffered by a proposed continuous hedge and row of trees. However, as a condition for approval staff recommends that the proposed hedge grow to and be maintained at a height of 6' along the rear (east) and interior side (south) property lines abutting the residential properties. In addition, the plans submitted indicate that the proposed private school and daycare will be properly accessible by public roads, streets or highways, specifically SW 15th Street and SW 147th Avenue. Furthermore, the parking lot, which exceeds the parking requirement by 15 parking spaces, is located on the south portion of the subject property with the ingress and egress access provided from SW 147th Avenue. The site plan also indicates the

drop-off/pickup area along SW 15th Street. As such, when considering the necessity for and reasonableness of such applied for exception and use in relation to the present and future development of the area concerned, staff opines that the same are **compatible** with the surrounding area.

When requests #4, to permit the school setback 6' (25' required) from the side street (north) property line, request #5, to permit parking and drives within 25' of an official right-of-way (not permitted), and request #6, to permit an outdoor recreation area of 11,350 sq. ft. (21,600 sq. ft. required) are analyzed under the Non-Use Variance (NUV) Standards, 33-311(A)(4)(b), staff is of the opinion that the approval of these requests would be **compatible** with the surrounding area.

Staff opines that requests #4, #5, and #6 are germane to the applicant's request to develop a private school and daycare (requests #2 and #3) on parcel #1. In staff's opinion, the proposed porte-cochere, which encroaches into the side setback area, will protect the children being dropped off from the elements and will add curb appeal to the subject property. Further, the main school building meets setback requirements and is located 26' from the side street property line. In addition, staff opines that the applicant's request to permit parking and drives within 25' of an official right-of-way will not have a negative visual impact on passersby along SW 15th Street. The submitted plans indicate that there will be adequate landscaping to the stacking area which will mitigate any potential negative visual impact. Furthermore, staff opines that the reduced outdoor recreation area will not have a negative impact on the children or neighborhood given that the applicant will stagger the children's recess and physical education at the outdoor recreation area by grade levels throughout the day. Consequently, staff opines that the proposed outdoor recreation area will adequately accommodate the children. As such, staff opines that the approval with conditions of these requests will not have a negative visual or aural impact on the surrounding area and would be **compatible** with the same. **Therefore, staff recommends approval with conditions of requests #4, #5 and #6 under Section 33-311(A)(4)(b), Non-Use Variances From Other Than Airport Regulations.**

ACCESS, CIRCULATION AND PARKING: The submitted plans indicate that the subject property has one (1) ingress and egress drive along SW 147th Avenue. The plans also show a total of 34 parking spaces, which exceeds the parking requirement by 15 parking spaces.

NEIGHBORHOOD SERVICES PROVIDER REVIEW: See attached.

OTHER: Not applicable.

RECOMMENDATION: Approval of request #1, subject to the board's acceptance of the proffered covenant and approval with conditions of requests #2 through #6.

CONDITIONS FOR APPROVAL: (for requests #2 through #6 only)

1. That a site plan be submitted to and meet with the approval of the Director of the Miami-Dade County Department of Regulatory and Economic Resources 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, and other requirements.

2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Higher Learning Educational Center and 6 Residential Lots" as prepared by Villa & Associates Inc., Sheets A-1, A-3 & L-1 dated stamped

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received 8/21/12 and the remaining 4 sheets dated stamped received 8/13/12 and consisting of 7 sheets.

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

4. That the proposed hedge grow to and be maintained at a height of 6' along the rear (east) and interior side (south) property lines abutting the residential properties

5. That the use be made to conform to the requirements and/or recommendations of the Miami-Dade County Fire Department, the Miami-Dade County Department of Public Health, and the State of Florida Department of Children and Families (Child Care Licensing Unit).

6. That the private school and daycare be restricted to Infant-2 grade and to a maximum of two hundred (200) children.

7. That the hours of operation shall be from 7:00 AM to 6:30 PM.

8. That the use may be conducted on the premises on weekdays only, Monday through Friday inclusive.

9. That the school shall assign staff to monitor and direct on-site vehicular traffic during drop-off and pick-up times to facilitate the flow of traffic and prevent potential accumulation on the public right-of-way.

10. That the waste pick-up at the school shall be performed by a private commercial entity and shall be prohibited during arrival and dismissal times.

11. That the applicant stagger the children's recess and physical education at the outdoor recreation area by grade levels throughout the day.

12. That the applicant submit to the Department 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 final zoning inspection.

13. That the applicant obtain a new Certificate of Use from and promptly renew the same annually, with the Department of Regulatory and Economic Resources, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions.

14. That the applicant comply with all applicable conditions and requirements of the Department of Regulatory and Economic Resources and all other departments as contained in their memoranda pertaining to this application.

15. That the proposed private school and daycare keep the children indoors on the days that prescribed EEL property burns occur.

ES:MW:NN:CH:JC

Eric Silva, AICP, Assistant Director
Development Services Division
Miami-Dade County
Regulatory and Economic Resources Department

ZONING RECOMMENDATION ADDENDUM

Julmar 147 Investment, LLC
Z12-085

NEIGHBORHOOD SERVICES PROVIDER COMMENTS*	
Regulatory and Economic Resources (Environmental Resources Management Division)	No objection
Public Works and Waste Management	No objection
Parks, Recreation and Open Space	No objection
Miami-Dade Transit	No comment
Fire Rescue	No objection
Police	No objection
Schools	No comment
*Subject to conditions in their memorandum.	

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

Low Density Residential (Pg. I-31)	*The Adopted 2015 and 2025 Land Use Plan designates the subject property as being within the Urban Development Boundary for Low Density Residential use. This category allows a range in density from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre. The types of housing typically found in areas designated low density include 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.*
Residential Communities (Pg. I-26)	*The areas designated Residential Communities permit housing types ranging from detached single-family to attached multifamily buildings, as well as different construction systems. Also permitted in Residential Communities are neighborhood and community services including* ***schools****, parks, houses of worship,* ***daycare centers****, group housing facilities, and utility facilities, only when consistent with other goals, objectives and policies of this Plan and compatible with the neighborhood. The character of the "neighborhood" reflects the intensity and design of developments, mix of land uses, and their relationships.*
Land Use Objective 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.*
Education Element Objective EDU-3A (Pg. X-5)	*It is the policy of Miami-Dade County that the Miami-Dade County Public Schools shall not purchase sites for schools nor build new schools outside of the Urban Development Boundary (UDB), and that* ***new elementary schools*** *constructed should be located at least 1/4 mile inside the UDB; new middle schools should be located at least 1/2 mile inside the UDB, and; new senior high schools should be located at least one mile inside the UDB. in substantially developed areas of the County where suitable sites in full conformance with the foregoing are not available and a site or portion of a site for a new school must encroach closer to the UDB, the majority of the site should conform with the foregoing location criteria and the principal school buildings and entrances should be placed as far as functionally practical from the UDB. The same criteria of this paragraph that apply to public schools also pertain to* ***private schools****.*

ZONING RECOMMENDATION ADDENDUM

Julmar 147 Investment, LLC
Z12-085

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.*
33-311(A)(3) Special Exceptions, Unusual Uses and New Uses	*The Board shall hear an application for and grant or deny* ***special exceptions****; that is, those exceptions permitted by regulations only upon approval after public hearing, new uses and* ***unusual uses*** *which by the regulations are only permitted upon approval after public hearing; provided the applied for exception or use, including exception for site or plot plan approval, in the opinion of the Community Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the necessity for and reasonableness of such applied for exception or use in relation to the present and future development of the area concerned and the compatibility of the applied for exception or use with such area and its development.*

ZONING RECOMMENDATION ADDENDUM

Julmar 147 Investment, LLC
Z12-085

Section 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.*