

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

PH: Z12-089 (13-1-CZ5-1)

June 20, 2013

Item No. A

Recommendation Summary	
Commission District	1
Applicant	Miami Gardens Park, LLC
Summary of Requests	The applicant is seeking to allow a zone change to RU-4L in order to develop the parcel with a multi-family residential apartment complex. Additionally, the applicant seeks to delete restrictions on the development of the west portion of the parcel, to permit the filling of an existing lake encroaching onto the property as well as to allow an entrance feature and to permit the development with a reduced setback from the rear property line.
Location	Lying west of NW 59 Avenue and south of theoretical NW 182 Lane, Miami-Dade County, Florida.
Property Size	8.2 gross acres
Existing Zoning	IU-C, Conditional Industrial District
Existing Land Use	Vacant
2015-2025 CDMP Land Use Designation	Business and Office (see attached Zoning Recommendation Addendum)
Comprehensive Plan Consistency	Consistent with the LUP map, and the interpretative text and policies of the CDMP
Applicable Zoning Code Section(s)	Section 33-311, District Boundary Change, Section 33-311(A)(3), Special Exception, Unusual use and New Uses, Section 33-311(A)(4)(b), Non-Use Variance standards Section 33-311(A)(7) Generalized Modification Standards (see attached Zoning Recommendation Addendum)
Recommendation	Denial without prejudice of appeal, approval of request #1, approval with conditions of requests #2 through #5 and withdrawal of requests #6 and #7.

This item was deferred from the May 23, 2013 meeting of the Board of County Commissioners (BCC) due to an inadvertent advertising error. On May 17, 2013, the applicant, Miami Gardens Park, LLC, submitted a revised letter of intent to this Department. The applicant indicated in said letter, their intent to withdraw request #5, to permit a 15' setback from the rear (south) property line, where 25' is required. The revised letter of intent indicated that this will be accomplished by shifting some of the buildings while preserving all other required elements of the plan.

On March 14, 2013, the Community Zoning Appeals Board (CZAB) #5, approved the application based on staff's recommendation, with the modification of condition #2 to provide additional landscaping, and conditions #5 and #22 to require that no construction work be permitted on weekends.

On March 28, 2013, the appellants, the Moors Patio Homes Maintenance Association, Et Al, appealed the CZAB-5 decision to the 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 5 decision should be denied.

REQUESTS:

- (1) DISTRICT BOUNDARY CHANGE from IU-C to RU-4L.
- (2) DELETION of Declaration of Restrictions recorded in Official Records Book 11507 Pages 577-581, only as it applies to the subject property.

The purpose of the request is to remove the requirements that call for a 50' no building area, a 50' greenbelt open space and a 10' utility easement along the west property line.

- (3) UNUSUAL USE to permit an entrance feature; to wit; an entrance feature consisting of decorative masonry walls 8' in height and signage.
- (4) UNUSUAL USE to permit the filling a portion of an existing lake.
- (5) NON-USE VARIANCE of setback requirements to permit certain buildings setback 15' from the rear (south) property line (25' required).
- (6) NON-USE VARIANCE of spacing requirements to permit the clubhouse to be spaced a minimum 23'-8" (20' required) from other residential buildings
- (7) NON-USE VARIANCE of spacing requirements to permit certain residential buildings to be spaced 16' (20' required) from each other.

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "Proposed 178 Apartments for Miami Gardens Park" as prepared by Oscar J. Gonzalez Architect, consisting of 17 sheets, and "Lake Section" as prepared by Ludovici & Orange Consulting Engineers, Inc. consisting of 1 sheet, with all plans dated stamped, received 10/25/12. Plans may be modified at public hearing.

PROJECT DESCRIPTION AND PROJECT HISTORY:

The submitted plans depict the proposed 178 unit, multi-family residential development consisting of the sixteen (16), two (2)-story apartment buildings, a clubhouse and parking areas on the approximately 8.2-acre parcel.

The 8.2 acre subject parcel is a part of a larger tract of land that was rezoned from AU, Agricultural District to IU-C, Conditional Industrial District in 1982 pursuant to Resolution #Z-149-82. Said approval also permitted some commercial and office uses in the IU-C district as would have been allowed in BU, RU-5 and RU-4A zoning districts. The applicant proffered a covenant that was accepted by the County that restricted development within the western 100' of the parcel and required that the west 50' of this restricted area contain only a landscaped green area.

Subsequently, staff notes that the subject parcel was also a part of a larger tract that was the subject of Application Number 1 in the November 1995 cycle of applications to amend the Land

Use Plan map of the Comprehensive Development Master Plan (CDMP) for Dade County (now Miami-Dade County). As a result of this application the land use designation was changed from Industrial and Office to Business and Office at which time the applicant proffered a covenant that was accepted by the County. However, although the covenant among other things maintained the restrictions on development within 100' of the west property line for industrial and retail development, the covenant did not require this buffer for residential and office uses.

In 2005, the subject property was a part of a larger tract of land that was included in the boundaries of the Country Club-Palm Springs North Charrette. The Charrette report contained the Citizen's Vision for the growth and development of the Country Club-Palm Springs North area in Miami-Dade County and was adopted by the Board of County Commissioners (BCC) in July 2006, pursuant to Resolution #870-06. Said report contained illustrative plans that also depicted the subject parcel developed with infill housing.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	IU-C; vacant land, lake	Business and Office
North	IU-C; vacant land	Business and Office
South	RU-4L; apartments	Business and Office
East	IU-C; office park	Business and Office
West	RU-1; single-family residences, lake excavation	Low-Medium Density Residential (6 to 13 dua)

NEIGHBORHOOD COMPATIBILITY:

The 8.2-acre subject property is a vacant parcel containing a portion of a small lake. The subject property is surrounded by an existing office park to the east, an apartment complex to the south, single-family residences and a lake excavation to the west and a vacant IU-C zoned parcel to the north.

SUMMARY OF THE IMPACTS:

The approval of this application will allow the applicant to develop the parcel in accordance with the proposed RU-4L, Limited Apartment House District regulations and provide the community with additional multi-family residences in this area. However, since the site is vacant the proposed development of the residential site could have traffic impacts on the surrounding residential and commercial developments in this area.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The applicant seeks to permit the rezoning of the subject parcel from IU-C to RU-4L (request #1). The CDMP Land Use Plan (LUP) map designates the subject 8.2-acre property for Business and Office use. The Business and Office category *accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, entertainment and cultural facilities, amusements and commercial recreation.* However, the CDMP Land Use Element interpretative text for the Business and Office use states that *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 map's 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. The adjacent residential property to the west is designated for Low-Medium Density Residential use, 6 to 13 units per gross acre on the CDMP Land use plan map. For the reasons stated below, based on the CDMP Land Use Element interpretative text for the Business and Office category, the subject property would be allowed to develop one category higher, at the Medium Density Residential category which allows residential development at 13 to 25 units per gross acre. This would allow the applicant to develop the 8.2-acre site with minimum of 106 residential units and at a maximum of 205 residential units. This application would permit the applicant to provide additional housing for the community. RU-4L zoning permits the development of 23 units per acre, which would allow a total of 188 units on this site. Plans submitted by the applicant indicate the proposed development of the site with a maximum of 178 residential units or 21 units per acre. Staff notes that this is below the maximum of 25 units per acre allowed by the CDMP Land Use Element interpretative text for the Business and Office category and the maximum of 23 units per acre allowed by the RU-4L zoning district.

As previously noted by staff, the Business and Office designation of the subject property was adopted in the November 1995 cycle of applications to amend the CDMP at which time the applicant proffered a covenant which maintained the 100' buffer along the western property line for industrial and retail development. However, the restrictions on development did not extend to residential and office development within this 100' wide buffer area. The CDMP covenant only required any future residential development in this area to be equivalent to the corresponding setbacks for the residential developments located to the west. In the case of office uses two (2) stories high, the required landscaped buffer along the west property line was 50' and if higher than two (2) stories the development would be required to comply with the setbacks required by Code measured from the edge of the 50' wide landscaped buffer area. Said CDMP covenant also stated that development of and on the master tracts shall be subject to certain Urban Design Guidelines set forth in the covenant.

Staff is of the opinion that the submitted site plan conforms with the CDMP Land Use Element's interpretative text for the Business and Office land use category that states that *any residential proposal in Business and Office designated parcels not be out of character with the surrounding community, not detrimentally impact adjacent development and zoning and provide a sensitive well designed transition to any adjacent or adjoining residentially developed or designated areas of different development intensity.* Further, CDMP land Use Element, **Policy LU-4A** states that when evaluating compatibility among proximate land uses, the County shall consider such factors as height, bulk, and scale of architectural elements and parking among other things. The applicant is proposing to develop the property with a 178 unit residential apartment complex made up of sixteen (16) apartment buildings, a club house and an entrance feature. Additionally, the applicant seeks to delete a prior zoning covenant as it applies to the subject property, which restricted development along the west 100' of the subject parcel (request #2), to permit and entrance feature (request #3) and the partial filling of a lake along the interior side (west) property line (request #4) along with request for a variance to the setback requirements (request #5).

The site plan incorporates principles of urban design such as architecturally defined blocks and open spaces in the form of greens and squares. The squares are distributed throughout the site to offer areas for social encounters and for recreation. Landscaping is used to buffer the proposal from adjacent uses as well as to reinforce the urban spaces created by the block and street design. Further, the parking areas are for the most part located central to the site and screened from the abutting roadways by the apartment buildings. The height and scale of the proposed buildings are also similar to the buildings in the adjacent development located to the south that was approved in January 2005 pursuant to Resolution #CZAB5-01-05. The submitted plans indicate that the maximum height of the two (2) story apartment buildings within the proposed development will be 26'-4". The RU-1 zoning district within which the residences to the west are located permits residences with a maximum height of 35'. Additionally, the open recreational area abutting the portion of the lake that encroaches onto the subject parcel from the property to the west provides a well-designed landscape open space that will provide the residents of the proposed development with a view of the lake and compliments the views from the existing residential development to the west. Also, the applicant has provided liberal buffering in the form of a continuous hedge and a row of trees along the interior side (west) and rear (south) property lines that will mitigate any negative visual impact of the rows of apartment buildings located along said property lines on the residential developments to the west and south.

Staff further opines that the design principles outlined in the submitted plans conform to the Urban Design Guidelines outlined in the CDMP covenant that was proffered by the applicant and accepted by the County at the time of the amendment of the CDMP LUP map to Business and Office during the November 1995 cycle. All of the design principles adopted in this development will create a neighborhood that is pedestrian-friendly and sympathetic to human scale as well. The applicant has diligently worked with staff in order to provide urban design principles and guidelines on the site plan. Staff is of the opinion that the proposed development has incorporated numerous principles of urban design as described in the adopted Miami-Dade Urban Design Manual to create a new development that will serve as a sensitive and well-designed transition between the commercial uses found to the east and the residential uses found to the west. Staff opines that the proposed development including the lake fill, the entrance feature and reduced setbacks will be adequately buffered and will not have a negative visual impact on the surrounding properties or on passersby along NW 182 Street or NW 59 Avenue and therefore would satisfy the criteria for compatibility set forth in the CDMP Land Use Element, **Policy LU-4A**.

Since the approval of the application would maintain the restrictions of the development of the site based on the CDMP amendment and the CDMP covenant. Staff, therefore, opines that approval of the application is **compatible** with the area and is **consistent** with the CDMP Land Use Element interpretative text for residential uses, the density threshold permitted in **Business and Office** areas, the CDMP Land Use Plan map **Business and Office** designation for the subject property and the CDMP covenant.

ZONING ANALYSIS:

As previously stated, the subject property was included in the boundaries of the Country Club Palm Springs North Charrette. The Charrette report contained illustrative plans that depicted the a proposed infill development on the subject parcel which indicated the proposed development of the site with infill housing. As such, staff opines that the proposed development that is the subject of this application is **consistent** with the recommendation of the Country Club Palm Spring North Charrette Report approved by the Board of County Commissioners in July 2006.

The applicant seeks approval of a request for a zone change from IU-C to RU-4L (requests #1). In addition, the application seeks to approve other requests (requests #2 through #5) for the development of the site under the RU-4L zoning regulations which are contingent on the approval of the district boundary change.

For the reasons stated above, staff opines that when the applicant's requests to rezone the 8.2-acre parcel to RU-4L (request #1), is analyzed under Section 33-311, District Boundary Change; to delete a declaration of restrictions that restricts development of the west portion of the parcel under Section 33-311(A)(7), Generalized Modification Standards (request #2); and requests to permit an entrance feature with signage (request #3) and permit the filling of a portion of an existing lake (request #4), under Section 33-311(A)(3), Special Exception, Unusual and New Uses, that the approval of the requests would be **compatible** with the commercial, single and multi-family residential uses in the surrounding area.

The existing IU-C zoning district allows all the uses permitted in the IU-1, Light Industrial Manufacturing District except adult entertainment uses, and every use permitted in the IU-3, Unlimited Industrial Manufacturing District including utility plants and substations such as, but not limited to, sewage, water, power, communications and gas. Also included in the IU-3 district are uses such as scrap metal reduction plants, metal and metal ores, reduction, refining, smelting and alloying. As such, staff opines that approval of the rezoning to RU-4L (request #1), would permit residential uses that would not be out of character with, and would be more compatible with the residentially zoned properties located to the west. Further, although the proposed residential development is more intensive than the single family residential development to the west, staff opines that it will provide a reasonable transition to the more intense commercial uses located to the east of the subject parcel.

Staff notes that for the reasons explained earlier, the deletion of the declaration of restrictions (request #2) as it pertains to the 100' wide buffer along the west property line will be compatible with the residential subdivision located to the west and the multi-family development to the south that was approved for a similar request pursuant to Resolution #CZAB-5-105. Further, staff notes that the applicant has provided a continuous landscaped strip comprised of a row of trees planted at approximately 30' on center and a continuous hedge. The residential properties to the west will also be buffered by an existing 8' high wall along 2/3 of the property line abutting the proposed development and a lake with a proposed 6' high wall along the remaining 1/3 portion of said property line. Further, staff notes that only seven (07) of the residential properties abut the west property line of the south portion of the proposed development and four (04) of the residences abut the northern portion of said development. Staff notes that the existing lake provides an approximately 150' buffer at the narrowest point. However, staff recommends as a condition for approval that in the event this wall is removed, the applicant shall replace this wall along the property line abutting the residential development with a 6' high CBS wall. Staff also recommends as an additional condition of approval of this request (request #2) that the applicant provides a dual, row of trees planted in staggered rows along the west property line, spaced 25' on center and be a minimum of 12' high at the time of planting. Further, staff recommends that the landscape buffer along the west property line be installed prior to the issuance of the first Certificate of Occupancy for the residential development.

Staff notes that based on the memorandum from the Public Works and Waste Management Department, the approval of the aforementioned requests #1 through #4 would efficiently use the roads, streets and highways which have been constructed, planned or budgeted for in this

area and further, would not result in excessive traffic. Their memorandum states that subject to conditions, the application meets the criteria for traffic concurrency for an Initial Development Order. In addition, staff notes that the subject property fronts onto NW 59 Avenue and NW 182 Street, and is located approximately 330' south of Miami Gardens Drive, 0.33 miles to the west of NW 57 Avenue, both of which are section line roadways that provide the parcel with connectivity to the east and west and north and south respectively. Similarly, the memorandum from the Division of Environmental Resources Management (DERM) of the Department of Regulatory and Economic Resources (RER) indicates that the approval with conditions of the aforementioned requests will not have an unfavorable impact on the environmental resources of the County. Specifically, its memorandum indicates that a review of the application for compliance with the requirements of Chapter 24 of the Code indicated that the Level of Service standards as specified in the CDMP for potable water supply, wastewater disposal and flood protection are valid for this initial development order. As a condition for approval, the DERM memorandum further requires the applicant to demonstrate that the partial lake filling will not result in higher ground water level in the area. The Miami-Dade Fire Rescue Department (MDFRD) memorandum indicates that approval with conditions of the aforementioned requests will not unduly burden the MDFRD resources that exists or that are budgeted or planned for in this area.

Based on the aforementioned, staff recommends approval of request #1 under Section 33-311, District Boundary Change, and approval with conditions request #2 under Section 33-311(A)(7) Generalized Modification Standards and requests #3 and #4 under Section 33-311(A)(3), Special Exception, Unusual and New Uses.

When request #5 to permit certain buildings setback 15' (25' required) from the rear (south) property line is analyzed under Section 33-311(A)(4)(b), Non-Use Variance Standards, staff opines that approval with conditions will maintain the basic intent and purpose of the zoning, subdivision and other land use regulations and would be **compatible** with same. Staff notes that the proposed site abuts a recently approved multi-family residential development located to the south. A review of the approved plans for this abutting development indicates that the buildings on this site are also setback 15' from the north property line. However, the north property line for said property is an interior side property line that only required a minimum 15' setback since the property fronts onto NW 59 Avenue. Although the subject property also abuts NW 59 Avenue, the frontage for the subject property is along NW 182 Street. As such, the south property line of the subject property is the rear property line and requires a 25' setback. Staff opines that the proposed development is similar in scale and height to the previously approved development to the south and that the proposed 15' setback for some of the buildings from the rear (south) property line allows for a uniform pattern of development that will not be visually intrusive to the surrounding area and will be **compatible** with same. Further, staff notes that the submitted plans indicate a landscape buffer containing a continuous row of hedges and trees along said property line which staff opines will mitigate any negative visual impact of the encroachment. **Staff therefore recommends approval with conditions of request #5 under the Section 33-311(A)(4)(b), Non-Use Variance standards.**

Staff opines that requests #6 and #7 are not needed for this application and were inadvertently advertised. Staff notes that the RU-4L zoning district only requires that accessory structures such as the clubhouse be spaced a minimum of 20' from other residential buildings. The submitted plans indicate that the proposed clubhouse that is the subject of request #6 is spaced 23', which is more than the distance that is required by the Code. Additionally, staff's research of request #7 indicated that there is no specific requirement for the spacing between residential

buildings in the RU-4L zoning district where *doors, windows or other openings in the building wall of a living unit face a wall of the same building and/or a wall of another building (accessory) on the same site.* As such, staff recommends the withdrawal of these requests.

ACCESS, CIRCULATION AND PARKING: The submitted plans indicate three (3) ingress/egress points along NW 59 Avenue and one (1) along NW 182 Street. The applicant has provided 37 more parking spaces than the required 304 parking spaces for the 178 unit residential development with adequate drives that connect to the aforementioned ingress/egress points.

NEIGHBORHOOD SERVICES PROVIDER REVIEW: See attached.

OTHER: Not applicable.

RECOMMENDATION:

Staff recommends denial without prejudice of the appeal, approval of request #1, approval with conditions of requests #2 through #5 and withdrawal of requests #6 and #7.

CONDITIONS FOR APPROVAL (For requests #2 through #5 only):

General Conditions

1. That a site plan be submitted to and meet with the approval of the Director of the 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, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Proposed 178 Apartments for Miami Gardens Park" as prepared by Oscar J. Gonzalez Architect, consisting of 17 sheets, and "Lake Section" as prepared by Ludovici & Orange Consulting Engineers, Inc. consisting of 1 sheet, with all plans dated stamped, received 10/25/12, except as herein amended to show an increased landscaped buffer along the west property line. Said landscape buffer shall consist of dual, row of trees planted in staggered rows along the west property line, spaced 25' on center and be a minimum of 12' high at the time of planting.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant submit to the Department of Regulatory and Economic Resources for review and approval a landscape plan which in addition to the submitted landscape plans shall include the required landscape buffer along the west property line. Said landscape buffer shall consist of a dual row of trees planted in staggered rows along the west property line, spaced 25' on center and be a minimum of 12' high at the time of planting, and shall be installed along that portion of the west property line prior to the issuance of the first Certificate of Occupancy.

5. That the applicant shall be permitted to operate construction activities for the proposed development between the hours of 7:00 A.M. and 7:00 P.M. on weekdays; Saturday and Sunday operation and/or other hours of operation than 8:00 A.M. to 5:00 P.M., may be permitted by the Director only if the same does not become objectionable, in his opinion, to the surrounding area.

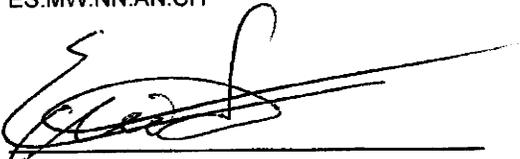
Lakefill Conditions

6. That in the event the existing 8' high wall along 2/3 of the west property line is removed by the neighboring residential development to the west the applicant shall install a similar buffer within the zoning regulations.
7. That no portion of the property subject to the approved excavation fill plan and permit shall be transferred without the approval of the Director, unless the filling of the subject excavation has been completed in accordance with the excavation fill plan and permit for the fill project and unless the bond has been released.
8. That no fill be permitted within the adjacent rights-of-way.
9. That if in the opinion of the Director the lakefill is hazardous to the surrounding area, the hazardous area shall be fenced in, or otherwise protected, by the applicants as directed by the Director.
10. That the applicant shall obtain all permits required by this Code and comply with all permit requirements and all applicable conditions of the Division of Environmental Resource Management of the Department of Regulatory and Economic Resources as well as the Public Works and Waste Management Department for the duration of the fill project
11. That only such clean fill material as allowed by Chapter 24 of this Code and approved in writing by the Division of Environmental Resource Management of the Department of Regulatory and Economic Resources, as set forth herein, shall be used in the fill project.
12. That in order to insure compliance with all terms and conditions imposed, a cash bond or substantially equivalent instrument meeting with the approval of the Director shall be posted with the Department of Regulatory and Economic Resources, payable to Miami-Dade County, in an amount as may be determined and established by the Director of the Department of Regulatory and Economic Resources; said instrument shall be in such form that the same may be recorded in the public records of Miami-Dade County and said instrument shall be executed by the property owner and any and all parties who may have an interest in the land, such as mortgagees, etc. The bond amount shall be based on the volume of cut required to create the approved slope configuration.
13. That any unacceptable fill material shall be stored in containers; shall not be permitted to remain on the project site for more than thirty (30) days; and shall not exceed a volume of forty (40) cubic yards.
14. That neither the clean fill material piles, nor the unacceptable fill material piles, nor the piles awaiting sorting shall be permitted to exceed a height of 10 feet above the applicable flood elevations for the property.

15. That the fill project shall meet all storm water management requirements of the Code of Miami-Dade County and the filled excavation or portion of excavation filled shall not exceed the applicable flood elevations for the property.
16. That if the fill project is discontinued, abandoned, falls behind schedule or time expires under the permit, the remaining excavation shall immediately be sloped to conform with the previously approved excavation plans and all equipment and concomitant uses shall be removed from the premises, unless an application to extend the time is filed with the Department prior to expiration of the approval and provided that good cause is demonstrated as to the delay in completing the filling of the excavation. In no event shall such extension allow the fill project to continue beyond three (3) years after issuance of the permit.
17. That the property shall be suitably posted to meet with the approval of the Director; said posting shall denote the fill project and shall warn the public concerning the possible hazards prior to commencement and for the duration of the fill project.
18. That the property shall be staked to meet with the approval of the Director of the Department of Regulatory and Economic Resources; said stakes shall be maintained in proper position so that the limits of the lake fill, slopes and grade levels may be easily determined.
19. That all Federal, State and local permits be obtained prior to commencement of the lake fill. In the event that any Federal, State or local permit is revoked or otherwise held to be invalid, the lake fill operation shall immediately cease.
20. That the deadline date for the completion of the fill project, including final closure and completion of all tasks set forth in the approved plans and permit shall be determined by the Director and established in the permit. All authorized work shall be carried on continuously and expeditiously so that the filling will be completed within the allocated time, but in no event for any more than three (3) years from issuance of the fill permit;
21. That upon completion of the project, the property shall be restored and left in an acceptable condition meeting with the approval of the Director of the Department of Regulatory and Economic Resources.
22. That the applicant shall be permitted to operate between the hours of 7:00 A.M. and 7:00 P.M. on weekdays; Saturday and Sunday operation and/or other hours of operation than 8:00 A.M. to 5:00 P.M., may be permitted by the Director only if the same does not become objectionable, in his opinion, to the surrounding area.
23. That the grading, leveling, sloping of the banks and perimeter restoration shall be on a progressive basis as the project develops and the lakefill operation progresses. In accordance with this requirement, the applicants shall submit "as built" surveys prepared and sealed by a Florida licensed surveyor and/or professional engineer at one-fourth, one-half, three-fourths and final completion of the lake fill operation or at six-month intervals, whichever is of a lesser duration, or upon request of either the Division of Environmental Resources Management of the Department of Regulatory and Economic Resources when it appears that the lake fill is proceeding contrary to approved plans.

24. That the applicant comply with all of the applicable conditions, requirements, recommendations, requests and other provisions of the various Departments as contained in the Departmental memoranda that are incorporated herein by reference.
25. That any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the conditions herein agreed to are being complied with.

ES:MW:NN:AN:CH

A handwritten signature in black ink, appearing to read 'Eric Silva', is written over a horizontal line. The signature is stylized and extends to the right.

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

ZONING RECOMMENDATION ADDENDUM

Miami Gardens Park, LLC
Z12-089

NEIGHBORHOOD SERVICES PROVIDER COMMENTS*	
Division of Environmental Resource Management (RER)	No objection
Public Works and Waste Management	No objection
Parks, Recreation and Open Spaces	No objection
Fire Rescue	No objection
Police	No comment
Schools	No objection
*Subject to conditions in their memorandum.	

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

<p>Business and Office (Page I-41)</p>	<p><i>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.</i></p> <p><i>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.</i></p>
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ZONING RECOMMENDATION ADDENDUM

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Land Use Policy LU-4A (Page 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.
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PERTINENT ZONING REQUIREMENTS/STANDARDS

Section 33-311 District Boundary Change	<p>(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.</p> <p>(F) Section 33-311 provides that the Board shall take into consideration, among other factors the extent to which:</p> <ol style="list-style-type: none"> (1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered; (2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development; (3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida; (4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction; (5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.
Section 33-311(A)(3) Special Exception, Unusual and New Uses.	Special exceptions (for all applications other than public charter schools), unusual and new uses. Hear application for and grant or deny special exceptions, except applications for public charter schools; that is, those exceptions permitted by the 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

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	<p><i>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.</i></p>
<p>33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations</p>	<p><i>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.</i></p>
<p>Section 33-311(A)(7) Generalized Modification Standards.</p>	<p><i>The Board shall hear applications to modify or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution; and to modify or eliminate any provisions of restrictive covenants, or parts thereof, accepted at public hearing, except as otherwise provided in Section 33-314(C)(3); provided, that the appropriate Board finds after public hearing that the modification or elimination, in the opinion of the Community Zoning Appeals Board, would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or would not tend to provoke a nuisance, or would not be incompatible with the area concerned, when considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned.</i></p>