

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

PH: Z13-061(13-11-BCC-1)

November 21, 2013

Item No. 1

| <b>Recommendation Summary</b>              |   |
|--|---|
| <b>Commission District</b>                 | 9   |
| <b>Applicants</b>                          | LFR Land Family LP & Tuscan Place Associates.   |
| <b>Summary of Requests</b>                 | The application is for a deletion of a prior Declaration of Restrictions and to permit a fence with a height that is more than required.                    |
| <b>Location</b>                            | Lying West of SW 137 Avenue, between SW 252 and theoretical SW 258 Street, Miami-Dade County, Florida.  |
| <b>Property Size</b>                       | 32.06 +/- acres   |
| <b>Existing Zoning</b>                     | PCUC, Princeton Community Urban Center<br>NCUC, Naranja Community Urban Center  |
| <b>Existing Land Use</b>                   | Vacant  |
| <b>2015-2025 CDMP Land Use Designation</b> | Business and Office<br>Low Middle Density Residential<br>Community Urban Center<br><i>(see attached Zoning Recommendation Addendum)</i>                     |
| <b>Comprehensive Plan Consistency</b>      | <b>Consistent</b> with the LUP map, and the interpretative text and policies of the CDMP  |
| <b>Applicable Zoning Code Section(s)</b>   | Section 33-311(A)(7) Generalized Modification Standards<br>Section 33-311(A)(4)(b) Non-Use Variance<br><i>(see attached Zoning Recommendation Addendum)</i> |
| <b>Recommendation</b>                      | <b>Approval of requests #1 and #2 with conditions</b>   |

The BCC shall have jurisdiction directly over applications to modify or delete a prior Declaration of Restrictions recorded prior to July 27, 2005 encumbering property located within any Urban Center Zoning district as indicated in Section 33-314(14) of the County Code.

**REQUESTS:**

1. DELETION of the Declaration of Restrictions recorded in Official Record Book 20749, pages 3683 – 3687.

**REQUEST #1 ON PARCELS A, B & C**

The purpose of the above request is to allow the applicant to delete a restriction restricting the number of units and to allow the applicant to separate the site into two parcels for the previously approved multi-family development.

2. NON-USE VARIANCE to permit an aluminum fence with a height of 6' (3.5' maximum permitted) in front of the build-to-line.

**REQUEST #2 ON PARCELS B & C**

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "San Marino" as prepared by Burgos Lanza Architects & Planners, with sheet A0.03B dated stamped received 07/01/13 and sheet A0.05 dated stamped received 09/09/13 for a total of 2 sheets. Plans may be modified at public hearing.

**PROJECT DESCRIPTION AND HISTORY:**

The applicant seeks the approval of a request to delete a prior Declaration of Restrictions restricting the number of units and to allow the applicant to separate the site into two parcels for the previously approved multi-family development (request #1) and to permit a fence with a height of 6' (3.5' maximum permitted) in front of the build-to-line (request #2).

In May 1989, pursuant to Resolution Z-100-89, a portion of the subject property located between theoretical S.W. 257 Street and S.W. 258 Street, and between S.W. 137 Avenue was approved for a district boundary change from AU (Agricultural District) to RU-TH (Townhouse District).

In March 2002, pursuant to Resolution CZAB15-14-02, a portion of the subject property located between South Dixie Highway and S.W. 137 Avenue and theoretical S.W. 252 Street was approved for a district boundary change from AU (Agricultural), BU-1 (Neighborhood Business District) and BU-1A (Limited Business District) to RU-4L (Limited Apartment House District) The applicant proffered a covenant restricting the development to 380 multifamily units, 12.7 units per acre on subject parcels "A" and "B".

In June 2005, pursuant to Resolution Z-13-05, a portion of the subject property, Parcel A located west of SW 137 Avenue between SW 252 Street and SW 256 Street was part of a larger tract of land that was rezoned to the **Princeton Community Urban Center District (PCUCD)**.

Sequentially, in November 2005, pursuant to Resolution Z-26-05, the remaining southern portion of the subject property, Parcels B and C located West of SW 137 Avenue and between SW 256 Street and 258 Street was a part of a larger tract of land that was rezoned to the **Naranja Community Urban Center District (NCUCD)**.

| <b><u>NEIGHBORHOOD CHARACTERISTICS</u></b> |   |                             |
|--|---|-----------------------------|
|  | <b>Zoning and Existing Use</b>            | <b>Land Use Designation</b> |
| <b>Subject Property</b>                    | PCUC; Apartments<br>NCUC: Vacant land     | Community Urban Center      |
| <b>North</b>                               | PCUC; Bank                                | Community Urban Center      |
| <b>South</b>                               | NCUC; Single Family Residences            | Community Urban Center      |
| <b>East</b>                                | PCUC; Single-Family Residences and church | Community Urban Center      |
| <b>West</b>                                | PCUC; Busway and Single Family Residences | Community Urban Center      |

**NEIGHBORHOOD CHARACTER:**

The property is located in two community urban centers, Princeton Community Urban Center District (PCUCD) and Naranja Community Urban Center District (NCUCD). The property consists of three parcels, Parcels A, B and C. Parcel A has apartment buildings and is the larger of the three parcels located west of SW 137 Avenue between SW 252 Street and SW 256

Street and zoned Princeton Community Urban Center District (PCUCD). Parcels B and C are undeveloped and are located West of SW 137 Avenue, between SW 256 Street and 258 Street and is zoned Naranja Community Urban Center District (NCUCD). The property is surrounded by a commercial bank to the north, single-family residences and a church to the east, single family residences to the south, and a bus way and single-family residences to the west.

**SUMMARY OF THE IMPACTS:**

The approval of this application will allow the applicant to delete a prior Declaration of Restrictions restricting the number of units and allow the applicant to separate the site into two parcels for the previously approved multi-family development in a manner consistent with the regulations of the Urban Center Zoning Districts. The variance of fence height will allow the applicant to secure the community in a manner consistent with development of the surrounding area. However, the approval of a fence above the height permitted under said regulations could have a visual impact on properties in the surrounding area.

**COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:**

In June 2005, pursuant to Resolution Z-13-05, Parcel A of the subject property was part of a larger tract of land that was rezoned to the **Princeton Community Urban Center District (PCUCD)**, subsequently in November 2005, pursuant to Resolution Z-26-05, Parcels B and C was a part of a larger tract of land that was rezoned to the **Naranja Community Urban Center District (NCUCD)**.

The Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map designates the subject property as lying within the **NCUCD and PCUCD**. Urban Centers are identified as hubs for future development intensification in Miami-Dade County, around which a more compact and efficient urban structure will evolve and are intended to be moderate-to-high-intensity design-unified areas that will contain a concentration of different urban functions such as residential uses integrated both horizontally and vertically. Emphasis in design and development of these centers and all of their individual components have been created to promote active pedestrian environments through high-quality design of public spaces as well as private buildings; human scaled appointments, activities and amenities at street level; and connectivity of places through creation of a system of pedestrian linkages. All of the parcels within the boundaries of the approved NCUCD described in Ordinance #04-217 and the PCUC District described in Ordinance #05-146 are regulated by plans and descriptive standards which are consistent with the Urban Center interpretative text. Among other things, said Ordinances requires buildings to be oriented to the street, parking lots to be predominately relegated to the rear or sides of buildings, primary building entrances to be placed close to the street and/or open space, and shade trees and weather protection to be available in order to create a pedestrian-friendly environment at street level.

The purpose of the application is to allow the applicant to delete a Declaration of Restrictions restricting the number of units and to separate the site into two parcels for the previously approved multi-family development (request #1) and to permit an aluminum fence with a height of 6' in front of the build-to-line that will be higher than permitted by the NCUC regulations (request #2). These requests will allow the applicant to develop the parcels in conjunction with the remainder "A" that is located within the PCUC District as a multi-family residence.

As such, the application is **compatible** with the residential uses allowed and therefore **consistent** with the CDMP LUP map Urban Center designation and the Land Use Element interpretative text for Urban Centers.

### **ZONING ANALYSIS:**

Staff notes that Parcel "A" is within the Center Sub-District and is designated MC, Mixed Use Corridor and RM, Residential Modified on the regulating plans for the PCUC District that were approved in November 2005. Parcel "A" is already developed with 340 residential units. Parcels "B" and "C" are vacant parcels within the Edge Sub-District and are designated MC on the regulating plans for the NCUC District. Said designation could allow the property to be developed at a maximum of 52 dwelling units per acre, which could allow a maximum of 452 residential units on the 8.7 net acre parcel. However, Parcels B and C are currently being developed through an Administrative Site Plan Review (ASPR) process. Staff's review of the current application, ASPR #13-007, indicates a proposed 172 unit residential development.

When the applicant's request to delete a prior Declaration of Restrictions restricting the number of units and to allow the applicant to separate the site into two parcels for the previously approved multi-family development (request #1), is analyzed under Section 33-311(A)(7), Generalized Modification Standards, staff opines that the requested deletion would not generate excessive noise or traffic, nor create a dangerous hazard, nor provoke excessive overcrowding of people, nor be incompatible with the area as based on the recommendations and/or information contained in memoranda from the Division of Environmental Resources Management (DERM) and the Traffic and Platting Review Section of the Department of Regulatory and Economic Resources (RER). Staff found a similar approval for a deletion of a Declaration of Restrictions within the surrounding area. For example, a tract of land located to the SW corner of SW 137 Avenue and theoretical SW 258 Street, AKA 25820 S.W. 137 Avenue was approved pursuant to Z-19-09 to delete a prior Declaration of Restrictions restricting the development to 36 residential units. Staff further opines that the request is **compatible and consistent** with the residential uses allowed by the CDMP LUP map Urban Center designation and the Land Use Element interpretative text for Urban Centers. **Therefore, staff recommends approval of the request #1 with conditions under Section 33-311 (A)(7), Generalized Modification Standards.**

When the applicants' request to permit an aluminum fence with a height of 6' in front of the build-to-line (request #2) is analyzed under the Non-Use Variance (NUV) Standards, Section 33-311(A)(4)(b), staff is of the opinion that the approval of this request would be **compatible** with the surrounding area and would not be detrimental to the neighborhood or negatively affect the appearance of the community. The submitted plan depicts the proposed aluminum fence located along the north property line abutting SW 256 Street, the east property line of the subject property abutting SW 137 Avenue, the south property line abutting 258 Street and the west property line abutting theoretical SW 138 Avenue. Staff opines that although the proposed fence is an average 2'-5" taller than allowed by the NCUCD regulations, the fence meets the 75% transparency requirement and approval will not have a negative visual impact on the surrounding properties. Although there were no similar approvals in the surrounding area, staff opines that because of the unique location of this development abutting four (4) roadways, the proposed fence will provide a welcome visual transition between Parcels B and C being developed under the NCUCD regulations and the existing multi-family residences located on Parcel A to the north. Therefore, staff opines that approval of the increased height for the proposed fence will act as a reasonable deterrent to unwanted pedestrian or vehicular traffic

from encroaching into the property. As such, staff opines that approval with conditions of the application will also not have a negative impact on the future development of the surrounding area within the NCUC. **Therefore, staff recommends that request #2 be approved with conditions under Section 33-311(A)(4)(b) (NUV), Non-Use variance standards.**

**ACCESS, CIRCULATION AND PARKING:** The submitted plans indicate an ingress/egress point along SW 137 Avenue.

**NEIGHBORHOOD SERVICES PROVIDER REVIEW:** See attached.

**OTHER:** Not applicable.

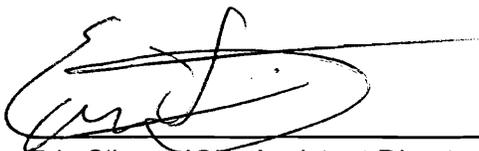
**RECOMMENDATION:**

**Approval of requests #1 and #2 with conditions.**

**CONDITIONS FOR APPROVAL:**

1. That a site plan be submitted to and meet with the approval 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, only as it applies to the fence, the same be substantially in accordance with that submitted for the hearing entitled ""San Marino" as prepared by Burgos Lanza Architects & Planners, with sheet A0.03B dated stamped received 07/01/13 and sheet A0.05 dated stamped received 09/09/13 for a total of 2 sheets
3. That the use be established and maintained in accordance with the approved plan.

ES:MW:NN:CH:EJ

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

*NN*

# ZONING RECOMMENDATION ADDENDUM

*LFR Land Family LP & Tuscany Place Assoc.  
Z13-061*

|  |   |
|--|---|
|  | <p><i>and support such development. The County will give special emphasis to providing a high level of public mass transit service to all planned urban centers. Given the high degree of accessibility as well as other urban services, the provisions of this section encourage the intensification of development at these centers over time. In addition to the Urban Center locations depicted on the Land Use Plan Map, all future rapid transit station sites and their surroundings shall, at a minimum, be developed in accordance with the Community Center policies established below.</i></p> <p><i>Following are policies for development of Urban Centers designated on the Land Use Plan (LUP) map. Where the provisions of this section authorize land uses or development intensities or densities different or greater than the underlying land use designation on the LUP map, the more liberal provisions of this section shall govern. All development and redevelopment in Urban Centers shall conform to the guidelines provided below.</i></p> <p><b>Uses and Activities.</b> <i>Regional and Metropolitan Centers shall accommodate a concentration and variety of uses and activities which will attract large numbers of both residents and visitors while <b>Community-scale Urban Centers</b> will be planned and designed to serve a more localized community. Uses in Urban Centers may include retail trade, business, professional and financial services, restaurants, hotels, institutional, recreational, cultural and entertainment uses, moderate to high density residential uses, and well planned public spaces. Incorporation of residential uses is encouraged, and may be approved, in all centers, except where incompatible with airport or heavy industrial activities. Residential uses may be required in areas of the County and along rapid transit lines where there exists much more commercial development than residential development, and creation of employment opportunities will be emphasized in areas of the County and along rapid transit lines where there is much more residential development than employment opportunity. Emphasis in design and development of all centers and all of their individual components shall be to create active pedestrian environments through high-quality design of public spaces as well as private buildings; human scale appointments, activities and amenities at street level; and connectivity of places through creation of a system of pedestrian linkages. Existing public water bodies shall also be incorporated by design into the public spaces within the center.</i></p> <p><b>Buildings.</b> <i>Buildings and their landscapes shall be built to the sidewalk edge in a manner that frames the adjacent street to create a public space in the street corridor that is comfortable and interesting, as well as safe for pedestrians. Architectural elements at street level shall have a human scale, abundant windows and doors, and design variations at short intervals to create interest for the passing pedestrian. Continuous blank walls at street level are prohibited. In areas of significant pedestrian activity, weather protection should be provided by awnings, canopies, arcades and colonnades.</i></p> |
|--|---|

## PERTINENT ZONING REQUIREMENTS/STANDARDS

|   |  |
|---|--|
| <p><b>33-311(A)(7)<br/>Generalized<br/>Modification<br/>Standards</b></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 (a) 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, or (b) (i) that the resolution that contains the condition approved a school use that was permitted only as a special exception, (ii) that subsequent law permits that use as of right without the requirement of approval after public hearing, and (iii) that the requested modification or elimination would not result in development exceeding the standards provided for schools authorized as a matter of right without the requirement of approval after public hearing.</i></p> |
|---|--|

# ZONING RECOMMENDATION ADDENDUM

*LFR Land Family LP & Tuscany Place Assoc.  
Z13-061*

|  |   |
|--|---|
| <b>33-311(A)(4)(b)<br/>Non-Use<br/>Variances From<br/>Other Than<br/>Airport<br/>Regulations</b> | <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> |
|--|---|