

**Miami-Dade County Department of Regulatory and Economic Resources
Staff Report to Community Council No. 12**

PH: Z13-077(14-7-CZ12-1)

October 13, 2015

Item No. 1

Recommendation Summary	
Commission District	7
Applicant	Manuel J. Menendez Trust
Summary of Requests	The applicant is seeking to rezone the residential portion of a commercial and residentially zoned parcel and delete two (2) existing declarations of restrictions, in order to permit a 77-unit multi-family residential and commercial development on the site. Additionally, the applicant seeks to waive the requirement for a wall between the residential and commercial zoned portions of the dual zoned subject property as well as variances to the setback and landscape requirements.
Location	6950 SW 40 Street, Miami-Dade County, Florida.
Property Size	2.81 acres
Existing Zoning	RU-4L, Limited Apartment House District, BU-2, Special Business District
Existing Land Use	Commercial building
2020-2030 CDMP Land Use Designation	Business and Office/Medium Density Residential, 13 - 25 dua <i>(see attached Zoning Recommendation Addendum)</i>
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 <i>(see attached Zoning Recommendation Addendum)</i>
Recommendation	Approval with conditions of request #1, subject to the acceptance of the covenant, and approval with conditions of requests #2 through #8 and request #10; and withdrawal without prejudice of request #9

On January 6, 2015, the Community Zoning Appeals Board (CZAB) #12, denied without prejudice the subject application. On January 20, 2015, the appellant, Manuel Menendez Trust, appealed the CZAB #12 decision to the Board of County Commissioners (BCC). Subsequently, at the May 21, 2015, meeting of the BCC, the applicant submitted revised plans for the proposed development, at which time, the BCC remanded the item back to CZAB #12. Staff's recommendation below is based on the revised plans submitted by the applicant.

REQUESTS:

REQUESTS #1 - #3 ON TRACT "B"

- (1) DISTRICT BOUNDARY CHANGE from RU-4L to RU-4M.
- (2) Deletion of Declaration of Restrictions recorded in Official Records Book 24126, pages 0768-0772.

- (3) Deletion of Declaration of Restrictions recorded in Official Records Book 26198, pages 4915 - 4919.

The purpose of requests #2 and #3 is to delete two covenants that restrict the property to a previously approved plan for a townhome development and to permit the applicant to submit new plans for a proposed multi-family development.

REQUEST #4 ON TRACT "A"

- (4) SPECIAL EXCEPTION to permit a multi-family residential development in the BU-2 zoning district.

REQUESTS #5 - #9 ON TRACTS "A" AND "B"

- (5) NON-USE VARIANCE to permit one way drives with a minimum width of 11'-1" (14' required).
- (6) NON-USE VARIANCE to permit multi-family residential building setback a minimum of 2' from the interior side (west) property line and setback 19' (20' required for both).
- (7) NON-USE VARIANCE to waive the 5' wide dissimilar land use buffer including a 6' high wall fence or hedge with trees spaced 35' on center along portions of the east and west property lines.
- (8) NON-USE VARIANCE to waive the required decorative masonry wall at least 5 feet in height between the business lot and residential lot interior to the site.
- (9) NON-USE VARIANCE to permit 2 street trees (5 street trees required).
- (10) NON-USE VARIANCE to permit 834 shrubs (870 shrubs required).

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "Central Park" as prepared by Collado and Partners Inc. Sheet A-1.00 dated stamped received 09/01/15, sheet A-2.00 dated stamped received 08/12/15 and the remaining 8 sheets dated received 7/29/15 for a total of 10 sheets. Plans may be modified at public hearing.

PROJECT DESCRIPTION AND PROJECT HISTORY:

This application seeks approval of requests to rezone the southern portion of the subject property and to permit a residential development on the commercially zoned, northern portion of the parcel in order to permit a mixed use multi-family residential and commercial development. This will permit the applicant to develop the subject parcel with 77 multi-family residential units and 1,050 sq. ft. of commercial space. Said requests are contingent on the approval of requests to delete prior declarations of restrictions that pertained to a previously approved townhome development on a portion of the subject property. Along with said requests, the applicant also seeks to permit the proposed development with ancillary non-use variances to the setback and landscape regulations. The revised plans submitted by the applicant, indicate the removal of the 0.11-net acre parcel to the east, which contains a single-family residence from the application. However, said parcel is contiguously owned but is not a part of this application.

Instead of the 9-story multi-family residential and commercial building that was previously proposed, the revised plans submitted by the applicant now shows two (2) separate buildings on the 2.81-acre site. Building A, which will have five (5) stories and a maximum height of 62.83', will be located on Tract "A", the BU-2, Special Business District portion of the parcel. The other building is a three (3) story building that is aligned along the entire length of Tract "B", the RU-4L parcel, consisting of two (2) connected structures, identified as Building "B" and Building "C", which are separated by a staircase and elevator shaft in the middle. The plans indicate Buildings "B" and "C" will each have a maximum height of three (3) stories at a maximum height of 37.33', and will be located on the proposed RU-4M parcel abutting the residences to the east.

The subject property is a narrow strip of land, approximately 2.81-acres in size, abutting Bird Road (SW 40 Street), which is a section line roadway. The property is approximately 1,320' in length and approximately 100' wide and consists of two (2) separate zoning districts. The northern, approximately 0.87-acres of the subject property is zoned BU-2, Special Business District, and the remaining approximately 1.947-acres to the south is currently zoned RU-4L.

In addition, the northern approximately 120' of the BU-2 portion of the property is designated on the Comprehensive Development Master Plan (CDMP) Future Land Use Plan (LUP) map for Business and Office uses. The remaining 1,200' southern portion of the property is designated Medium Density Residential on the CDMP LUP map.

Staff's research of the Department's zoning records indicates that the northern 120' of the subject property has been zoned BU-2 from as far back as 1948. Pursuant to Resolution #CZAB12-30-05 and Resolution #CZAB12-35-05, the existing RU-4L zoning district was approved on the remaining southern portion of the parcel. The RU-4L zoning district allows development at 23 residential units per acre, which would have allowed the development of the approximately 2.22 acre residential portion of the parcel with 52 residential units. However, the approval of the RU-4L portion of the property was subject to the acceptance of a covenant proffered by the applicant that restricted the development of the site to a site plan showing 26 residential units, along with other restrictions. Said covenant was subsequently modified pursuant to Resolution #CZAB12-37-06, to correct an error in the legal description of the residential parcel. The plan approved pursuant to Resolution #CZAB12-35-05 indicated a three (3) story townhome development with parking on the ground level. Additionally, said plans showed the development with two (2) ingress/egress drives for the residential development. One of the drives was located to the south from SW 44 Street and the other drive to the north, was located approximately in the area of SW 42 Street through the 0.11-net acre parcel, which is no longer a part of this application. No development was shown on the BU-2 portion of the subject site at that time.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	RU-4L/BU-2: commercial building	Medium Density Residential (13-25 dua)/ Business and Office
North	IU-1: carwash	Business and Office
South	RU-4M; apartment buildings	Medium Density Residential (13-25 dua)

East	BU-2; post office RU-1/RU-TH: single-family residences and townhouses	Business and Office/Medium Density Residential (13-25 du)
West	GU; railway easement	Transportation

NEIGHBORHOOD COMPATIBILITY:

The 2.81-acre subject property is a mostly vacant parcel located along Bird Road (SW 40 Street), which is designated as a Major Roadway on the CDMP Future LUP map. The property abuts residential uses to the south and east. However, to the north and west of the subject property are commercial and industrial uses.

SUMMARY OF THE IMPACTS:

The approval of this application will allow the applicant to provide the community with additional housing. Staff opines in the zoning analysis below, that the proposed development at a maximum height of five (5) stories, is designed in a manner that it will mitigate any visual impact on the abutting single-family residences to the east.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

Staff notes that the northern approximately 120' of Tract "A" of the subject property, approximately 0.223-acres in size, is designated **Business and Office** on the Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map. 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.*

In addition, the CDMP Land Use Element interpretative text for Business and Office 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.* When the above conditions are met, *residential development may be authorized to occur in the Business and Office category at a density up to one 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.* The remaining southern portion of the subject property is designated **Medium Density Residential** on the CDMP LUP map, which allows a range in density of 13 to 25 dwelling units per gross acre. *The types of housing structures typically permitted in this category include townhouses and low-rise and medium-rise apartments.* Therefore, subject to the conditions outlined in the CDMP Land Use Element interpretative text for areas designated Business and Office, the 0.223-acre Business and Office designated portion of the subject property could be developed under the designation of **Medium-High Density Residential** at 25 to 60 dwelling units per acre. **This would allow the applicant to develop the approximately 0.223-acre Business and Office designated portion of the property with a maximum of thirteen (13) residential units.**

The remaining southern portion of Tract "A", which is approximately 0.64-acres in size, and Tract "B" of the subject property, which is 1.947-acres, for a total of 2.59-acres, are designated **Medium Density Residential** use on the CDMP Land Use Plan map. **Therefore, based on the density threshold allowed in this land use category, this portion of the subject property could be developed with a maximum of 64 residential units.**

The CDMP Land Use Element interpretative text for Residential Communities states that where a parcel or group of contiguous parcels under a single ownership or legally unified development has two different LUP map residential designations, the number of units permitted under one designation may be averaged with the number of units permitted under the other and developed at varying densities providing that the total number of units built on such property does not exceed the total number permitted under the two designations. **Based on the aforementioned analysis, the applicant would be able to develop the 2.81-acre parcel with a unified development that has two (2) different LUP map designations, with a combined total of 77 residential units.**

The applicant seeks to rezone the southern approximately 1.947-acres of the subject property to RU-4M, Modified Apartment House District. The RU-4M zoning district allows development at a maximum of 35.9 units per acre. However, the applicant has proffered a covenant that will restrict the development of the entire subject property to a maximum of 77 residential units. This would allow for the development of Tract "B" within the density threshold allowed under the Medium Density designation on the CDMP Plan map. Therefore, staff opines that the proposed development of the subject property, as restricted by the proffered covenant to a maximum of 77 residential units, is within the density threshold allowed in areas designated Business and Office and Medium Density Residential on the CDMP LUP map.

The 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. For the reasons that will be further explained in the zoning analysis, staff opines that the proposed 77-unit residential development satisfies the criteria for compatibility set forth in the CDMP Land Use Element, **Policy LU-4A**.

Therefore, staff opines that, subject to the acceptance of the proffered covenant, approval of the application would be **consistent** with the CDMP Land Use Element interpretative text concerning density averaging for residential uses and the density threshold permitted in areas designated for **Business and Office** and **Medium Density Residential** uses on the CDMP Land Use Plan (LUP) map, and would satisfy the criteria for compatibility outlined in the CDMP Land Use Element, **Policy LU-4A**.

ZONING ANALYSIS:

The subject property is a 2.81-acre parcel, of which the northern 0.863 acre portion, identified as Tract "A" on the submitted plans, is currently zoned BU-2. The remaining southern portion of the subject property Tract "B", approximately 1.947 acres in size, is currently zoned RU-4L. For reasons that were previously outlined in the CDMP analysis, the applicant is now seeking approval of a district boundary change from RU-4L to RU-4M District (request #1) on Tract "B" of the subject property under Section 33-311(District Boundary Change), along with requests to delete prior declarations of restrictions on said tract (requests #2 and #3), under Section 33-311(A)(7), Generalized Modification Standards.

As previously noted, Tract "B" of the subject property was rezoned to RU-4L, which permitted the development of the residential portion of the parcel at a maximum of 23 units per acre, which would allow the development of the parcel with a maximum of 47 residential units. However, the applicant at that time proffered a covenant restricting the development to 26 residential units. The proposed RU-4M zoning district allows development at a maximum of 35.9 residential units per acre, which could allow the applicant to develop the aforementioned 1.947 acre residentially zoned portion of the parcel with a maximum of 69 residential units. In addition, the northern 0.863 acre, BU-2 zoned portion of the site that is designated Business and Office and Medium Density Residential on the CDMP LUP map, could be developed with a maximum of 29 residential units. Therefore, if the proposed RU-4M zoning district is approved, the applicant would be able to develop the entire subject property with a maximum of 98 residential units. However, the applicant has proffered a covenant that will restrict the development of the entire subject property to a maximum of 77 residential units. This would allow for the development of Tract "B" within the density threshold allowed under the Medium Density designation on the CDMP Plan map.

With the aforementioned requests (requests #1- #3), the applicant also seeks approval of a request to permit a multifamily residential development on the commercially zoned portion of the subject parcel, Tract A (request #4), under Section 33-311(A)(3), Special Exception, Unusual use and New Uses. This will allow the applicant to develop the entire subject property as a unified multi-family residential development.

Staff opines that based on memoranda submitted by the various Departments reviewing the application, approval of requests #1 through #4 will not have an unfavorable economic impact on Miami-Dade County and will not unduly burden water, sewer, solid waste disposal, or other necessary public facilities. Staff notes that the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources (RER) does not object to the application and indicated in its memorandum that the application meets traffic concurrency since it lies within the Urban Infill Area (UIA) where traffic concurrency does not apply. As such, staff opines that the approval of the application, including requests #1 through #4 to rezone a portion of the parcel and to delete prior declarations of restrictions in order to permit a residential development on both a commercial and residentially zoned parcel, 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.

Similarly, the memorandum from the Division of Environmental Resources Management (DERM) of the Department of Regulatory and Economic Resources (RER) indicates that the approval of the aforementioned requests will not have an unfavorable impact on the environmental resources of the County. The DERM memorandum states that a concurrency review has been conducted for this application and has determined that same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal, and flood protection. Additionally, staff notes that the Miami-Dade Fire Rescue Department (MDFRD) does not object to the application. Therefore, based on the aforementioned memoranda and memoranda from the other departments that reviewed the application among which were the Miami-Dade County's Parks Recreation and Open Spaces (PROS), staff opines that approval of this application will 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. Further, staff opines that approval of the requests, which will allow

the multi-family development, will not 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.

The revised plan depicts a five (5)-story building (Building A) to the north on Tract A, and is comprised of 36 one (1) and two (2) bedroom apartments, and 1,050 sq. ft. of commercial space; and a three-story building, Building B and C, on Tract B, with a total of 41, one (1) and two (2) bedroom apartments, for a combined total of 77 residential units on the commercial and residentially zoned parcel. The five-story building is proposed on the northern portion of the subject property, Tract A, which is currently zoned BU-2, and which is the subject of request #4. Staff notes that the elevations submitted by the applicant indicate that the linear shaped building is designed with a gradual step design, with the highest point, approximately 62.83' high, abutting the SW 40 Street frontage of the property located to the north. The building height is gradually reduced towards the south, to a maximum height of approximately 24', closer to the area where the property abuts a townhouse development located to the east. Along the east and west property lines of Tract "B", the submitted plans indicate a continuous row of trees and shrubs. Staff opines that said trees, along with the step-down design of the proposed multi-family buildings, provide an adequate visual buffer that will mitigate the negative visual impact of the proposed multi-story residential development on the single-story residential uses to the east.

Further, contingent on the approval of the request to permit the residential development in the BU-2 district, the applicant is also seeking ancillary non-use variances, among which is a variance to permit the proposed buildings encroaching into the interior side (east and west) setback areas (request #6). Staff is supportive of the latter request, particularly since the encroachment into the east setback area will be minimal (setback 19', where 20' is required). Further, the aforementioned encroachment into the east setback area, is limited to the 5-story building located on the BU-2 portion of the subject property, which abuts a commercially containing the existing post office use. Additionally, the submitted plans indicate that the project complies with the FAR, open space, lot coverage and complies with the numerical parking requirements. Further, staff notes that the subject property abuts Bird Road (SW 40 Street), which is a well-travelled, east/west section line roadway and is approximately 0.6 miles east of the Palmetto Expressway (SR 826).

As such, based on the foregoing analysis and the memoranda from the Departments concerned, staff opines that the approval of the request to rezone a portion of the subject property (request #1) along with the requests to delete two (2) previous declarations of restrictions that tied the property to previously approved plans (requests #2 and #3), in order to permit a proposed residential and commercial development on the commercial and residentially zoned parcel, will be **compatible** with the area and **consistent** with the CDMP. Further, staff opines that approval of said requests will not have an unfavorable impact on the economy of the County and would not have an unfavorable impact on the environmental and natural resources or create an unnecessary burden on the water, sewer, solid waste or recreational resources among others which have been constructed, planned or budgeted for. **Therefore, subject to the Board's acceptance of the proffered covenant, staff recommends approval of request #1 under Section 33-311, District Boundary Change, approval with conditions of requests #2 and #3, under Section 33-311(A)(7), Generalized Modification Standards; and approval with conditions of request #4, under Section 33-311(A)(3), Special Exception, Unusual use and New Uses.**

The applicant also seeks approval of ancillary Non-Use Variance requests to permit the development with one-way drives below the minimum width requirement (request #5), to permit the proposed residential building and an accessory structure encroaching into the interior side (west) setback areas (request #6), to waive the required dissimilar land use buffer including a wall, along portions of the property lines (request #7) and the required 5' high masonry wall interior to the site where a BU zoned property abuts RU, EU or GU zoned property (request #8). Additionally, the applicant seeks to permit the proposed mixed use development with less street trees and shrubs than required (requests #9 and #10).

When the aforementioned requests (requests #5 through #10) are analyzed under section 33-311(A)(4)(b), Non-Use Variances From Other Than Airport Regulations, staff opines that approval of requests #5 through #8 and request #10, would maintain the basic intent and purpose of the zoning and subdivision regulations and would not affect the stability and appearance of the community. Further, based on the analysis below, staff opines that approval of the aforementioned requests would be **compatible** with the surrounding residential and commercial uses in the area.

Staff opines that approval of the applicant's request to permit one-way drives a minimum of 11'-4" wide within the subject property (request #5) would not affect the character of the development and would not have an impact on the movement of vehicular traffic within the subject property. Staff notes that the Platting and Traffic Review Section of RER and the MDFRD do not object to this request. Therefore, staff opines that approval would not have a negative impact on the abutting roadways or create any hazard within the subject property. For reasons that were previously explained, staff opines that the encroachment of the proposed residential building into the interior sides (east and west) setback areas (request #6), ensures a degree of sensitivity towards the less intensive town house residential development located to the east. Along with the location of the multi-family building on the northern portion of the parcel, Tract "A", and the abundant landscaping being provided along the east and west property lines of the southern tract, Tract "B", staff opines that the encroachment of the buildings into the interior sides (east and west) setback areas, is sufficiently mitigated to reduce the visual impact of the proposed development on the residences to the east.

Further, staff opines that although the submitted plans indicate that the applicant has not met the dissimilar use landscape buffer requirement along portions of the east and west property lines (request #7), the landscaping provided mitigates the visual impact of the development on the surrounding areas. Said plans indicate a continuous row of trees and hedge in conjunction with an existing wall and wood fence along the portions of the interior side (east) property line that abut the less intensive residential development to the east. Further, as previously opined, staff is supportive of the revised plans, which depict the most intensive portion of the development, the five-story building, on the north portion of the property, which abuts the existing post office use to the east and the vacant rail easement to the west. In addition, staff is supportive of the applicant's request to waive the decorative wall between the business and residential portions of the subject property (request #8). Staff opines that the required wall would disrupt the cohesiveness of the project and adversely affect the appearance of the development. Additionally, staff opines that the applicant's request to permit the development with 36 less shrubs than the 870 required (request #10), is minimal, when compared with the scale of the proposed development. Staff opines that this request will not create any negative visual impact on the surrounding areas.

However, staff recommends that the request to permit the proposed development with 2 street trees, where 5 street trees are required (request #9), is not required. Staff's review of the plans indicate that the applicant has provided an excess of lot trees, some of which are located within close proximity to the abutting rights-of-way, and therefore meet the street tree requirement. Therefore, staff recommends that this request be withdrawn without prejudice.

Based on the foregoing analysis, staff recommends approval with conditions of requests #4 through #8 and #10, and withdrawal without prejudice of request #9, under Section 33-311(A)(4)(b), the Non-Use Variance Standards.

ACCESS, CIRCULATION AND PARKING: The submitted plans indicate a main ingress/egress points along Bird Road to the north and SW 69 Avenue to the east. Additionally, the plans indicate that there will be adequate parking within the proposed development in both parking lots and surface parking areas for both the residents and visitors.

NEIGHBORHOOD SERVICES PROVIDER REVIEW: See attached.

OTHER: Not applicable.

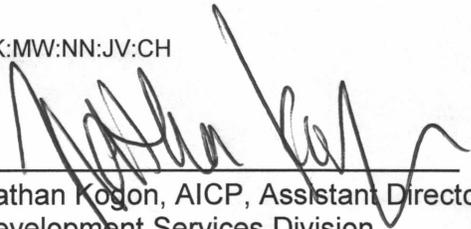
RECOMMENDATION:

Approval of request #1, subject to the Board's acceptance of the proffered covenant, and approval with conditions of requests #2 through #8 and #10, and withdrawal without prejudice of request #9.

CONDITIONS FOR APPROVAL (For requests #2 through #8 and #10 only):

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 "Central Park" as prepared by Collado and Partners Inc. Sheet A-1.00 dated stamped received 09/01/15, sheet A-2.00 dated stamped received 08/12/15 and the remaining 8 sheets dated received 7/29/15 for a total of 10 sheets.
3. That the applicant shall install all the required landscaping along the property lines prior to obtaining a Certificate of Occupancy.
4. That the applicant submits to the Department of Regulatory and Economic Resources 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 the issuance of a Certificate of Use.
5. That the applicant comply with all of the applicable conditions, requirements, recommendations, requests and other provisions of the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources as contained in their memorandum dated March 14, 2014, that is incorporated herein by reference.

NK:MW:NN:JV:CH



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

NON

ZONING RECOMMENDATION ADDENDUM

Applicant: *Manuel J. Menendez Trust*
PH: Z13-077

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

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

<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</i></p>
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ZONING RECOMMENDATION ADDENDUM

Applicant: *Manuel J. Menendez Trust*
PH: Z13-077

	<i>allowances of the Residential communities section may be used within the limits provided in this paragraph.</i>
Medium Density Residential <i>(Page I-31)</i>	<i>This category allows densities from 13 to 25 dwelling units per gross acre. The type of housing structures typically permitted in this category includes townhouses and low-rise and medium-rise apartments.</i>
Medium-High Density Residential <i>(Pg. I-31)</i>	<i>This category authorizes apartment buildings ranging from 25 to 60 dwelling units per gross acre. In this category, the height of buildings and, therefore, the attainment of densities approaching the maximum, depends to a great extent on the dimensions of the site, conditions such as location and availability of services, ability to provide sufficient off-street parking, and the compatibility with and impact of the development on surrounding areas. The provisions of the section below entitled "Density Increase with Urban Design" are not applicable to this density category. At such time as Miami-Dade County's land development regulations are amended pursuant to Policy LU-90, a density bonus can be added to each residential zoning district that falls within the Medium-High Density range of 25 to 60 dwelling units per gross acre. When land development regulations are amended, this density bonus may allow a maximum of 60 dwelling units per gross acre on properties that are designated Medium-High Density on the Land Use Plan map. These density bonuses shall not apply to existing or proposed developments with vehicular entrances that are controlled or have entry gates or existing or proposed developments with private streets.</i>
Density Averaging <i>(Page I-32.2)</i>	<p><i>The land use density ceiling designated on the LUP map will apply to every parcel of land. However, in certain instances, the averaging of density may be authorized among different parcels. Specific provisions for this to occur are specified below. All of the following allowances are limited to lands located within the Urban Development Boundary which are designated for urban uses.</i></p> <p><i>Where groups of parcels under a single ownership or multiple ownerships that are legally unified (hereinafter legally unified development) are located within a unit area bounded by Major or Minor Roadways as indicated on the Land Use Plan map, portions of the unified development may be developed at densities higher than that shown on the LUP map provided that other portions are developed at correspondingly lower densities so that the average density of the entire development does not exceed the maximum gross density limits shown on the LUP map. Where a parcel or group of contiguous parcels under a single ownership or legally unified development has two different LUP map residential designations, the number of units permitted under one designation may be averaged with the number of units permitted under the other and developed at varying densities providing that the total number of units built on such property does not exceed the total number permitted under the two designations. Further, where 50 percent or more of the boundary of a parcel or group of contiguous parcels, not exceeding 20 acres in size, adjoins land that is developed or zoned for densities that are higher than those which are shown on the LUP map, such property may be zoned for a density higher than that shown on the LUP map but not higher than the highest density which is permitted by zoning on the adjoining properties. Density may be transferred across a Major or Minor roadway to an adjacent and legally unified parcel or portion thereof contiguous to the Roadway provided, further, that the site receiving the increased density shall be developed at a density no greater than the higher of adjoining or adjacent existing residential development or zoning, or if the adjoining land is undeveloped and not zoned for urban use, one density category higher than the LUP map designation of the parcel. The above provisions, however, are all conditioned upon a determination being made that the requested density and housing types are compatible with the surrounding development and would not create a significant negative impact on services within the area.</i></p>
Objective LU-4 <i>(Page I-11)</i>	<i>Miami-Dade County shall, by the year 2020, reduce the number of land uses, which are inconsistent with the uses designated on the LUP map and interpretive text, or with the character of the surrounding community.</i>
Policy LU-4A <i>(Page I-11)</i>	<i>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.</i>

ZONING RECOMMENDATION ADDENDUM

Applicant: *Manuel J. Menendez Trust*
PH: Z13-077

PERTINENT ZONING REQUIREMENTS/STANDARDS

<p>Section 33-311 District Boundary Change</p>	<p>(A) <i>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.</i></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) <i>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;</i> (2) <i>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;</i> (3) <i>The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;</i> (4) <i>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;</i> (5) <i>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</i>
<p>Section 33-311(A)(3) Special Exception, Unusual and New Uses.</p>	<p><i>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 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>

ZONING RECOMMENDATION ADDENDUM

Applicant: *Manuel J. Menendez Trust*

PH: Z13-077

33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations	<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>
Section 33-311(A)(7) Generalized Modification Standards.	<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, 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>