

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

PH: Z13-083 (14-5-CZ11-1)

July 17, 2014

Item No. 1

Recommendation Summary	
Commission District	9
Applicants	Tamiami Kendall Investments, Inc.
Summary of Requests	The applicant is seeking to allow a zone change to RU-4, Apartment House District, modify a Declaration of Restrictions and delete another Declaration of Restrictions in order to develop the parcel with a 240-unit multi-family residential development. Additionally, the applicant is seeking approval of several variances for parking, spacing, driveway width and setback.
Location	Lying north of SW 136 Street and west of SW 127 Avenue, Miami-Dade County, Florida.
Property Size	9.8 acres
Existing Zoning	BU-1A, Limited Business District RU-3M, Minimum Apartment House District
Existing Land Use	Vacant
2015-2025 CDMP Land Use Designation	Industrial and Office <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(A)(4)(b) Non-Use Variance, Section 33-311, District Boundary Change, Section 33-311(A)(7) Generalized Modification Standards <i>(see attached Zoning Recommendation Addendum)</i>
Recommendation	Approval of request #1, subject to the acceptance of the proffered covenant, and approval with conditions of requests #2 through #8.

On May 13, 2014, the Community Zoning Appeals Board (CZAB) #11 denied without prejudice the subject application, contrary to staff's recommendation. On May 30, 2014, the applicant, Tamiami Kendall Investments, Inc., appealed the CZAB-11 decision to the Board of County Commissioners (BCC).

REQUESTS:

- (1) DISTRICT BOUNDARY CHANGE from BU-1A, RU-3M to RU-4.
- (2) MODIFICATION of Paragraph #1 and #2 of Declaration of Restrictions recorded in Official Record Book 24909 Pages 1820-1825, reading as follows:

FROM: "(1) Controlling Site Plan. The Twin Lake Shores East and 127th Avenue Project shall be developed substantially in accordance with the site plans entitled "Twin Lake shores East" (SP-1, SP-2, L-1, and A-1 through A-10) as prepared by Bellon Millanes Architects and Planners, dated, signed and sealed March 15, 2006. Said plans being on file with the Miami-Dade County Department of Planning and Zoning, and by reference made a part of this agreement (the "Plans")."

TO: "(1) Controlling Site Plan. The Three Lakes Shores shall be developed substantially in accordance with the plans entitled "Three Lakes for: The Richman Group of Florida Inc." as prepared by MSA Architects, consisting of 17 sheets and landscape plans entitled "Three Lakes" as prepared by Bruce Howard & Associates, Inc., consisting of 2 sheets, all sheets dated stamped received 1/29/13 for a total of 19 sheets."

FROM: "(2) Residential Density Restriction. The maximum number of dwelling units on the Twin Lake Shores East Project shall be a total of 104 town home residential units."

TO: "(2) Residential Density Restriction. The maximum number of dwelling units on the Three Lakes Project shall be a total of 240 multi-family residential units."

The purpose of Request #2 is to allow the applicant to submit a revised site plan showing a multi-family development in lieu of the previously approved town home development and to increase the number of residential units.

- (3) DELETION of declaration of Restrictions, recorded in Official Records Book 21213, Pages 3152-3168, only as it applies to the subject property.
- (4) NON-USE VARIANCE to permit a multi-family development with 370 parking spaces (399 parking spaces required).
- (5) NON-USE VARIANCE to permit spacing between building wall of living units spaced a minimum 24' (30' required) and to permit spacing varying from 13'-5" to 18'-4" (20' required) from other buildings.
- (6) NON-USE VARIANCE to permit two carport buildings to setback 69'-5" (75' required) from the front (south) property line and to be located in front of the principal building (not permitted).
- (7) NON-USE VARIANCE to permit a club house to be located in front of the principal building (not permitted).
- (8) NON-USE VARIANCE to permit one-way drives with a minimum width of 11' (14' required).

The aforementioned plans are on file and may be examined in the Department of Regulatory and Economic Resources. Plans may be modified at public hearing.

PROJECT DESCRIPTION AND PROJECT HISTORY:

The submitted plans depict the proposed 240 unit, multi-family garden style residential development consisting of the eight (8), three (3)-story apartment buildings, four (4) 1-story carport buildings, a clubhouse and surface parking areas on the approximately 9.8-acre parcel.

Pursuant to Resolution #CZAB11-30-06, 8.3 acres of the 9.8-acre subject parcel was rezoned from BU-1A, Limited Business District, to RU-3M, Minimum Apartment House District, along with ancillary requests for variances in 2006, in order to allow the establishment of a residential development on the property. Declarations of Restrictions were also approved restricting the

development to the approved use and site plans, which the applicant now seeks to modify and delete.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	BU-1A and RU-3M; vacant land	Industrial and Office
North	RU-3M; townhome development	Industrial and Office
South	RU-TH; townhome development	Low-Density Residential, (2.5 - 6 du)
East	GU; vacant land	Industrial and Office
West	RU-3M; townhome development	Industrial and Office

NEIGHBORHOOD COMPATIBILITY:

The subject property is a vacant parcel located in South Miami-Dade County. Vacant land and townhouses characterize the surrounding area.

SUMMARY OF THE IMPACTS:

The approval of this application will allow the applicant to develop the parcel in accordance with the proposed RU-4, 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 impact traffic and other services in the area including schools and emergency services.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The applicant is seeking to allow a zone change to RU-4, Apartment House District, modify a Declaration of Restrictions and delete another Declaration of Restrictions in order to develop the parcel with a multi-family residential development. The Comprehensive Development Master Plan (CDMP) designates this property for **Industrial and Office** use on the Land Use Plan (LUP) Map of the CDMP. The CDMP Land Use Element Interpretative Text states that *residential development is incompatible with major industrial concentrations and shall not occur in areas designated as "Industrial and Office" on the LUP map to avoid use conflicts and for health and safety and residential planning reasons.* However, said text allows exceptions, one of which is that residential development may be granted for a portion of an industrially designated area where the portion is 10 acres or smaller and is bounded on two or more sides by existing residential development or zoning. The subject property is less than 10 acres in size, is bounded by an existing RU-3M zoned townhome development to the north and west and an existing RU-TH zoned townhome development to the south. Additionally, staff notes that the Industrial and Office designation does not specify a density range regarding the maximum number of residential units allowed. However, it does provide that the Director of the Department of Regulatory and Economic Resources may determine that the inclusion of residences that are designed to provide a compatible transition is the best means to maintain the quality of the adjoining residential areas in the industrial designated area. The submitted plans with the density requested by the applicant of 25 units per net acre, in staff's opinion, provides a compatible transition to the adjacent

residential development to the west and north, and therefore, the proposed development as presented is **consistent** with the CDMP Industrial and Office designation of the subject property on the LUP Map. Staff notes that the applicant has proffered a covenant restricting the development of the site to the submitted plans, which show a proposed 240 unit, multi-family garden style residential development consisting of the eight (8), three (3)-story apartment buildings, four (4) carport 1-story buildings and a variety of amenities, including a recreational club house, a swimming pool, cabanas, outdoor living areas, and a large green space that will serve in part as a "tot lot".

The criteria for determining compatibility is outlined in CDMP Land Use Element, **Policy LU-4A**, among which are noise, lighting, height, bulk, scale of architectural elements, landscaping and buffering as applicable. Staff notes that the subject property abuts an existing two-story townhouse development located to the north, south and west of the subject property. The submitted plans indicate that the proposed development will meet the setback requirements and will be adequately buffered on all sides by a continuous hedge and a staggered row of trees, which staff opines will mitigate the visual impact of the proposed three (3)-story development on the abutting properties. Additionally, in staff's opinion, the proposed maximum height of 28'-6" on the three (3)-story buildings shown in the plans is compatible with the maximum height (35') allowed by the surrounding existing zoning districts.

Based on the foregoing analysis, staff opines that the proposed development will be adequately buffered and will not have a negative visual impact on the surrounding properties or on passersby along SW 127 Avenue and SW 136 Terrace and would be **compatible** with the area based on the criteria set forth in the CDMP Land Use Element, **Policy LU-4A**. Therefore, subject to the acceptance of the proffered covenant, staff opines that approval of the application would be **consistent** with the CDMP Land Use Element interpretative text, which allows under certain conditions the approval of residential uses in areas designated **Industrial and Office** on the CDMP Land Use Plan (LUP) map.

ZONING ANALYSIS:

For the reasons stated above, staff opines that when the applicant's request to rezone the 9.8-acre parcel to RU-4 (request #1), is analyzed under Section 33-311, District Boundary Change, that the approval of the request would be **compatible** with the surrounding residential, uses in the area.

Staff notes that most of the subject property was previously approved to allow a residential development in 2006, pursuant to Resolution #CZAB11-30-06. The applicant now seeks to rezone the entire property to residential use in order to develop it with a 240 apartment units. The submitted site plan indicates that the majority of the three-story buildings will be placed away from property lines and streets (SW 136 Street and SW 127 Avenue). Also included in the site plan is a club house which will include indoor amenities and recreation space. One courtyard contains a swimming pool, cabanas and outdoor living areas. A green space/tot lot is shown in another courtyard. These courtyards are connected internally to the subject property and will be accessible to all residents. The arrangement of buildings away from the roadway and the integration of architecturally defined open space is much more pedestrian-friendly than conventional developments. Pedestrian paths and sidewalks are also provided throughout the site to connect to the aforementioned recreational areas. The proposed height of the residential buildings will be three (3) stories high with a maximum height of 28'-6" to the top of roof. These heights assure compatibility between the proposed architecture and the surrounding 2-story

townhouses to the south, north and west. The abundant fenestration applied to all facades precludes the formation of a "blank wall" condition on building walls. Landscaping plans show an assortment of plant species consisting of trees, palms and shrubs that will be used to shade parking areas and enhance the aesthetics of the development. As such, staff opines that approval of the rezoning to RU-4 (request #1), would permit residential uses that would not be out of character with, and would be more compatible with the existing residential developments located to the south, west and north of the subject property.

Staff notes that based on the memorandum from the Public Works and Waste Management Department, the approval of the aforementioned request would not result in excessive traffic. Their memorandum states that the application meets the criteria for traffic concurrency for an Initial Development Order. 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. The Miami-Dade Fire Rescue Department (MDFRD) memorandum indicates that approval of the aforementioned request will have a moderate impact on the MDFRD resources that exists or that are budgeted or planned for in this area.

In addition, staff notes that the subject property fronts SW 127 Avenue and SW 136 Street, which are both section line roadways. As such, based on the foregoing analysis and the memoranda from the Departments concerned, staff opines that the approval of the proposed development will be consistent with the CDMP, 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 acceptance of the covenant, staff recommends approval of request #1 under Section 33-311, District Boundary Change.**

The applicant also seeks approval to modify paragraphs of a previously recorded declaration of restrictions (request #2) and to delete another declaration of restrictions (request #3) in order to remove a requirement that the property be developed in accordance with a site plan for a residential development and commercial site and to allow the applicant to submit a revised site plan showing a multi-family development in lieu of the previously approved uses. When the requests are analyzed under Section 33-311(A)(7), Generalized Modification Standards, staff opines that approval of same would be **compatible** with the residential uses in the surrounding area. The previously approved plan being modified showed a residential development with 104 townhome units housed in 15 separate buildings with a maximum height of 33'. Staff notes that the current site plans show a proposed 240 unit, multi-family garden style residential development consisting of the eight (8), three (3)-story apartment buildings, four (4) 1-story carport buildings and a variety of amenities, including a recreational club house, a swimming pool, cabanas, outdoor living areas, and a large green space that will serve in part as a "tot lot". Additionally, the Declaration of Restrictions that the applicant is requesting to delete required, among other things, that the commercial development be approved through the Administrative Site Plan Review process, limited the commercial uses allowed and required a 25' landscape buffer. Staff notes that the proposed site plan shows a 25' landscape buffer along the east and south property lines adjacent to SW 127 Avenue and SW 136 Street. Staff further notes that the main difference

between the previously approved plan and the proposed site plan is the mixed-use commercial and residential uses previously approved and the residential use only now proposed. Staff opines that the submitted plans do not indicate an increase in the intensity of the development that will have visual or traffic impacts on the surrounding area. Staff notes that based on the memorandum from the Public Works and Waste Management Department, the approval of the aforementioned request 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. **Therefore, based on the aforementioned analysis staff recommends approval with conditions of requests #2 and #3 under Section 33-311(A)(7) Generalized Modification Standards.**

When requests #4 through #8 are analyzed under Section 33-311(A)(4)(b), Non-Use Variance From Other Than Airport Standards, staff opines that approval of these requests would be **compatible** with the surrounding area. The applicant seeks to develop the residential development with 29 less parking spaces than the 399 parking spaces required by the RU-4 zoning regulations (request #4). Staff notes that the submitted plans show an additional 36 parking spaces located within detached carport buildings for a total of 406 parking spaces within the proposed development. However, the RU-4 zoning district regulations do not allow the use of these spaces in calculating the total available parking spaces for the proposed residential development. Staff's parking calculation only included the parking spaces marked on the site plan, resulting in the shortage that is the subject of request #4. Staff is supportive of the applicant's request to reduce the number of on-site parking spaces since this request is internal to the site and the likelihood of the spillage of parking onto the abutting roadways is very minimal. However, as a condition for approval, staff recommends that the aforementioned carports not be enclosed in any manner for habitable space and remain for the parking of vehicles only. Additionally, staff is also supportive of request #8, to permit one-way drives with a minimum width of 11' (14' required). Staff notes that said request is located at the southwestern portion of the subject site at a proposed turnabout. One of the drives with a width of 11' cuts through the middle of the proposed turnabout, while another drive with a width of 12' caresses said turnabout and provides a means for vehicles to exit the site. Staff further notes that there are other drives within this area of the site that allow for vehicular flow without any traffic disturbance. Therefore, staff opines that approval of this request (request #8) to permit one-way drives with a minimum width of 11' would not be detrimental to the area and would not have a negative traffic impact.

Staff is also supportive of requests #5 though #7, which seek to permit reduced spacing between buildings (request #5), reduced setbacks for the carport buildings (request #6), and permit said carport buildings and clubhouse to be located in front of the principal buildings (request #7). Staff opines that these requests are minimal, internal to the site and are not likely to have a visual impact on the surrounding area. Additionally, staff notes that in order to mitigate any negative visual impacts generated by these requests the applicant has submitted landscape plans which indicate extensive landscaping so as to lessen said impact that the development could have on the adjacent properties and to provide a pleasing environment for the residents. Staff, therefore, opines that the approval of these requests would maintain the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variances will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. **As such, staff recommends approval with conditions of requests #4 through #8 under Section 33-311(A)(4)(b), Non-Use Variance From Other Than Airport Standards.**

ACCESS, CIRCULATION AND PARKING: The submitted plans indicate one (1) ingress/egress point along SW 136 Street and one (1) egress point on the northwestern portion of the site along SW 136 Street, too. Additionally, there is another egress point on the eastern portion of the site along SW 127 Avenue. The applicant has provided a total of 406 parking spaces. The applicant has also provided adequate drives to facilitate the flow of traffic within the proposed development.

NEIGHBORHOOD SERVICES PROVIDER COMMENTS: See attached.

OTHER: N/A

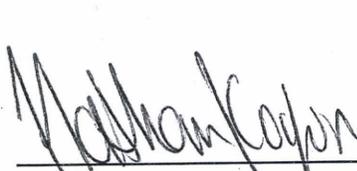
RECOMMENDATION:

Approval of request #1, subject to the acceptance of the proffered covenant, and approval with conditions of requests #2 through #8.

CONDITIONS FOR APPROVAL: For requests #4 through #8 only.

1. That all other paragraphs of Declaration of Restrictions, recorded in Official Records Book 24909 Pages 1820-1825 remain in full force and effect except as herein modified.
2. That the carports not be enclosed in any manner for habitable space and remain for the parking of vehicles only.
3. That the applicant shall install all the required landscaping along the property lines prior to obtaining a Certificate of Occupancy.

ES:MW:NN:CH:JV



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

for

MMW

ZONING RECOMMENDATION ADDENDUM

Tamiami Kendall Investments, Inc.

Z13-083

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>Industrial and Office (Page I-39)</p>	<p><i>Manufacturing operations, maintenance and repair facilities, warehouses, mini-warehouses, office buildings, wholesale showrooms, distribution centers, and similar uses are permitted in areas designated as "Industrial and Office" on the LUP map. Also included are construction and utility-equipment maintenance yards, utility plants, public facilities, hospitals and medical buildings. The full range of telecommunication facilities, including switching and transmission facilities, satellite telecommunications facilities, microwave towers, radar stations and cell towers is also allowed. Very limited commercial uses to serve the firms and workers in the industrial and office area are allowed dispersed as small business districts and centers throughout the industrial areas. Hotels and motels are also authorized. Freestanding retail and personal service uses and shopping centers larger than 10 acres in size are prohibited in these areas because they would deplete the industrial land supply and they are better located in commercially designated areas and in closer proximity to residential areas. Freestanding retail and personal service uses and shops that are approved in Industrial and Office areas should front on major access roads, particularly near major intersections. In addition, uncommon commercial uses such as amusement uses, and others with unusual siting requirements may also be considered at appropriate locations. Quarrying activities and ancillary uses may also be approved in areas designated Industrial and Office where compatible with the surrounding area and environment. The specific range and intensity of uses appropriate in a particular Industrial and Office area vary by location as a function of the availability of public services and access and, among other factors, compatibility with neighboring development. Through the zoning review process, use of particular sites or areas may be limited to something less than the maximum allowed in this category. Moreover, special limitations may be imposed where necessary to protect environmental resources.</i></p> <p><i>If the land is the subject of an application for rezoning, zoning approval or a plan amendment and is located in an MSA with less than a 15-year supply of industrial land, in order to receive approval for a non-industrial use, the applicant must demonstrate that such use will not have a significant adverse impact on future industrial development.</i></p> <p><i>In general, the typical residential development is incompatible with major industrial concentrations and shall not occur in areas designated as "Industrial and Office" on the LUP map to avoid use conflicts and for health and safety reasons. Exceptions may be granted for the following: (1) the development of live-work or work-live buildings or the adaptive reuse of existing structures for these purposes in areas of light industrial uses such as office, wholesale, distribution and the assembling of pre-manufactured parts; (2) the development of a TND as provided herein; and (3) the residential development of a portion of an industrially designated area where the portion is, a) 10 acres or smaller and is bounded on two or more sides by existing residential development or zoning, or is b) the perimeter of a Plan-designated industrial area which perimeter does not exceed a depth of 150 feet; and c) the subject portion of the industrially designated site immediately adjoins a currently developed or platted residential area and the Director of the Department of Planning and Zoning</i></p>
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ZONING RECOMMENDATION ADDENDUM

Tamiami Kendall Investments, Inc.

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	<p>determines that the inclusion of a residential component in the Industrially designated area, designed to provide compatible transition along the boundary, is the best means of maintaining the quality of the adjoining residential area. Notwithstanding the foregoing applications for residential zoning that were properly filed prior to August 25, 2000, can be considered where adjoining land is residentially zoned, designated or developed. Residential developments in this land use category may participate in the inclusionary zoning program. The properties utilized for residential development will be eligible within the limits provided in this paragraph for the density allowances of the inclusionary zoning program in the Residential Communities section.</p> <p>TNDs may be permitted in Industrial and Office areas where: 1) compatible with nearby development and with the objectives and policies of this Plan, 2) necessary services exist or will be provided by the developer, and 3) adjacent to land designated Residential Communities on the LUP map (including across an abutting major or minor roadway) along 30 percent or more of the total perimeter of the TND, provided that land designated Residential Communities exists along at least some portion of the two or more sides. (Multiple sides created by an out parcel shall count as one side only). TND located within Industrial and Office areas shall allocated to Workshop Uses a minimum of 15 percent and a maximum of 30 percent of the gross built up area planned for development within a TND, and shall have a residential density no greater than the average of the adjacent Residential Communities designations or ten units per acre, whichever is higher. Workshops Uses shall be oriented to adjacent non-residential areas, while the residential uses shall be oriented to the adjacent Residential Communities designations. All criteria for TNDs enumerated in the Residential Communities section of this Chapter, other than the provisions governing percent of built per area which may be devoted to workshop uses addressed herein and the maximum permitted residential density, shall govern the development of TNDs in areas designated Industrial and Office.</p>
<p>Objective LU-4 (Pg. I-11)</p>	<p>Miami-Dade County shall, by the year 2015, 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.</p>
<p>Land Use Element LU-4A (Pg. I-11)</p>	<p>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.</p>

PERTINENT ZONING REQUIREMENTS/STANDARDS

<p>Section 33-311(A)(7) Generalized Modification Standards.</p>	<p>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.</p>
<p>Section 33-311 District Boundary Change</p>	<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</p>

ZONING RECOMMENDATION ADDENDUM

Tamiami Kendall Investments, Inc.

Z13-083

	<p>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> <p>(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;</p> <p>(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;</p>
<p>33-311(A)(4)(b) Non-Use Variations From Other Than Airport Regulations</p>	<p>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.</p>

**Miami-Dade County Department of Regulatory and Economic Resources
Staff Report to Community Council No. 11**

PH: Z13-083 (14-5-CZ11-1)

May 13, 2014

Item No. 1

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Commission District	9
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Property Size	9.8 acres
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Existing Land Use	Vacant
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Applicable Zoning Code Section(s)	Section 33-311(A)(4)(b) Non-Use Variance, Section 33-311, District Boundary Change, Section 33-311(A)(7) Generalized Modification Standards <i>(see attached Zoning Recommendation Addendum)</i>
Recommendation	Approval of request #1, subject to the acceptance of the proffered covenant, and approval with conditions of requests #2 through #8.

REQUESTS:

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TO: "(2) Residential Density Restriction. The maximum number of dwelling units on the Three Lakes Project shall be a total of 240 multi-family residential units.

The purpose of Request #2 is to allow the applicant to submit a revised site plan showing a multi-family development in lieu of the previously approved town home development and to increase the number of residential units.

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PROJECT DESCRIPTION AND PROJECT HISTORY:

The submitted plans depict the proposed 240 unit, multi-family garden style residential development consisting of the eight (8), three (3)-story apartment buildings, four (4) 1-story carport buildings, a clubhouse and surface parking areas on the approximately 9.8-acre parcel.

Pursuant to Resolution #CZAB11-30-06, 8.3 acres of the 9.8-acre subject parcel was rezoned from BU-1A, Limited Business District, to RU-3M, Minimum Apartment House District, along with ancillary requests for variances in 2006, in order to allow the establishment of a residential development on the property. Declarations of Restrictions were also approved restricting the development to the approved use and site plans, which the applicant now seeks to modify and delete.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	BU-1A and RU-3M; vacant land	Industrial and Office
North	RU-3M; townhome development	Industrial and Office
South	RU-TH; townhome development	Low-Density Residential, (2.5 - 6 dua)
East	GU; vacant land	Industrial and Office
West	RU-3M; townhome development	Industrial and Office

NEIGHBORHOOD COMPATIBILITY:

The subject property is a vacant parcel located in South Miami-Dade County. Vacant land and townhouses characterize the surrounding area.

SUMMARY OF THE IMPACTS:

The approval of this application will allow the applicant to develop the parcel in accordance with the proposed RU-4, 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 impact traffic and other services in the area including schools and emergency services.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The applicant is seeking to allow a zone change to RU-4, Apartment House District, modify a Declaration of Restrictions and delete another Declaration of Restrictions in order to develop the parcel with a multi-family residential development. The Comprehensive Development Master Plan (CDMP) designates this property for **Industrial and Office** use on the Land Use Plan (LUP) Map of the CDMP. The CDMP Land Use Element Interpretative Text states that *residential development is incompatible with major industrial concentrations and shall not occur in areas designated as "Industrial and Office" on the LUP map to avoid use conflicts and for health and safety and residential planning reasons.* However, said text allows exceptions, one of which is that residential development may be granted for a portion of an industrially designated area where the portion is 10 acres or smaller and is bounded on two or more sides by existing residential development or zoning. The subject property is less than 10 acres in size, is bounded by an existing RU-3M zoned townhouse development to the north and west and an existing RU-TH zoned townhouse development to the south. Additionally, staff notes that the Industrial and Office designation does not specify a density range regarding the maximum number of residential units allowed. However, it does provide that the Director of the Department of Regulatory and Economic Resources may determine that the inclusion of residences that are designed to provide a compatible transition is the best means to maintain the quality of the adjoining residential areas in the industrial designated area. The submitted plans with the density requested by the applicant of 25 units per net acre, in staff's opinion, provides a compatible transition to the adjacent residential development to the west and north, and therefore, the proposed development as presented is **consistent** with the CDMP Industrial and Office designation of the subject property on the LUP Map. Staff notes that the applicant

has proffered a covenant restricting the development of the site to the submitted plans, which show a proposed 240 unit, multi-family garden style residential development consisting of the eight (8), three (3)-story apartment buildings, four (4) carport 1-story buildings and a variety of amenities, including a recreational club house, a swimming pool, cabanas, outdoor living areas, and a large green space that will serve in part as a "tot lot".

The criteria for determining compatibility is outlined in CDMP Land Use Element, **Policy LU-4A**, among which are noise, lighting, height, bulk, scale of architectural elements, landscaping and buffering as applicable. Staff notes that the subject property abuts an existing two-story townhouse development located to the north, south and west of the subject property. The submitted plans indicate that the proposed development will meet the setback requirements and will be adequately buffered on all sides by a continuous hedge and a staggered row of trees, which staff opines will mitigate the visual impact of the proposed three (3)-story development on the abutting properties. Additionally, in staff's opinion, the proposed maximum height of 28'-6" on the three (3)-story buildings shown in the plans is compatible with the maximum height (35') allowed by the surrounding existing zoning districts.

Based on the foregoing analysis, staff opines that the proposed development will be adequately buffered and will not have a negative visual impact on the surrounding properties or on passersby along SW 127 Avenue and SW 136 Terrace and would be **compatible** with the area based on the criteria set forth in the CDMP Land Use Element, **Policy LU-4A**. Therefore, subject to the acceptance of the proffered covenant, staff opines that approval of the application would be **consistent** with the CDMP Land Use Element interpretative text, which allows under certain conditions the approval of residential uses in areas designated **Industrial and Office** on the CDMP Land Use Plan (LUP) map.

ZONING ANALYSIS:

For the reasons stated above, staff opines that when the applicant's request to rezone the 9.8-acre parcel to RU-4 (request #1), is analyzed under Section 33-311, District Boundary Change, that the approval of the request would be **compatible** with the surrounding residential, uses in the area.

Staff notes that most of the subject property was previously approved to allow a residential development in 2006, pursuant to Resolution #CZAB11-30-06. The applicant now seeks to rezone the entire property to residential use in order to develop it with a 240 apartment units. The submitted site plan indicates that the majority of the three-story buildings will be placed away from property lines and streets (SW 136 Street and SW 127 Avenue). Also included in the site plan is a club house which will include indoor amenities and recreation space. One courtyard contains a swimming pool, cabanas and outdoor living areas. A green space/tot lot is shown in another courtyard. These courtyards are connected internally to the subject property and will be accessible to all residents. The arrangement of buildings away from the roadway and the integration of architecturally defined open space is much more pedestrian-friendly than conventional developments. Pedestrian paths and sidewalks are also provided throughout the site to connect to the aforementioned recreational areas. The proposed height of the residential buildings will be three (3) stories high with a maximum height of 28'-6" to the top of roof. These heights assure compatibility between the proposed architecture and the surrounding 2-story townhouses to the south, north and west. The abundant fenestration applied to all facades precludes the formation of a "blank wall" condition on building walls. Landscaping plans show an assortment of plant species consisting of trees, palms and shrubs that will be used to shade

parking areas and enhance the aesthetics of the development. As such, staff opines that approval of the rezoning to RU-4 (request #1), would permit residential uses that would not be out of character with, and would be more compatible with the existing residential developments located to the south, west and north of the subject property.

Staff notes that based on the memorandum from the Public Works and Waste Management Department, the approval of the aforementioned request would not result in excessive traffic. Their memorandum states that the application meets the criteria for traffic concurrency for an Initial Development Order. 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. The Miami-Dade Fire Rescue Department (MDFRD) memorandum indicates that approval of the aforementioned request will have a moderate impact on the MDFRD resources that exists or that are budgeted or planned for in this area.

In addition, staff notes that the subject property fronts SW 127 Avenue and SW 136 Street, which are both section line roadways. As such, based on the foregoing analysis and the memoranda from the Departments concerned, staff opines that the approval of the proposed development will be consistent with the CDMP, 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 acceptance of the covenant, staff recommends approval of request #1 under Section 33-311, District Boundary Change.**

The applicant also seeks approval to modify paragraphs of a previously recorded declaration of restrictions (request #2) and to delete another declaration of restrictions (request #3) in order to remove a requirement that the property be developed in accordance with a site plan for a residential development and commercial site and to allow the applicant to submit a revised site plan showing a multi-family development in lieu of the previously approved uses. When the requests are analyzed under Section 33-311(A)(7), Generalized Modification Standards, staff opines that approval of same would be **compatible** with the residential uses in the surrounding area. The previously approved plan being modified showed a residential development with 104 townhome units housed in 15 separate buildings with a maximum height of 33'. Staff notes that the current site plans show a proposed 240 unit, multi-family garden style residential development consisting of the eight (8), three (3)-story apartment buildings, four (4) 1-story carport buildings and a variety of amenities, including a recreational club house, a swimming pool, cabanas, outdoor living areas, and a large green space that will serve in part as a "tot lot". Additionally, the Declaration of Restrictions that the applicant is requesting to delete required, among other things, that the commercial development be approved through the Administrative Site Plan Review process, limited the commercial uses allowed and required a 25' landscape buffer. Staff notes that the proposed site plan shows a 25' landscape buffer along the east and south property lines adjacent to SW 127 Avenue and SW 136 Street. Staff further notes that the main difference between the previously approved plan and the proposed site plan is the mixed-use commercial and residential uses previously approved and the residential use only now proposed. Staff opines that the submitted plans do not indicate an increase in the intensity of

the development that will have visual or traffic impacts on the surrounding area. Staff notes that based on the memorandum from the Public Works and Waste Management Department, the approval of the aforementioned request 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. **Therefore, based on the aforementioned analysis staff recommends approval with conditions of requests #2 and #3 under Section 33-311(A)(7) Generalized Modification Standards.**

When requests #4 through #8 are analyzed under Section 33-311(A)(4)(b), Non-Use Variance From Other Than Airport Standards, staff opines that approval of these requests would be **compatible** with the surrounding area. The applicant seeks to develop the residential development with 29 less parking spaces than the 399 parking spaces required by the RU-4 zoning regulations (request #4). Staff notes that the submitted plans show an additional 36 parking spaces located within detached carport buildings for a total of 406 parking spaces within the proposed development. However, the RU-4 zoning district regulations do not allow the use of these spaces in calculating the total available parking spaces for the proposed residential development. Staff's parking calculation only included the parking spaces marked on the site plan, resulting in the shortage that is the subject of request #4. Staff is supportive of the applicant's request to reduce the number of on-site parking spaces since this request is internal to the site and the likelihood of the spillage of parking onto the abutting roadways is very minimal. However, as a condition for approval, staff recommends that the aforementioned carports not be enclosed in any manner for habitable space and remain for the parking of vehicles only. Additionally, staff is also supportive of request #8, to permit one-way drives with a minimum width of 11' (14' required). Staff notes that said request is located at the southwestern portion of the subject site at a proposed turnabout. One of the drives with a width of 11' cuts through the middle of the proposed turnabout, while another drive with a width of 12' caresses said turnabout and provides a means for vehicles to exit the site. Staff further notes that there are other drives within this area of the site that allow for vehicular flow without any traffic disturbance. Therefore, staff opines that approval of this request (request #8) to permit one-way drives with a minimum width of 11' would not be detrimental to the area and would not have a negative traffic impact.

Staff is also supportive of requests #5 through #7, which seek to permit reduced spacing between buildings (request #5), reduced setbacks for the carport buildings (request #6), and permit said carport buildings and clubhouse to be located in front of the principal buildings (request #7). Staff opines that these requests are minimal, internal to the site and are not likely to have a visual impact on the surrounding area. Additionally, staff notes that in order to mitigate any negative visual impacts generated by these requests the applicant has submitted landscape plans which indicate extensive landscaping so as to lessen said impact that the development could have on the adjacent properties and to provide a pleasing environment for the residents. Staff, therefore, opines that the approval of these requests would maintain the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variances will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. **As such, staff recommends approval with conditions of requests #4 through #8 under Section 33-311(A)(4)(b), Non-Use Variance From Other Than Airport Standards.**

ACCESS, CIRCULATION AND PARKING: The submitted plans indicate one (1) ingress/egress point along SW 136 Street and one (1) egress point on the northwestern portion

of the site along SW 136 Street, too. Additionally, there is another egress point on the eastern portion of the site along SW 127 Avenue. The applicant has provided a total of 406 parking spaces. The applicant has also provided adequate drives to facilitate the flow of traffic within the proposed development.

NEIGHBORHOOD SERVICES PROVIDER COMMENTS: See attached.

OTHER: N/A

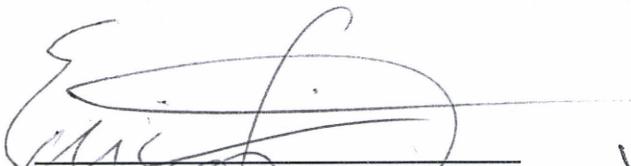
RECOMMENDATION:

Approval of request #1, subject to the acceptance of the proffered covenant, and approval with conditions of requests #2 through #8.

CONDITIONS FOR APPROVAL: For requests #4 through #8 only.

1. That all other paragraphs of Declaration of Restrictions, recorded in Official Records Book 24909 Pages 1820-1825 remain in full force and effect except as herein modified.
2. That the carports not be enclosed in any manner for habitable space and remain for the parking of vehicles only.
3. That the applicant shall install all the required landscaping along the property lines prior to obtaining a Certificate of Occupancy.

ES:MW:NN:CH:JV


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

NDW

ZONING RECOMMENDATION ADDENDUM

Tamiami Kendall Investments, Inc.
Z13-083

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>Industrial and Office (Page I-39)</p>	<p><i>Manufacturing operations, maintenance and repair facilities, warehouses, mini-warehouses, office buildings, wholesale showrooms, distribution centers, and similar uses are permitted in areas designated as "Industrial and Office" on the LUP map. Also included are construction and utility-equipment maintenance yards, utility plants, public facilities, hospitals and medical buildings. The full range of telecommunication facilities, including switching and transmission facilities, satellite telecommunications facilities, microwave towers, radar stations and cell towers is also allowed. Very limited commercial uses to serve the firms and workers in the industrial and office area are allowed dispersed as small business districts and centers throughout the industrial areas. Hotels and motels are also authorized. Freestanding retail and personal service uses and shopping centers larger than 10 acres in size are prohibited in these areas because they would deplete the industrial land supply and they are better located in commercially designated areas and in closer proximity to residential areas. Freestanding retail and personal service uses and shops that are approved in Industrial and Office areas should front on major access roads, particularly near major intersections. In addition, uncommon commercial uses such as amusement uses, and others with unusual siting requirements may also be considered at appropriate locations. Quarrying activities and ancillary uses may also be approved in areas designated Industrial and Office where compatible with the surrounding area and environment. The specific range and intensity of uses appropriate in a particular Industrial and Office area vary by location as a function of the availability of public services and access and, among other factors, compatibility with neighboring development. Through the zoning review process, use of particular sites or areas may be limited to something less than the maximum allowed in this category. Moreover, special limitations may be imposed where necessary to protect environmental resources.</i></p> <p><i>If the land is the subject of an application for rezoning, zoning approval or a plan amendment and is located in an MSA with less than a 15-year supply of industrial land, in order to receive approval for a non-industrial use, the applicant must demonstrate that such use will not have a significant adverse impact on future industrial development.</i></p> <p><i>In general, the typical residential development is incompatible with major industrial concentrations and shall not occur in areas designated as "Industrial and Office" on the LUP map to avoid use conflicts and for health and safety reasons. Exceptions may be granted for the following: (1) the development of live-work or work-live buildings or the adaptive reuse of existing structures for these purposes in areas of light industrial uses such as office, wholesale, distribution and the assembling of pre-manufactured parts; (2) the development of a TND as provided herein; and (3) the residential development of a portion of an industrially designated area where the portion is, a) 10 acres or smaller and is bounded on two or more sides by existing residential development or zoning, or is b) the perimeter of a Plan-designated industrial area which perimeter does not exceed a depth of 150 feet; and c) the subject portion of the industrially designated site immediately adjoins a currently developed or platted residential area and the Director of the Department of Planning and Zoning</i></p>
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ZONING RECOMMENDATION ADDENDUM

Tamiami Kendall Investments, Inc.
Z13-083

	<p>determines that the inclusion of a residential component in the Industrially designated area, designed to provide compatible transition along the boundary, is the best means of maintaining the quality of the adjoining residential area. Notwithstanding the foregoing applications for residential zoning that were properly filed prior to August 25, 2000, can be considered where adjoining land is residentially zoned, designated or developed. Residential developments in this land use category may participate in the inclusionary zoning program. The properties utilized for residential development will be eligible within the limits provided in this paragraph for the density allowances of the inclusionary zoning program in the Residential Communities section.</p> <p>TNDs may be permitted in Industrial and Office areas where: 1) compatible with nearby development and with the objectives and policies of this Plan, 2) necessary services exist or will be provided by the developer, and 3) adjacent to land designated Residential Communities on the LUP map (including across an abutting major or minor roadway) along 30 percent or more of the total perimeter of the TND, provided that land designated Residential Communities exists along at least some portion of the two or more sides. (Multiple sides created by an out parcel shall count as one side only). TND located within Industrial and Office areas shall allocated to Workshop Uses a minimum of 15 percent and a maximum of 30 percent of the gross built up area planned for development within a TND, and shall have a residential density no greater than the average of the adjacent Residential Communities designations or ten units per acre, whichever is higher. Workshops Uses shall be oriented to adjacent non-residential areas, while the residential uses shall be oriented to the adjacent Residential Communities designations. All criteria for TNDs enumerated in the Residential Communities section of this Chapter, other than the provisions governing percent of built per area which may be devoted to workshop uses addressed herein and the maximum permitted residential density, shall govern the development of TNDs in areas designated Industrial and Office.</p>
<p>Objective LU-4 (Pg. I-11)</p>	<p>Miami-Dade County shall, by the year 2015, 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.</p>
<p>Land Use Element LU-4A (Pg. I-11)</p>	<p>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.</p>

PERTINENT ZONING REQUIREMENTS/STANDARDS

<p>Section 33-311(A)(7) Generalized Modification Standards.</p>	<p>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.</p>
<p>Section 33-311 District Boundary Change</p>	<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</p>

ZONING RECOMMENDATION ADDENDUM

Tamiami Kendall Investments, Inc.

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