

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

PH: Z14-085 (15-7-11-1)

July 21, 2015

Item No. 1

Recommendation Summary	
Commission District	11
Applicant	More Panas, LLC
Summary of Requests	The applicant is seeking to permit a nursing home and to permit a wall with more height than permitted by Code.
Location	The Southwest corner of SW 52 Street & SW 157 Avenue, Miami-Dade County, Florida.
Property Size	9.36-acres
Existing Zoning	BU-1A, Limited Business District
Existing Land Use	Vacant
2015-2025 CDMP Land Use Designation	Business and Office <i>(see attached Zoning Recommendation Addendum)</i>
Comprehensive Plan Consistency	Consistent with interpretative text, goals, objectives and policies of the CDMP
Applicable Zoning Code Section(s)	Section 33-311(A)(3), Standards For Special Exceptions, Unusual Uses and New Uses Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations <i>(see attached Zoning Recommendation Addendum)</i>
Recommendation	Approval with conditions.

REQUESTS:

1. UNUSUAL USE to permit a nursing home.
2. NON-USE VARIANCE to permit a wall with a height of 6' within the front & side street setback (4' high maximum permitted).

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "SW 157th Avenue and 52nd Street," as prepared by Robayna and Associates Inc, consisting of 10 sheets and plans entitled "The Club at Kendall," as prepared by Architectural Concepts Inc, consisting of 4 sheets, all sheets dated stamped received 05/01/15 for a total of 14 sheets. Plans may be modified at public hearing.

PROJECT DESCRIPTION AND PROJECT HISTORY:

In 1987, the subject property as part of larger tract of land was approved for a district boundary change from GU, Interim District to BU-1A, Limited Business District. In addition, the Board accepted a proffered covenant, which required 26' wide landscaped areas along the north and west property lines, and also required compliance with wetland mitigation plans adopted by the Board.

In 2005, a 0.407 acre portion of the subject site was designated as an archaeological site, pursuant to Historic Preservation Board Resolution #05-06.

The site plan submitted by the applicant depicts a proposed one-story 150 bed, 96,272.32 sq. ft. nursing home facility, along with a proposed one-story, 9,000 sq. ft. retail building. In addition, the site plan show the 0.407 acre archaeological site in the northeast corner of the property and a 0.79 acre tree preserve along the northwest portion of the subject property.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	BU-1A; vacant land	Business and Office
North	RU-1A; single-family residences	Low Density Residential, 2.5 - 6 dua
South	BU-1A; shopping center	Business and Office
East	EU-1; single-family residences	Low Density Residential, 2.5 - 6 dua
West	RU-1; single-family residences	Low Density Residential, 2.5 - 6 dua

NEIGHBORHOOD COMPATIBILITY:

The subject property is a vacant 9.36 net acre tract that abuts single-family residential uses to the north, east and west, and commercial uses to the south.

SUMMARY OF THE IMPACTS:

The approval of this application will allow the applicant to provide the community additional congregate living facilities for the elderly and sick, which could create more traffic impacts in the area. However, based on the memorandum from the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources, said impacts will not exceed the levels of service (LOS) on the abutting roadways.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The applicant seeks to permit a nursing home and an ancillary non-use variance for wall height in the BU district. The Land Use Plan (LUP) Map of the Comprehensive Development Master Plan (CDMP) designates the subject property as **Business and Office** land use category. The CDMP Land Use Element, **Business and Office** designation accommodates the full range of sales and service activities including **nursing homes**. The interpretive text under the Business and Office category states, *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. It also states the availability of highway capacity, ease of access and availability of other public services and facilities.* Said text also states *that uses should be limited when necessary to protect both adjacent and adjoining residential use from such impacts as noise or traffic.*

The site plan has a floor area ratio (FAR) of 0.37, which is within the maximum floor area ratio allowed by Code. Further, memoranda from various departments, which shall be mentioned further in staff's zoning analysis, state that there shall be no negative noise or traffic impacts created on the neighboring residences in the area. Therefore, based on the foregoing review of the requests in the zoning analysis, staff opines that the requests are **consistent** with the area

based on the compatibility criteria outlined in CDMP **Policy LU4-A**, and **consistent** with the CDMP Business and Office Land Use Element interpretive text and the LUP map designation.

ZONING ANALYSIS:

The applicant seeks approval to permit an Unusual Use for a nursing home (request #1). An unusual use can be requested and approved through a public hearing process, but it is not particularly permitted in any specific zoning district. In addition, the applicant seeks approval to permit a wall that is higher than permitted by code (request #2).

When analyzing request #1 under Section 33-311(A)(3), Standards For Special Exceptions, Unusual Uses and New Uses, staff opines that approval of the request would be **compatible** with the surrounding area and that subject to conditions outlined below, approval would not create a negative impact on the surrounding area. Further, staff opines that the requests will not result in excessive traffic as evidenced by the memorandum, dated May 7, 2015, from the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources (RER), which states that the application meets the traffic concurrency criteria and does not exceed the levels of service (LOS) on the abutting roadways. Staff also notes that the Division of Environmental Resources Management (DERM) of the Department of Regulatory and Economic Resources, in their memorandum, dated May 14, 2014 has no objections to the request and has recommended approval with conditions of the request. Staff notes that the applicant has addressed concerns from DERM, such as indicating dry retention areas to the northwest, which staff opines would prevent flooding on the subject site. In addition, staff notes that the Miami Dade Fire Rescue Department (MDFRD) does not object to the request. Staff also notes that the landscape plan indicates a continuous hedge and trees along the north, east and west property lines as a visual buffer to the neighboring.

In addition, as previously mentioned in staff's recommendation, staff notes that there is a 0.407 acre archaeological site on the northeast corner of the subject property, which was designated as an archaeological site, pursuant to Historic Preservation Board Resolution #05-06. Staff notes that the Office of Historic Preservation of RER has no objection to the requests and has recommended approval subject to conditions in their memoranda dated May 29, 2015. Said conditions are a 20' buffer abutting the west and south boundaries of the archaeological site, and that prior to any ground disturbing activities, a temporary plastic construction fence be placed along the 20' buffering line abutting the west and south boundaries of the archaeological site to protect the archaeological site on the subject property. **As such, staff recommends approval with conditions of request #1 under Section 33-311(A)(3), Special Exceptions, Unusual Uses and New Uses.**

When request #3, to permit a wall with a height of 6' within the front & side street setback (4' high maximum permitted) is analyzed under the Non-Use Variance standards, section 33-311(A)(4)(b), staff opines that approval of the request would be **compatible** with the area. Staff notes from the Geographic Information System (GIS) that the property line of the subject site is approximately 48' from the neighboring residences to the north and west. Therefore, staff opines that the proposed 6' high wall would not create any visual impacts on the neighboring residences to the north and west. **As such, staff recommends approval of request #3 with conditions under Section 33-311(A)(4)(b), Non-Use Variance Standards.**

ACCESS, CIRCULATION AND PARKING: The submitted site plans indicate access to the site through an ingress/egress drive along SW 157 Avenue and an ingress/egress for emergency

vehicles along SW 158 Avenue. In addition, the plans depict adequate parking on-site for the proposed facility.

NEIGHBORHOOD SERVICES PROVIDER REVIEW: See attached.

OTHER: Not applicable.

RECOMMENDATION:

Approval with conditions.

CONDITIONS FOR APPROVAL:

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, and other requirements.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "SW 157TH Avenue and 52nd Street," as prepared by Robayna and Associates Inc, consisting of 10 sheets and plans entitled "The Club at Kendall," as prepared by Architectural Concepts Inc, consisting of 4 sheets, all sheets dated stamped received 05/01/15 for a total of 14 sheets.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicants submit 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 applicants obtain a Certificate of Use for the proposed nursing home facility from and promptly renew same annually with the Miami-Dade County Department of Regulatory and Economic Resources, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions.
6. That the occupancy of the proposed home for the aged facility be restricted to a maximum of one hundred fifty (150) residents at all times.
7. That the applicant comply with all applicable conditions and requirements from the Division of Environmental Resources Management (DERM) of the Department of Regulatory and Economic Resources as indicated in the memorandum dated May 14, 2015.
8. That the applicant comply with all applicable conditions and requirements, if any, from the Platting and Traffic Review Section of RER as indicated in the memorandum dated May 7, 2014.

CONDITIONS #9 through #22: THE ARCHAEOLOGICAL SITE ON THE PROPERTY

9. That an archaeologist shall be present during all ground disturbing activities.
10. That a 20' buffer abutting the west and south boundaries of the archaeological preserve shall be established and staked out.
11. That prior to any ground disturbing activities, a temporary plastic construction fence shall be placed along the 20' buffer line abutting the west and south boundaries of the archaeological preserve and along the north (SW 52 St) and east (SW 157 Ave) boundaries of the archaeological preserve.
12. That initially, all efforts shall be made to remove surface trash and debris from both the project area and designated archaeological preserve. Mechanical removal with an excavator shall be allowed for heavy trash and debris without disturbing the subsurface. The excavator or heavy machinery shall not enter the archaeological preserve or project area. Please see attached "Project Area Aerial."
13. That the proposed drainage excavation area within the 20' buffer zone shall be staked out and excavated down to bedrock using standard archaeological methodology. Please see attached plans. If human remains are encountered, the provisions of State Statute 875.02 will apply. All work in the immediate area shall cease and the State Archaeologist notified. All human remains and burial items shall be reburied in the designated archaeological preserve.
14. That all vegetation within the project area shall be cleared by hand and removed.
15. That re-deposited midden and soils within the project area shall be mechanically scraped down to bedrock using a bulldozer blade while simultaneously removing visible trash and debris. Only re-deposited midden from areas known to contain human remains (based on archaeological evidence) shall be used to cap the archaeological preserve.
16. That re-deposited midden and soils shall immediately be moved to the archaeological preserve with a loader. The removed re-deposited midden and soils shall not be raked, sorted, or gone through for the purpose of recovering human remains.
17. That once bedrock is exposed, each solution hole shall be probed and excavated to determine if human remains or significant cultural deposits exist. If human remains are encountered, the provisions of State Statute 875.02 will apply. All work in the immediate area shall cease and the State Archaeologist notified. All human remains and burial items shall be reburied in the designated archaeological preserve.
18. That a Class IV Permit is obtained prior to the use of any of the heavy machinery on the property.
19. That heavy machinery shall only work from outside the boundaries of the archaeological preserve and 20' buffer zone.
20. That heavy equipment, machinery, or supplies may not be stored within the archaeological preserve or 20' buffer zone.

21. That after the archaeological preserve and buffer zone are capped with re-deposited midden, both areas shall be capped with clean fill or topsoil as soon as is practical to avoid erosion and sodded to create a green space.
22. That a revised legal description for the archaeological preserve, including the 20 ft buffer zone, shall be provided for the purpose of amending the designated archaeological preserve boundaries.

NK:MW:NN:CH:EJ



Nathan Kogon, AICP, Assistant Director
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Miami-Dade County Department of
Regulatory and Economic Resources

ZONING RECOMMENDATION ADDENDUM

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

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

Business and Office <i>(Page I-40)</i>	<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.</i></p> <p><i>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</i></p>
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>

PERTINENT ZONING REQUIREMENTS/STANDARDS

Section 33-311(A)(3) Special Exception, Unusual and New Uses.	<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> <p><i>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</i></p>
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ZONING RECOMMENDATION ADDENDUM

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	<p>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.</p>
<p>Section 33-311(A)(4)(b) Non-Use Variances 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>