

**RESOLUTION NO. CZAB11-2-15**

*WHEREAS*, AB AT HIDDEN LAKES LTD (LLLP) applied for the following:

DISTRICT BOUNDARY CHANGE from IU-C to RU-3M.

SUBJECT PROPERTY: Lots 6 & 7 of BATTAH LAKE OFFICE PARK, PB 159-47.

LOCATION: Lying West of SW 127 Avenue & North of SW 132 Street, MIAMI-DADE COUNTY, FLORIDA, and

*WHEREAS*, a public hearing of the Miami-Dade County Community Zoning Appeals Board 11 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant proffered a **Declaration of Restrictions** which among other things provided:

- (1) **SITE PLAN.** The Property shall be developed substantially in accordance with the plan submitted for the hearing entitled "Hidden Lakes Townhomes," as prepared by Lan Mar Design Group, date stamped received November 14, 2014, consisting of 8 sheets.
- (2) **MIAMI EXECUTIVE AIRPORT.** Any prospective purchaser of a residential dwelling within the Property shall be notified that the subject property lies approximately 1 mile east of Miami Executive Airport ("TMB") (formerly the Kendall-Tamiami Executive Airport).
- (3) **EEL.** Prospective purchasers shall also be notified that the property is adjacent to Environmentally Endangered Lands (EEL) Preserves subject to preservation and management, including periodic burns, consistent with the regulations of the Environmentally Endangered Lands Program in Chapter 24, Article IV, Division 3 of the Code of Miami-Dade County, as may be amended from time to time.
- (4) **Burrowing Owls.** Owner has been made aware by the Florida Fish and Wildlife Commission that the potential exists for the property to support burrowing owls. Prior to development activities, a burrowing owl survey shall be conducted to ensure that no active burrowing owl burrows exist onsite. If burrowing owls are present, Owner agrees to implement the FWC's Burrowing Owl Nest Protection Guidelines and Procedures in Urban Areas.
- (5) **25 Decibel Reduction.** The Owner shall incorporate at least a 25 decibel (db) Noise Level Reduction (NLR) into the design and construction of any dwelling unit on the property. If compliance with the building code requirements of the County in effect

at the time of construction of any unit does not effect a 25 db NLR within such unit, the Owner shall nonetheless incorporate at least a 25 db NLR into the unit.

(6) **Land Use Restrictive Zones.** Owner has been made aware by the Miami-Dade Aviation Department that the property is either partially or fully impacted by the restrictions of certain land use restrictive zones.

(7) **Avigation Easement and Notices.**

- (a) The Owner , for the use and benefit of the public, hereby grants and conveys to Miami-Dade County an Avigation Easement and right-of-way for the free and unobstructed flight, and passage, operations, and the effects thereof, of all types of aircraft ("aircraft" being defined for the purpose of this Avigation Easement as any contrivance now known or hereafter invented, used, or designated for navigation of, or flight in or through the air) by whomever owned or operated, in and through the airspace above and over the surface of the Property, along with such noise, vibration, odors, vapors, fumes, fuel particles (which are incident to normal operations of said aircraft), smoke, dust, feelings of anxiety or fear, interference with sleep and communications, and any and all other effects as may be alleged to be incident to or caused by the aircraft engines and the operation of aircraft for navigation of or flight or passage in and through said airspace, and for the use of said airspace by aircraft for approaching, landing upon, taking off from, maneuvering about or operating at, on, or about Miami Executive Airport ("TMB" formally known as Kendall-Tamiami Executive Airport) and for all other uses allowed or authorized at TMB.
- (b) In furtherance of the easement and rights herein granted, the Owner expressly agrees to the contents of the provisions in the notice and instruments set forth in Paragraph (d) below and agrees to restrict the height of structures, objects of natural growth, and other obstructions on the Property to such a height so as to comply with Miami-Dade Code Chapter 33, Article XL and Federal Aviation Regulations, Part 77 as currently in effect and as may be modified from time to time in the future. Additionally, the Owner covenants at all times hereafter, that it will not (i) take any action or cause or allow any electronic, electromagnetic, smoke, vapor, fume, light, or other emissions, (ii) allow any obstruction to exist, or (iii) construct any structure on the Property which in any of the foregoing cases would conflict with or interfere with or infringe the rights granted to the County hereunder, including the full use and enjoyment of this Avigation Easement.
- (c) The Owner expressly agrees to prevent any use of the Property described herein that would interfere with or adversely affect the operation or maintenance of TMB or of the aircraft using TMB, or otherwise constitute an airport hazard.

(d) Notice Requirements.

The Owner, its successors, and assigns shall include the following notice (the "Notice") in every contract for the sale or lease of any dwelling unit within the Property:

THIS PROPERTY IS LOCATED IN CLOSE PROXIMITY TO THE KENDALL TAMIAAMI EXECUTIVE AIRPORT ("TMB") AND ADJACENT TO ENVIRONMENTALLY ENDANGERED LANDS (EEL) PRESERVES.

THE UNDERSIGNED, ON BEHALF OF ITSELF AND ITS SUCCESSORS, LESSEES, AND ASSIGNS, AGREES BY TAKING TITLE TO SAID PROPERTY, THEY DO NOT OBJECT TO ITS PROXIMITY TO KENDALL TAMIAAMI EXECUTIVE AIRPORT AND HEREBY ACKNOWLEDGE SAID OPERATION WILL INCLUDE FREQUENT AND DIRECT OVERFLIGHTS, CREATING NOISE DURING DAYTIME AND NIGHTTIME HOURS.

REGARDING THE EEL PRESERVE, THE UNDERSIGNED ACKNOWLEDGES SAID PROPERTY IS SUBJECT TO PRESERVATION AND MANAGEMENT, INCLUDING PERIODIC BURNS, CONSISTENT WITH THE REGULATIONS OF THE ENVIRONMENTALLY ENDANGERED LANDS PROGRAM IN CHAPTER 24, ARTICLE IV, DIVISION 3 OF THE CODE OF MIAMI-DADE COUNTY.

AS A RESULT, THE UNDERSIGNED MAY BE AFFECTED BY NOISE OR SMOKE GENERATED BY THE AIRPORT AND EEL USES. THE UNDERSIGNED, ON BEHALF OF ITSELF AND ITS SUCCESSORS, LESSEES, AND ASSIGNS, HEREBY ACKNOWLEDGES AND AGREES THAT SUCH AIRPORT AND EEL USES DO NOT CONSTITUTE AND SHALL NOT BE DEEMED A NUISANCE BY THE UNDERSIGNED OR ITS SUCCESSORS, LESSEES, OR ASSIGNS.

- (8) The Owner expressly acknowledges and agrees that the property is located in close proximity to the Miami Executive Airport ("TMB") (formerly known as Kendall-Tamiami Executive Airport) and specifically, portions of the property are located within what are currently designated as the Outer District or the Outer Landing District ("OLZ") and the No School Zone ("NSZ") of the TMB. The Owner expressly acknowledges and agrees that regardless of how such designations may change, the Property and future residents may experience frequent and direct overflights at low altitudes creating noise during daytime and nighttime hours. The Owner acknowledges and agrees that TMB may need to modify or expand its runways and taxiways, and the Owner waives any objections to any future construction of new runways or taxiways or expansion of the runways or taxiways at TMB and any future alternations, re-alignments, or re-numbering of the runways and taxiways. The Owner further agrees and acknowledges that it does not object to the presence of TMB or the twenty-four hours per day operation of aircraft from its runways and hereby waives any right to object to or challenge the twenty-four hours

per day operation of the airport and any improvements thereto, including without limitation, the construction or future expansion of the runways at TMB and any future alterations, re-alignments, or renumbering of the runways and taxiways. The Owner further agrees that neither the Owner, nor its lessees, will ever request, support or participate in any effort to impose mandatory noise abatement procedures at TMB.

*WHEREAS*, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

*WHEREAS*, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested district boundary change to RU-3M would be consistent with the COMPREHENSIVE DEVELOPMENT MASTER PLAN and would be compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that the proffered Declaration of Restrictions should be accepted, and

*WHEREAS*, a motion to approve the application was offered by Carolina Blanco, seconded by Miguel A. Diaz, and upon a poll of the members present the vote was as follows:

Adres F. Alvarez	aye	Miguel A. Diaz	aye
Carolina Blanco	aye	Jose Miguel Soto	aye
Socrates De Jesus	absent		
	Beatrice Suarez	aye	

*NOW THEREFORE BE IT RESOLVED* by the Miami-Dade County Community Zoning Appeals Board 11, that the requested district boundary change to RU-3M be and the same is hereby approved and said property is hereby zoned accordingly.

*BE IT FURTHER RESOLVED* that, pursuant to Section 33-6 of the Code of Miami-Dade County, Florida, the County hereby accepts the proffered covenant and does exercise

its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations.

*BE IT FURTHER RESOLVED*, notice is hereby given to the applicant that the request herein constitutes an initial development order and does not constitute a final development order and that one, or more, concurrency determinations will subsequently be required before development will be permitted.

The Director is hereby authorized to make the necessary notations upon the maps and records of the Miami-Dade County Department of Regulatory and Economic Resources and to issue all permits in accordance with the terms and conditions of this resolution.

*PASSED AND ADOPTED* this 17<sup>th</sup> day of March, 2015.

Hearing No. 15-1-CZ11-1  
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STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Rosa Davis, as Deputy Clerk for the Miami-Dade County Department of Regulatory and Economic Resources as designated by the Director of the Miami-Dade County Department of Department of Regulatory and Economic Resources and Ex-Officio Secretary of the Miami-Dade County Community Zoning Appeals Board 11, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB11-2-15 adopted by said Community Zoning Appeals Board at its meeting held on the 17<sup>th</sup> day of March, 2015.

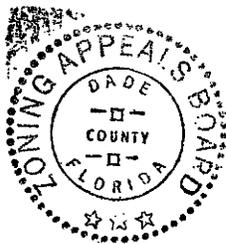
IN WITNESS WHEREOF, I have hereunto set my hand on this the 27<sup>th</sup> day of March, 2015.

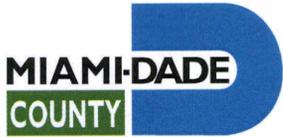


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Rosa Davis, Deputy Clerk (218345)  
Miami-Dade Department of Department of Regulatory  
and Economic Resources

SEAL





March 27, 2015

Ab at Hidden Lakes Ltd (LLLP)  
c/o Javier Vazquez  
1450 Brickell Avenue, Suite 1900  
Miami, FL 33131

Re: Hearing No. 15-2-CZ11-1 (14-087)  
Location: Lying West of SW 127 Avenue & North of SW 132 Street, Miami-Dade County, Florida.

Dear Applicant:

Enclosed herewith is Resolution No. CZAB11-2-15, adopted by the Miami-Dade County Community Zoning Appeals Board 11, which accepted your Declaration of Restrictions and approved your request for a district boundary change to RU-3M on the above noted location. Please note the conditions under which said approval was granted, since failure to comply with stipulated conditions, if any, will result in the issuance of civil violation notices requiring payment of daily fines.

If stipulated in the resolution that building permits and/or use, occupancy or completion certificates will be required, please note that permits must be obtained and final inspection approvals received for construction work done or required for construction work done or required prior to issuance of the applicable certificate(s) pursuant to Section 33-8 of the Zoning Code. Payment of certificates related to use, occupancy or completion should be made with this Department as appropriate. At time of permit application you must provide a copy of this resolution.

Please note that any aggrieved party may appeal the Board's decision to the Board of County Commissioners, within 14 days from the date of posting on the 11<sup>th</sup> floor of the Stephen P. Clark Building, 111 N.W. 1<sup>st</sup> Street, Miami, FL 33128. The date of posting is **March 23, 2015**. In the event an appeal is filed, any action undertaken during the appeal period is at the applicant's risk.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rosa Davis".

Rosa Davis  
Deputy Clerk

Enclosure