



CFM 2015R0597307  
 OR BK 29778 Pgs 3201-3211 (11Pgs)  
 RECORDED 09/16/2015 11:22:14  
 HARVEY RUVIN, CLERK OF COURT  
 MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:

Name: Monica Dabney  
 Address: 6383 SW 38 St.  
Miami, FL 33155

A/30

(Space reserved for Clerk)

**DECLARATION OF USE  
 FOR A SINGLE FAMILY RESIDENCE**

In consideration of the issuance of a **building permit** as hereinafter described, the undersigned, Owner(s) Charles & Monica Dabney [If the owner is a Limited Partnership, Limited Liability Company or Joint Venture, an Opinion of Title must be submitted indicating who is authorized to execute the Declaration of Use.], of the property herein legally described, hereby agree and bind myself, or ourselves, and my, or our, heirs, successors and assigns as follows:

**That the property herein described shall be used for a single family residence only** and the plans submitted for said permit are designed and intended for such use only. The residence may contain **one (1)** area designated as guest quarters, hereinafter identified as a "Guest Quarters" provided that:

- a) The Property shall comply with the definition of a "one-family dwelling" pursuant to Section 33-1 of the County's Zoning Ordinance, as may be amended from time to time.
- b) No major kitchen appliances or fixtures shall be installed in the guest quarters, except for the following:
  - (i) Refrigerator
  - (ii) Microwave
  - (iii) Sink
- c) Only nonpaying and personal guests of the occupant(s) of the principal residence, which may include family, gratuitous guests, and domestic servants, as described above, shall occupy the Guest Quarters; and
- d) The owner/occupant(s) of the principal residence **shall not** :
  - (i) Rent the Guest Quarters or
  - (ii) Occupy the Guest Quarters and rent the principal residence.



**Declaration of Use  
for Single Family Residence  
Page 2**

- e) There must be a door connection into the main residence from the Guest Quarters that must be accessible at all times; and
- f) That the property shall comply with Section 33-20.1.1 (Prima facie evidence of illegal multiple use or illegal subdivision of a residence), of the Code of Miami-Dade County.

The Property known as 6383 NW 38 Street (Address) and legally described as Lot 22-23 Block 29 Plat Book 10 Page 166 of the Public Records of Miami-Dade County, Folio 30-4013-0190718 also describe as (metes and bounds)

Central Miami Part 2 PB 10-66  
W 12.5 FT LOT 22 AND ALL LOT 23, Block 29

**County Inspection.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

**Covenant Running with the Land.** This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the benefit of Miami-Dade County and the public welfare. Owner, and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

**Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the then-owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by Miami-Dade County.



**Modification, Amendment, Release.** This Declaration may be modified, amended or released as to the Property, or any portion thereof, by a written instrument executed by the then-owner(s) of the property, including joinders of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, whichever by law has jurisdiction over such matters, or the Director as provided by the Miami-Dade County Code of Ordinances. It is provided, however, in the event that the Property is annexed to an existing municipality or the Property is incorporated into a new municipality, any modification, amendment, or release shall not become effective until it is approved by such municipality and is thereafter approved by the Board of County Commissioners, in accordance with applicable procedures.

**Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

**Authorization for Miami-Dade County to Withhold Permits and Inspections.** In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this declaration is complied with.

**Election of Remedies.** All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

**Presumption of Compliance.** Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.

**Severability.** Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion

**Recording.** This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owners following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the



**Declaration of Use  
for Single Family Residence  
Page 4**

previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Regulatory and Economic Resources Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

**Acceptance of Declaration.** Acceptance of this Declaration does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the Board of County Commissioners and/or any appropriate Community Zoning Appeals Board retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance or dedication.

**Owner.** The term Owner shall include the Owner, and its heirs, successors and assigns. The Owner understands and acknowledges that, pursuant to Chapter 8CC of the Code of Miami-Dade County, each verified violation of the approved use will result in the issuance of a ticket with a fine of \$500.00 for each day the violation exists. Unpaid fines will become a lien on the property.

[Execution Pages Follow]



(Space reserved for Clerk)

**ACKNOWLEDGMENT  
HUSBAND AND WIFE**

Signed, witnessed, executed and acknowledged on this 11th day of August, 2015.

**Witnesses as to Husband:**

[Signature]  
Signature  
GABRIEL MORENO  
Print Name

[Signature]  
Signature  
Miguel Moreno  
Print Name

**Witnesses as to Wife:**

[Signature]  
Signature  
ANA RODRIGUEZ  
Print Name

[Signature]  
Signature  
Delia Muñoz  
Print Name

[Signature]  
Signature (Husband)  
CHRISTOPHER DABNEY  
Print Name  
Address:  
6383 SW 38th  
Miami FL 33155

[Signature]  
Signature (Wife)  
MARICA DABNEY  
Print Name  
Address:  
6383 SW 38th  
Miami, FL 33155



(Space reserved for Clerk)

**NOTARY AS TO HUSBAND:**

STATE OF Florida

COUNTY OF Dade

The foregoing instrument was acknowledged before me by Charles Dabney, who is personally known to me or has produced \_\_\_\_\_, as identification.

Witness my signature and official seal this 11<sup>th</sup> day of August, 2015, in the County and State aforesaid.

[Signature]

Notary Public-State of Florida

Anai Esquivel

Print Name



**ANAI ESQUIVEL**  
MY COMMISSION # FF 145850  
EXPIRES: July 28, 2018  
Bonded Thru Budget Notary Services

My Commission Expires:





RESOLUTION NO. CZAB10-13-15

*WHEREAS*, MONICA & CHARLES DABNEY applied for the following:

- (1) NON-USE VARIANCE to permit an existing storage room addition to a single-family residence setback 4.0' (6.2' required) from the interior side (west) property line.
- (2) NON-USE VARIANCE to permit the existing single-family residence setback 24'-2" (25' required) from the front (south) property line.
- (3) NON-USE VARIANCE to permit the existing front porch setback 14' (25' required) from the front (south) property line.

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "Charles M. Dabney & Monica Dabney" as prepared by Edward Ledesma, E.I., dated stamped received 3/18/15 and consisting of 3 sheets. Plans may be modified at public hearing.

SUBJECT PROPERTY: The West 12.5' of Lot 22 and all of Lot 23, Block 29, CENTRAL MIAMI PART TWO, PB 10-66.

LOCATION: 6383 SW 38 Street, MIAMI-DADE COUNTY, FLORIDA, and

*WHEREAS*, a public hearing of the Miami-Dade County Community Zoning Appeals Board 10 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and

*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 NON-USE VARIANCE to permit an existing storage room addition to a single-family residence setback 4.0' from the interior side (west) property line (Item #1), the NON-USE VARIANCE to permit the existing single-family residence setback 24'-2" from the front (south) property line (Item #2), and the NON-USE VARIANCE to permit the existing front porch setback 14' from the front (south) property line (Item #3) would be in harmony with the general purpose and intent of the regulations and



would conform with the requirements and intent of the Zoning Procedure Ordinance and would be consistent with the Comprehensive Development Master Plan, and

*WHEREAS*, a motion to approve the application (Items #1 through #3) was offered by Manuel Valdes, seconded by Robert Suarez, and upon a poll of the members present, the vote was as follows:

Omar Fernandez	aye	Manuel Valdes	aye
Richard M. Gomez	aye	Toufic Zakharia	aye
Robert Suarez	aye		
		Miriam Planas	absent

*NOW THEREFORE BE IT RESOLVED* by the Miami-Dade County Community Zoning Appeals Board 10 that the requested NON-USE VARIANCE to permit an existing storage room addition to a single-family residence setback 4.0' from the interior side (west) property line (Item #1), the NON-USE VARIANCE to permit the existing single-family residence setback 24'-2" from the front (south) property line (Item #2), and the NON-USE VARIANCE to permit the existing front porch setback 14' from the front (south) property line (Item #3) be and the same are hereby approved, subject to the following conditions:

1. That a site plan be submitted to and meet with the approval of the Director upon the submittal of an application for a building permit; said plan to include among other things but not be limited thereto, location of structure or structures, types, sizes and location of signs, light standards, off-street parking areas, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled Charles M. Dabney & Monica Dabney" as prepared by Edward Ledesma, E.I., dated stamped received 3/18/15 and consisting of 3 sheets.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicants obtain a building permit for all non-permitted structures, if applicable, from the Department of Regulatory and Economic Resources within 90 days of the expiration of the final appeal period of this application, unless a time extension is granted by the Director of the Department.



5. That the applicants submit a Declaration of Use Agreement restricting the use of the subject property only to a single-family residence prior to the issuance of a building permit.
6. That the applicants remove the barbeque structure and shed as indicated in the submitted survey.

*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 15<sup>th</sup> day of July, 2015.

Hearing No. 15-7-CZ10-4  
rd

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 27<sup>TH</sup> DAY OF JULY, 2015.



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 10, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB10-13-15 adopted by said Community Zoning Appeals Board at its meeting held on the 15<sup>th</sup> day of July, 2015.

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



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



STATE OF FLORIDA, COUNTY OF DADE  
HEREBY CERTIFY that this is a true copy of the  
original filed in this office on \_\_\_\_\_ day of  
\_\_\_\_\_, A.D. 20

WITNESS my hand and Official Seal.  
\_\_\_\_\_  
LORETTA MARSHALL #208068

