

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

**PH: Z15-121 (16-3-CZ12-2)**

**May 19, 2016**

Item No. 1

<b>Appeal Recommendation Summary</b>	
<b>Commission District</b>	7
<b>Applicants</b>	Melissa Wolin, Trustee of Ponce De Leon Trust
<b>Summary of Requests</b>	The applicant is seeking a district boundary change from EU-1, Single-Family One Acre Estate District, to EU-S, Single-Family Suburban Estate District. Or in the alternative, the applicant is seeking to permit two lots with less lot area and lot frontage than required.
<b>Location</b>	7677 Ponce De Leon Road, Miami-Dade County, Florida
<b>Property Size</b>	48,803 sq. ft.
<b>Existing Zoning</b>	EU-1; Single-Family One Acre Estate District
<b>Existing Land Use</b>	Single-family residence
<b>2020-2030 CDMP Land Use Designation</b>	Estate Density Residential (see attached Zoning Recommendation Addendum)
<b>Comprehensive Plan Consistency</b>	Consistent with interpretative text, goals, objectives and policies of the CDMP
<b>Applicable Zoning Code Section(s)</b>	Section 33-311, District Boundary Change Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations (see attached Zoning Recommendation Addendum)

**CZAB Action**

<b>CZAB 12 March 1, 2016</b>	<b>Denial with prejudice</b>
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**Staff Recommendation**

<b>Recommendation of the Appeal</b>	<b><u>Approval</u> Overrule the decision of the CZAB Approve the application as recommended by staff.</b>
<b>Previous Recommendation to the CZAB</b>	<b><u>Approval</u> (Original Staff Recommendation to the CZAB is attached)</b>

**Timeline**

1. On March 1, 2016, the Community Zoning Appeals Board (CZAB) #12, denied the application.
2. On March 16, 2016, the applicant, Melissa Wolin, Trustee of Ponce De Leon trust, appealed the CZAB 12 decision to the Board of County Commissioners (BCC).

**Analysis**

For the reasons outlined in the Comprehensive Development Master Plan and Zoning analysis of the attached staff recommendation, staff opines that the appellants' request for a reversal of the CZAB 14 decision should be **approved**.

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

**PH: Z15-121 (16-3-CZ12-2)**

**May 19, 2016**

Item No. 1

<b>Recommendation Summary</b>	
<b>Commission District</b>	7
<b>Applicant</b>	Melissa Wolin, Trustee of Ponce De Leon Trust
<b>Summary of Requests</b>	The applicant is seeking a district boundary change from EU-1, Single-Family One Acre Estate District, to EU-S, Single-Family Suburban Estate District. Or in the alternative, the applicant is seeking to permit two lots with less lot area and lot frontage than required.
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<b>Applicable Zoning Code Section(s)</b>	Section 33-311, District Boundary Change Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations <i>(see attached Zoning Recommendation Addendum)</i>
<b>Recommendation</b>	<b>Approval with conditions of requests #3 and #4, and denial without prejudice of requests #1 and #2.</b>

**REQUESTS:**

1. DISTRICT BOUNDARY CHANGE from EU-1 to EU-S.
2. NON-USE VARIANCE to permit two lots with a lot frontage of 100' each (125' minimum required).

OR IN THE ALTERNATIVE TO REQUESTS #1 AND #2, THE FOLLOWING:

3. NON-USE VARIANCE to permit two lots with an area of 0.61 ± gross acre each (1 gross acre required).
4. NON-USE VARIANCE to permit two lots with a lot frontage of 100' each (125' minimum required).

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled, "Map of Boundary Survey" as prepared by Hadonne and dated stamped received 11/16/15 and consisting of 1 sheet. Plans may be modified at public hearing.

**PROJECT DESCRIPTION AND HISTORY:**

In December 2007, pursuant to Resolution #CZAB12-31-07, the subject property was denied without prejudice for a district boundary change from EU-1, Single-Family One Acre Estate District to EU-S, Single-Family Suburban Estate District, and alternative requests, to permit lots with areas of 0.671 gross acre each and less lot frontages. The Board also denied an additional request to permit a utility shed setback with the side property line. In April 2008, the Board of

County Commissioners, pursuant to Resolution #Z-12-08, which upheld Community Zoning Appeals Board 12’s decision and denied the appellant’s appeal.

In the present application the applicant is seeking EU-1 to EU-S with less lot frontage or in the alternative to subdivide the 1.12 acre parcel subject property into two (2) lots with each lot having an area of 0.61 ± gross and 100’ of frontage.

<b>NEIGHBORHOOD CHARACTERISTICS</b>		
	<b>Zoning and Existing Use</b>	<b>Land Use Designation</b>
<b>Subject Property</b>	EU-1; vacant lot	Estate Density Residential, (1 to 2.5 dua)
<b>North</b>	EU-1; single-family residence	Estate Density Residential, (1 to 2.5 dua)
<b>South</b>	EU- M; single-family residence	Estate Density Residential, (1 to 2.5 dua)
<b>East</b>	EU-M; vacant lot	Estate Density Residential, (1 to 2.5 dua)
<b>West</b>	EU-1; single-family residence	Estate Density Residential, (1 to 2.5 dua)

**NEIGHBORHOOD COMPATIBILITY:**

The subject property is a 1.12 acre site, located at 7677 Ponce De Leon Road, Miami-Dade County, Florida. The subject property is surrounded by EU-1 zoned properties to north, and west, and EU-M zoned properties to the south and east.

**SUMMARY OF IMPACT:**

The approval of this application could allow the applicant to subdivide the lot into two parcels and develop each lot with a single-family residence. This could result in additional impacts on schools and other public services in the area.

**COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:**

The Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map designates the site for **Estate Density Residential**. Said density designation would allow the applicant to develop the 1.12-acre parcel with two (2) single-family residences, which staff notes is within the maximum allowed under the density threshold of the CDMP Estate Density designation on the LUP map. As such staff opines that approval of the rezoning of the subject property to EU-S or the alternative requests resulting residential uses, would be **consistent** with the Estate Density Residential designation on the CDMP LUP map.

**ZONING ANALYSIS:**

When request #1 is analyzed under Section 33-311, District Boundary Change, and request #2, is analyzed under Section 33-311(A)(4)(b), Non-Use Variance Standards, staff opines that approval of the requests would be **incompatible** with the surrounding area. Staff does not support request #1, a district boundary change from EU-1 to EU-S and request #2, to permit 2 proposed lots each with a minimum lot frontage of 100’ (125’ required) for the following reasons: Staff notes that the subject property is located within the middle of the block and abuts properties to the north, south and east that are developed under the EU-1 zoning district regulations.

In the EU-1 zoning district, the front setback for a single-family residence is 50' from the property line and 28' for a car canopy. In the EU-S zoning district, the front setback is 35' from the front property line and 13' for a car canopy. In comparing the front setbacks for the EU-1 and EU-S zoning districts, staff notes that a residence in the EU-S zoning district could be placed closer to the front property line than that of a residence in the EU-1 zoning district. Therefore, staff opines that introducing the EU-S zoning district within this block, amidst the properties primarily developed under the EU-1 zoning regulations would be **incompatible** with the established developmental trend in this area of Miami-Dade County. Further, approving the EU-S zone change could potentially foster the introduction of more intensive residential zoning districts in this area.

Staff notes that there is a pocket of developed EU-M parcels to the west of the subject property that are similar in size to the proposed EU-S lots on the subject property. These EU-M lots are substantially smaller in size than the existing EU-1 lots on the block face on which the subject property is located. However, because these EU-M parcels are not located on the same block face as the subject property, staff is still of the opinion that approving the EU-S zone change would be incompatible.

In addition, staff opines that request #2, to permit two lots with a lot frontage of 100' each is inextricably intertwined with request #1 and is contingent on the approval of request #1, which staff does not support. **As such, staff recommends denial without prejudice of request #1 under Section 33-311, District Boundary Change, and denial without prejudice of request #2 under Section 33-311(A)(4)(b), the Non-Use Variance (NUV) Standards.**

However, when analyzing alternative requests to permit two lots with an area of 0.61 ± gross acre each (request #3) and to permit two lots with a lot frontage of 100' (request #4) each under Section 33-311(A)(4)(b), Non-Use Variances standards, staff opines that the requests are **compatible** with the surrounding area. As previously mentioned, in December 2007 and April 2008, the requests as to the subject property requested were denied by Resolutions #CZAB12-31-07 and #Z-12-08 by Community Zoning Appeals Board 12 and the Board of County Commissioners. Because the application received a final decision, under the doctrine of Administrative Res Judicata, the same requests should not thereafter be approved if resubmitted, absent a showing of changed circumstances. However, since the aforementioned denial in 2008, pursuant to Resolution #CZAB12-10-14, a property located northwest of the subject property at 7615 Ponce de Leon Road, was approved to permit the subdivision of a parcel to create two (2) separate lots. One parcel was 0.71 acre, with a lot frontage of 115' and the other lot was 0.61 acre with a lot frontage of 115'. Staff opines that this approval has created an essential change to the conditions in the immediate vicinity, and therefore, the Doctrine of Administrative Res Judicata would not prevent the board from again considering these requests.

Staff opines that the requested 0.61 area lots (request #3) would be in character with the area since there are a number of lots in the vicinity that are similar or smaller in size than those requested by the subject application. In addition to the property located at 7615 Ponce de Leon Road, staff notes that a neighboring property located northwest of the subject property at 7615 Ponce De Leon Blvd was subdivided pursuant to Resolution CZAB12-10-14 into one EU-1 zoned lot being approximately 0.70 acre and the second EU-1 zoned lot being approximately 0.60 acre. Staff further notes that to the north there is 0.55 acre EU-1 zoned parcel located at 4891 SW 76th Street, and further north, staff notes that a tract of land located between theoretical SW 48 Avenue and SW 49 Avenue and between SW 74 Street and SW 75 Street was approved pursuant to 4-ZAB-377-90 to permit six parcels with acreage ranging from 0.58 to 0.78 acres. In addition,

staff also notes that there is an approximately 0.53 acre EU-1 zoned parcel to the south, which is located at 7680 SW 48th Court. Therefore, staff opines that, the approval of the subdivision of the subject 1.12 acre parcel into two 0.61 ± gross acre each will be **compatible** with the surrounding neighborhood and will maintain the stability and residential appearance of same.

In regards to request #4 to permit two lots with a lot frontage of 100' each (125' minimum required), staff notes that the request is inextricably intertwined with request #3, which staff opines is compatible with the area. Further, staff's research of the area found similar or more intensive approvals for variances of lot coverages. For example, two parcels located at 7670 and 7690 Ponce de Leon Road were approved pursuant to Resolution 2-ZAB-79-61 to permit a minimum lot frontage of 78'. Therefore, staff opines that approval of the request would be in character with the surrounding area.

Therefore, staff opines that the approval of requests #3 and #4 would be compatible with the area and would maintain the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the stability and appearance of the community. **As such, Staff recommends approval with conditions of requests #3 and #4 under Section 33-311(A)(4)(b), Non-Use Variance Standards.**

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**ACCESS, CIRCULATION AND PARKING:** Not applicable.

**NEIGHBORHOOD SERVICES PROVIDER REVIEW:** See attached.

**OTHER:** Not applicable.

**RECOMMENDATION:** Approval with conditions of requests #3 and #4, and denial without prejudice of requests #1 and #2.

**CONDITIONS FOR APPROVAL:** Requests #3 and #4 only.

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Regulatory and Economic Resources or its successor upon the submittal of an application for a building permit and/or Certificate of Use; said plan must include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Map of Boundary Survey" as prepared by Hadonne and dated stamped received 11/16/15 and consisting of 1 sheet.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant remove the residential structures from the property as indicated on the site plan.
5. That the applicant comply with all applicable conditions and requirements, if any, from the Division of Environmental Resources Management (DERM) of the Department of Regulatory and Economic Resources in their memorandum dated January 22, 2016.
6. That the applicant comply with all applicable conditions and requirements, if any, from the Platting and Traffic Review section of the Department of Regulatory and Economic Resources in their memorandum dated December 1, 2015.

NK:MW:NN:CH:EJ



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

*NON*

# ZONING RECOMMENDATION ADDENDUM

*Melissa Wolin, Trustee of Ponce De Leon Trust*  
15-121

<b>NEIGHBORHOOD SERVICES PROVIDER COMMENTS</b>	
<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 objection</i>
<i>Water and Sewer Department</i>	<i>No objection</i>
<i>Fire Rescue</i>	<i>No objection</i>
<i>Schools</i>	<i>No comment</i>
<i>*Subject to conditions in their memorandum.</i>	

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

<b><i>Estate Density Residential (Pg. I-29)</i></b>	<i>This density range is typically characterized by detached estates which utilize only a small portion of the total parcel. Clustering, and a variety of housing types may, however, be authorized. The residential densities allowed in this category shall range from a minimum of 1.0 to a maximum of 2.5 units per gross acre.</i>
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## PERTINENT ZONING REQUIREMENTS/STANDARDS

<b><i>Section 33-311 District Boundary Change</i></b>	<p>(A) <i>The Community Zoning Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the County.</i></p> <p>(F) <b>Section 33-311</b> <i>provides that the Board shall take into consideration, among other factors the extent to which:</i></p> <ol style="list-style-type: none"> <li>(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></li> <li>(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></li> <li>(3) <i>The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;</i></li> <li>(4) <i>The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;</i></li> </ol>
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## ZONING RECOMMENDATION ADDENDUM

Melissa Wolin, Trustee of Ponce De Leon Trust  
15-121

	<p>(5) <i>The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.</i></p>
<p><b>Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations.</b></p>	<p><i>Upon appeal or direct application in specific cases, the Board shall hear and grant applications for <b>non-use variances</b> 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>