



CITY OF MIAMI GARDENS ZONING AGENDA

Meeting Date: July 6, 2011
1515 NW 167th St., Bldg. 5, Suite 200,
Miami Gardens, Florida 33169
Phone: (305) 622-8000 Fax: (305) 622-8001
Website: www.miamigardens-fl.gov
Time: 7:00 p.m.

Mayor Shirley Gibson
Vice Mayor Aaron Campbell Jr.
Councilwoman Lisa C Davis
Councilman André Williams
Councilwoman Felicia Robinson
Councilman David Williams Jr.
Councilman Oliver G. Gilbert III
City Manager Dr. Danny O. Crew
City Attorney Sonja K. Dickens
City Clerk Ronetta Taylor, MMC

City of Miami Gardens Ordinance No. 2007-09-115, requires all lobbyists before engaging in any lobbying activities to register with the City Clerk and pay an annual fee of \$250.00. This applies to all persons who are retained (whether paid or not) to represent a business entity or organization to influence “City” action. “City” action is broadly described to include the ranking and selection of professional consultants, and virtually all-legislative, quasi-judicial and administrative action. All not-for-profit organizations, local chamber and merchant groups, homeowner associations, or trade associations and unions must also register however an annual fee is not required.

- 1. CALL TO ORDER/ROLL CALL OF MEMBERS:**
- 2. INVOCATION:**
- 3. PLEDGE OF ALLEGIANCE:**
- 4. APPROVAL OF MINUTES:**
4-A) Regular Zoning Minutes – June 1, 2011
- 5. AGENDA ORDER OF BUSINESS
(ADDITIONS/DELETIONS/AMENDMENTS) BUSINESS (Items shall be pulled
from the Consent Agenda at this time):**

6. PRESENTATION(S):

6-A) Miami-Dade Historic Preservation Office

7. CONSENT AGENDA:

None

8. ORDINANCE(S) FIRST READING:

8-A) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 30-6 OF THE CITY'S CODE OF ORDINANCES RELATING TO FLOODS; AMENDING SECTION 30-16 ENTITLED "PROHIBITIONS"; AMENDING SECTION 30-36 ENTITLED "PERMIT PROCEDURES"; AMENDING SECTION 30-86 ENTITLED "SAME-DUTIES"; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

9. ORDINANCE(S) SECOND READING/PUBLIC HEARING(S):

None

10. RESOLUTION(S)/PUBLIC HEARING(S):

10-A) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY FDIC AS RECEIVER FOR REPUBLIC FEDERAL BANK, FOR A VARIANCE OF SECTION 34-342, TABLE 4 OF THE CITY'S LAND DEVELOPMENT REGULATIONS, TO ALLOW A MINIMUM MULTI-FAMILY APARTMENT DWELLING UNIT SIZE OF 552 SQUARE FEET, WHERE A MINIMUM MULTI-FAMILY APARTMENT DWELLING UNIT SIZE OF 800 SQUARE FEET IS REQUIRED; TO ALLOW AN AVERAGE MULTI-FAMILY APARTMENT DWELLING UNIT SIZE OF 575 SQUARE FEET, WHERE AN AVERAGE MULTI-FAMILY APARTMENT DWELLING UNIT SIZE OF 950 SQUARE FEET IS REQUIRED, RELATING TO PROPERTY MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; RELEASING THE DECLARATION OF RESTRICTIVE COVENANTS AS APPROVED BY RESOLUTION NO. 2006-27-373-Z-46, RECORDED IN OFFICIAL RECORDS BOOK 24827, PAGE 382 OF THE OFFICIAL RECORDS OF MIAMI DADE COUNTY, FLORIDA; AND APPROVING A NEW

DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

- 10-B) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY PUBLIC STORAGE PROPERTIES LIMITED, FOR A VARIANCE OF SECTION 34-677(1)(b)(c) OF THE CITY'S LAND DEVELOPMENT CODE, TO ALLOW A MONUMENT SIGN WITH A SIGN AREA OF 309.5 SQUARE FEET, WHERE A MAXIMUM SIGN AREA OF 150 SQUARE FEET IS ALLOWED, AND TO ALLOW A SIGN HEIGHT OF 25.0 FEET WHERE A MAXIMUM HEIGHT OF 15.0 FEET IS ALLOWED; A VARIANCE OF SECTION 34-657(f) TO ALLOW A MONUMENT SIGN TO BE SPACED 9.1 FEET FROM A BUILDING, WHERE A MINIMUM SPACING OF 10.0 FEET IS REQUIRED, FOR PROPERTY LOCATED AT 15760 N.W. 27TH AVENUE MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR CONDITIONS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)**

11. CITY MANAGER'S REPORT

12. ADJOURNMENT

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS WHO ARE DISABLED AND WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT RONETTA TAYLOR, CITY CLERK (305) 622-8003, NOT LATER THAN 48 HOURS PRIOR TO SUCH PROCEEDING. TDD NUMBER 1-800-955-8771.

ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM MAY CONTACT RONETTA TAYLOR, MMC, CITY CLERK (305) 622-8003.

ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE CITY OF MIAMI GARDENS WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

Please turn-off all beepers and cellular telephones to avoid interrupting the council meeting.



City of Miami Gardens Agenda Cover Memo

Council Meeting Date:	June 22, 2011		Item Type:	Resolution	Ordinance	Other	
			<i>(Enter X in box)</i>		X		
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1st Reading		2nd Reading	
		X			X		
			Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes	No
Funding Source:	N/A		Advertising Requirement: <i>(Enter X in box)</i>	Yes		No	
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:				
		X					
Strategic Plan Related <i>(Enter X in box)</i>	Yes	No	Strategic Plan Priority Area:	Strategic Plan Obj./Strategy: <i>(list the specific objective/strategy this item will address)</i>			
		X					
			Enhance Organizational <input type="checkbox"/> Bus. & Economic Dev <input type="checkbox"/> Public Safety <input type="checkbox"/> Quality of Education <input type="checkbox"/> Qual. of Life & City Image <input type="checkbox"/> Communication <input type="checkbox"/>				
Sponsor Name	Dr. Danny Crew, City Manager		Department:	Public Works			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 30-6 OF THE CITY'S CODE OF ORDINANCES RELATING TO FLOODS; AMENDING SECTION 30-16 ENTITLED "PROHIBITIONS"; AMENDING SECTION 30-36 ENTITLED "PERMIT PROCEDURES"; AMENDING SECTION 30-86 ENTITLED "SAME-DUTIES"; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE

Staff Summary:

Background

The City of Miami Gardens adopted its Floodplain Ordinance #2009-20-192 on September 8, 2009. This Ordinance ensures that residents and businesses are protected from potential damage that flood events can cause, and ensures the City's continual participation in the National Flood Insurance Program.

Current Situation

**ITEM 8A) ORDINANCE
FIRST READING
Amending the Floodplain Ordinance**

These propose amendments correct scrivener's errors in the original Ordinance #2009-20-192, adds language from Amendment Ordinance # 2009-29-201, and strengthens the language of the Code to ensure compliance with information provided on building permits.

Proposed Action:

The Public Works Department recommends approval of these amendments to Ordinance #2009-20-192.

Attachment:

Attachment A – Amended Ordinance

ORDINANCE NO. 2011 _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 30-6 OF THE CITY'S CODE OF ORDINANCES RELATING TO FLOODS; AMENDING SECTION 30-16 ENTITLED "PROHIBITIONS"; AMENDING SECTION 30-36 ENTITLED "PERMIT PROCEDURES"; AMENDING SECTION 30-86 ENTITLED "SAME-DUTIES"; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on September 8, 2009, the City adopted floodplain regulations to protect the City's residents and business from potential flood damage and to ensure compliance with the National Flood Insurance Program, and

WHEREAS, City staff recommends amending Chapter 30 to provide additional safeguards against flood damage,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. AMENDMENT: Section 30-6 of the City of Miami Gardens Code of Ordinance is hereby amended as follows:

Added language is underlined. Deleted language is stricken through.

Sec. 30-6. - Definitions.

Stormwater Runoff means precipitation from natural rainfall that flows over pervious or impervious surfaces.

Stormwater Management System is any system that is designed to retain, treat, properly dispose of or otherwise manage stormwater runoff.

Structure means for floodplain management purposes a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its' condition before the damage occurred would equal or exceed 50 percent of the market value of the structure.

Substantial improvement means any combination of reconstruction, rehabilitation, renovation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The cumulative cost shall be tracked by the city for 180 days from issuance date of a building permit ~~the start of construction~~. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions.

Added language is underlined. Deleted language is stricken through.

Section 3. AMENDMENT: Section 30-16 of the City of Miami Gardens

Code of Ordinances is hereby amended as follows:

Sec. 30-16. - Prohibitions.

-
- (d) It shall be unlawful and a violation of this Article to discharge any product, waste, litter, debris, or other materials other than stormwater runoff into stormwater management systems or bodies of water within the geographical boundaries of the City. Limited exceptions to this prohibition may be permitted by the City, based on review and approval by the Public Works Department.

Section 4. AMENDMENT: Section 30-36 of the City of Miami Gardens

Code of Ordinances is hereby amended as follows:

Sec. 30-36. - Permit procedures.

Application for a building permit shall be made to the city building department (~~building~~) on forms furnished by the department building prior to any development activities, including placement of manufactured homes, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the locations of the foregoing. Specifically, the following information is required, but is not necessarily limited to:

- (1) Application stage:
- a. Proposed elevation of the lowest floor that meets or exceeds in height the highest of the following elevations:

Added language is underlined. Deleted language is stricken through.

1. Highest adjacent crown-of-road plus eight inches.
 2. Miami-Dade County flood criteria plus eight inches.
 3. Base flood elevation as depicted on the current FIRM.
- b. Proposed elevations of all machinery, utilities and equipment servicing the structure, demonstrating compliance with the criteria established in subsection (1)a of this section;
 - c. Proposed elevation of the lowest adjacent grade of the exterior of the structure;
 - d. A sediment and erosion control plan that includes appropriate and adequate best management practices to retain sediment and stormwater runoff on a construction site, and prevent erosion at such site;
 - e. A stormwater management plan that demonstrates on-site retention of stormwater runoff;
 - f. Proposed elevation in relation to mean sea level to which any nonresidential building will be floodproofed;
 - g. Certificate from a registered professional engineer or architect that the nonresidential floodproofed building will meet the floodproofing criteria in section 30-64(2); and
 - h. Description of the extent to which any watercourse will be created, altered or relocated as a result of proposed development;

Added language is underlined. Deleted language is stricken through.

- i. For accessory structures, the lowest floor shall be elevated to a minimum of four inches above the highest adjacent grade. For accessory structures placed in special flood hazard areas, the design requirements in section 30-64(3) shall apply.

(2) Construction stage-:

- a. Upon the start of construction, the permit holder shall have in place a Sediment and Erosion Control Plan as approved in Section 30-36(1)(d) of this Article. Failure to comply with conditions of this approved Plan during construction shall be considered a violation of this Ordinance.
- b. Upon placement of the lowest floor, or before pouring the columns and/or tie beam, or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the floodplain administrator or building official a certification of the NGVD elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the lowest floor and floodproofing elevation survey data submitted. The permit

Added language is underlined. Deleted language is stricken through.

holder shall correct violations detected by such review immediately and prior to further progressive work being permitted. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project, or to initiate other appropriate enforcement action as warranted.

Section 5. AMENDMENT: Section 30-86 of the City of Miami Gardens

Code of Ordinances is hereby amended as follows:

Sec. 30-86. – Same- Duties.

- (a) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the public works director or floodplain administrator in the enforcement or administration of this article.
- (b) Any person aggrieved by any action of decision of the director of public works or floodplain administrator may appeal that decision by filing a written notice of appeal within 15 days after the date of the board action or decision. This notice shall set forth concisely the action or decision appealed and the reasons or grounds for the appeal.
- (c) The city manager shall designate City Clerk, or his or her designee, shall serve as ~~a member of his staff as~~ is the clerk of the board. Upon receipt of a timely filed appeal, the clerk of the board shall set such appeal for hearing at the earliest possible date, and cause notice thereof to be served upon the appellant and the director of public works. The board shall hear and consider all facts material to the appeal and render a decision promptly. The decision shall be in writing and shall be promptly mailed to the appellant. The board may affirm, reverse or modify the action of decision appealed, provided that the board shall not take any action, which conflicts with or nullifies any of the provisions of this article. The words "action" and

Added language is underlined. Deleted language is stricken through.

"decision" as used in the subsection shall not include the filing of any action by the city in any court.

Section 6. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 7. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 8. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the section of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

Section 9. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE ____ DAY OF _____,
2011.

PASSED ON SECOND READING ON THE ____ DAY OF _____,
2011.

Added language is underlined. Deleted language is stricken through.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF
MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE _____ DAY OF
_____, 2011.

SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: DR. DANNY O. CREW, CITY MANAGER

Moved by: _____
Second by: _____

VOTE: _____

Mayor Shirley Gibson	_____ (Yes)	_____ (No)
Vice Mayor Aaron Campbell, Jr.	_____ (Yes)	_____ (No)
Councilman David Williams Jr	_____ (Yes)	_____ (No)
Councilwoman Lisa Davis	_____ (Yes)	_____ (No)
Councilman Oliver Gilbert, III	_____ (Yes)	_____ (No)
Councilwoman Felicia Robinson	_____ (Yes)	_____ (No)
Councilman Andre' Williams	_____ (Yes)	_____ (No)

Added language is underlined. Deleted language is stricken through.

CITY OF MIAMI GARDENS

FLOODPLAIN MANAGEMENT ORDINANCE

ORDINANCE NO. 2009-20-192

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ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Florida has authorized and delegated in Chapter 166, Florida Statutes, the responsibility of local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Miami Gardens does hereby adopt the following floodplain management regulations.

SECTION B. FINDINGS OF FACT

- 1) The flood hazard areas of the City are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and government services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- 2) These flood losses and damage to the City are caused by: The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities; The occupancy in flood hazard areas of uses vulnerable to floods or hazardous to other lands, or which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages; And flooding caused by tropical weather systems, hurricanes, and other severe weather.

SECTION C. STATEMENT OF PURPOSE

- 1) It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by creating provisions designed to:
 - a. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights and velocities;

- b. Require that uses vulnerable to floods, including facilities which serve such uses be protected against flood damage throughout their intended life span;
- c. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- d. Control filling, grading, dredging and other development which may increase erosion or flood damage; and
- e. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES

The objectives of this Ordinance are to:

- 1) Protect human life and health, and to eliminate or minimize property damage;
- 2) Minimize expenditure of public money for costly flood control projects;
- 3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4) Minimize prolonged business interruptions;
- 5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, roadways, bridges and culverts located in floodplains;
- 6) Maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
- 7) Ensure that potential homebuyers are notified that property is in a Special Flood Hazard Area;
- 8) Comply with the standards of the National Flood Insurance Act and Federal Insurance Program; and
- 9) Provide for the continued availability of flood insurance for residents and Businesses in the City.

SECTION E. EFFECTIVE DATE OF NEW ORDINANCE

The provisions of this ordinance shall become effective upon the date of execution by the City Council. However, the provisions of this ordinance shall not apply to those buildings for which a building permit has been issued and is in effect prior to the execution date of this ordinance, provided that construction under the permit shall be commenced and progressively carried to a conclusion within 180 days of permit approval, or where an extension may be granted, within the time limits of that extension. For those buildings, Chapter 11C of the Code of Miami-Dade County, as adopted by reference by the City of Miami Gardens, shall apply.

ARTICLE II. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage, and to give this ordinance its' most reasonable application.

Accessory structure (Appurtenant structure) means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and shall be designed to have minimal flood damage potential.

Appeal means a request for a review of a decision of the director of public works or the floodplain administrator as it relates to interpretation of any provision of this ordinance.

Area of shallow flooding means a designated AO or AH Zone on the city's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard or Special Flood Hazard Area is the land in the floodplain within the city subject to a one- percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also called the “100-year flood” and the “regulatory flood”).

Base Flood Elevation means the water-surface elevation associated with the base flood; Referred to as BFE throughout this ordinance.

Basement means any portion of a building having its floor sub-grade (below ground level) on all sides.

Building – see **Structure**.

Building Official means the person at the city who has the chief responsibility for enforcement of the Building Code.

Crown of Road (Center Line) shall mean a line running parallel with the street right-of-way, which is half the distance between the extreme edges of the official right-of-way width as shown on a map approved by the City Department of Public Works or appropriate jurisdiction.

Datum means a reference surface used to ensure that all elevation records are properly related. The current national datum and the datum used in the city for the purpose of this ordinance is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level.

Development means any fabricated change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

Elevation Certificate means a document, signed and sealed by a licensed and registered land surveyor, which provides elevation information necessary to demonstrate compliance with this ordinance, and to properly rate structures for flood insurance.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, canal or other body of water, which may impede or alter the flow capacity of a floodplain or that canal or body of water.

Existing Construction means, for the purposes of floodplain management, structures for which “the start of construction” commenced before the date of the adoption of this ordinance. Existing construction, for the purposes of determining flood insurance rates, means structures for which the “start of construction” commenced before the effective date of the first FIRM or before January 1, 1975, for FIRMs effective before that date. This term may also be referred to as “existing structures”.

Existing or Natural Grade means the elevation of the ground surface prior to any fabricated change, such as filling, cutting, or other development activities.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this ordinance.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA is defined as the Federal Emergency Management Agency; FEMA is part of the Department of Homeland Security, and amongst other duties is responsible for enforcing provisions of the National Flood Insurance Program.

Flood or flooding means:

- A) A general and temporary condition of partial or complete inundation of normally dry land areas from:
1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
 3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (A) (2) of this definition and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- B) The collapse or subsidence of land along a shore of a lake or other body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (A) (1) of this definition.

Flood Insurance Rate Map (FIRM) means an official map of the city, issued by FEMA, which delineates both the areas of special flood hazard and the risk premium zones applicable to the city.

Flood Insurance Study (FIS) is the official hydraulic & hydrology report provided by FEMA. This study forms the basis for the creation of the accompanying FIRM. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water-surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards.

Floodplain means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

Floodplain Administrator is the individual appointed to administer and enforce this ordinance.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where

possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power which control development in flood-prone areas. This term describes federal, state of Florida, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

Floodproofing Certificate is a document, signed and sealed by a licensed surveyor or architect that documents all floodproofing designs, methods and elevations for a structure.

Freeboard means the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, blockage of bridge openings and hydrological effects of urbanization of the watershed that could contribute to flood heights greater than the heights calculated for a selected frequency flood and floodway condition.

Functionally dependent use means a use that cannot be used for its' intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hardship as related to variances from this ordinance means the exceptional difficulty associated with the use of the land that would result from a failure to grant the requested variance. A variance must be exceptional, unusual, and peculiar to the

property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors will not qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic Structure means any structure that is:

- A) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
- B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district:
- C) Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or
- D) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By the approved Florida program as determined by the Secretary of the Interior, or
 - 2. Directly by the Secretary of the Interior.

Lowest adjacent grade means the lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design standards of this ordinance.

Mangrove Stand means an assemblage of mangrove trees which are mostly low trees noted for a copious development of interlacing adventitious roots above ground and which contain one or more of the following species: Black mangrove (*Avicennia Nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Languncularia Racemosa*); and buttonwood (*Conocarpus Erecta*).

Manufactured home means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the property value excluding the land value and that of the detached accessory structures and other improvements on site, as established by what the local real estate market will bear. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), Actual Cash Value (replacement cost depreciated for age and quality of construction of building), adjusted tax-assessed values, or other reasonable methods as determined by the floodplain administrator.

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929.

Miami-Dade County Flood Criteria Maps shall mean the official maps of Miami-Dade County showing the required minimum finished grade elevations of the ground surface within a development site, and as adopted by the Board of County Commissioners and recorded in Plat Book 120 at Page 13-1, 13-2, 13-3, 13-4 and 13-5 of the Public Records of Miami-Dade County, as same may be amended from time to time.

National Geodetic Vertical Datum (NGVD) of 1929 means a vertical control used as a reference for establishing varying elevations within the floodplain.

New Construction means, for floodplain management purposes, any structure for which the “start of construction” commenced on or after June 18, 1974, which is the effective date of the initial floodplain management code, ordinance, or standard based upon specific technical base flood elevation data that establishes the area of special flood hazard. The term also includes any subsequent improvements to such structures. For flood insurance rates, new construction shall mean structures for which the start of construction commenced on or after the effective date of the date of an initial FIRM or after December 31, 1974, whichever is later. This definition includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management code, ordinance or standard.

Operational and Maintenance Plans are defined as the procedures a facility will use to ensure that the certified flood-proofing methods are used when an emergency occurs, and that the components of the flood-proofing method are maintained and tested regularly, to be ready for use in such an emergency.

Recreational vehicle means a vehicle that is:

- A) Built on a single chassis;
- B) 400 square feet or less when measured at the largest horizontal projection;
- C) Designed to be self-propelled or permanently towable by a light duty truck; and
- D) Designed primarily as temporary living quarters for recreational, camping, travel, or seasonal use, and not for use as a permanent dwelling.

Regulatory Flood shall mean the flood that has a one percent (1%) chance of being equaled or exceeded in any given year (also called the “100 year flood” or “base flood”).

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sand dune means naturally occurring accumulations of sand in ridges or mounds landward of the beach or other bodies of water.

Shallow flooding means the same as area of shallow flooding.

Special Flood Hazard Area means the same as area of special flood hazard.

Start of construction For other than new construction or substantial improvements under the Coastal Barrier Resources Act P. L. 97-348, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the date of the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Stormwater Runoff means natural rainfall after it has hit pervious or impervious ground surfaces. Stormwater runoff can sheet flow or be channeled or diverted to pervious ground surfaces, stormwater management systems, or can be disposed of by other legal or permitted means.

Stormwater Management System is any system that is designed to retain, treat, properly dispose of or otherwise manage stormwater runoff.

Structure means for floodplain management purposes a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before the damage occurred would equal or exceed 50 percent of the market value of the structure.

Substantial improvement means any combination of reconstruction, rehabilitation, renovation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. The cumulative cost shall be tracked by the City for 180 days from **issuance of the Building Permit**. ~~the start of construction~~. This term includes structures that have incurred “substantial damage” regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance is a grant of relief from the requirements of this ordinance.

Violation means the failure of a structure, other development or any action or work initiated to be fully compliant with the requirements of this ordinance. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel, canal or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water-surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas within the geographical boundary of the City.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) for the City, dated March 2, 1994, and including the FIRM Index date July 17, 1995, with the accompanying maps and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and Flood Insurance Rate Map are on file at the Public Works Department.

SECTION C. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The City Council of the City hereby appoints the Public Works Director or his designee, the floodplain administrator, to administer and implement the provisions of this ordinance, and is herein referred to as the floodplain administrator.

SECTION D. ESTABLISHMENT OF BUILDING PERMIT

A Building permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

SECTION E. COMPLIANCE

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

SECTION F. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION G. INTERPRETATION

In the interpretation and application of this ordinance all provisions shall be:

- 1) Considered as minimum requirements;
- 2) Liberally construed in favor of the governing body; and
- 3) Deemed neither to limit nor repeal any other powers granted under State of Florida statutes.

SECTION H. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by fabricated or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of The City Council of Miami Gardens or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION I. PENALTIES FOR VIOLATION

- 1) Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall be punishable as a non-criminal violation. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined not more than \$500 per violation, and in addition, shall pay all costs and expenses involved in the case. Each day that such violation continues shall be considered a separate offense. Hearings to dispute such violations shall be

- 2) Nothing herein contained shall prevent the city from taking such other lawful actions as is necessary to prevent or remedy any violation. Lawful actions may include but are not limited to stop work orders, issuance of Notices of Violation, injunctive relief, or other appropriate enforcement actions.

SECTION J. PROHIBITIONS

- 1) It shall be unlawful and a violation of this ordinance to dispose of any rainwater, stormwater runoff or other liquids by causing or allowing same to flow on, over or across any adjoining property, sidewalk, easement or right-of-way, either public or private. Such discharges shall be properly retained on the property where they originate or fall. Exceptions to this condition may be allowed on a limited basis for necessary repairs or refinishing of swimming pools, based on a case-by-case review and approval by the City Department of Public Works.
- 2) It shall be unlawful and a violation of this ordinance to encroach on or into any secondary or private canals, canal maintenance easements, or other surface waters within the City boundaries without the review and approval of the City's Department of Public Works.
- 3) For any new construction or substantial improvement, it shall be unlawful and a violation of this ordinance for any party to lower the elevation or otherwise cut down any existing or natural grades on a building site. An exception to this condition can consist of placement of stormwater management systems, as may be required by the City, Miami-Dade County, or South Florida Water Management District.
- 4) It shall be unlawful and a violation of this Ordinance to allow discharges of any product, waste, litter, debris, or other materials other than stormwater runoff into stormwater management systems or bodies of water within the geographical boundary of the City. Limited exceptions to this prohibition may be permitted by the City, based on a review and approval by the Public Works Department.

ARTICLE IV. ADMINISTRATION

SECTION A. PERMIT PROCEDURES

Application for a Building Permit shall be made to the City Building Department (Building) on forms furnished by Building prior to any development activities, including placement of manufactured homes, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the locations of the foregoing.

Specifically, the following information is required, but is not necessarily limited to:

- 1) Application Stage:
 - a) Proposed elevation of the lowest floor that meets or exceeds in height the highest of the following elevations:
 - i) Highest adjacent crown-of-road plus 8"
 - ii) Miami-Dade County Flood Criteria plus 8"
 - iii) Base Flood Elevation as depicted on the current FIRM
 - b) Proposed elevations of all machinery, utilities and equipment servicing the structure, demonstrating compliance with the criteria established in Section A. (1) a)
 - c) Proposed elevation of the lowest adjacent grade of the exterior of the structure
 - d) A Sediment and Erosion Control Plan that includes appropriate and adequate Best Management Practices to retain sediment and stormwater runoff on a construction site, and prevent erosion at such site.
 - e) A Stormwater Management Plan that demonstrates on-site retention of stormwater runoff.
 - f) Proposed elevation in relation to mean sea level to which any non-residential building will be flood-proofed;
 - g) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Article 5, Section B (2); and
 - h) Description of the extent to which any watercourse will be created, altered or relocated as a result of proposed development.
 - i) For accessory structures, the lowest floor shall be elevated to a minimum of 4" above the highest adjacent grade. For accessory structures placed in Special Flood Hazard Areas, the design requirements in Article V, Section B (3) shall apply.

2) Construction Stage:

- a) Upon start of construction, the permit holder shall have in place the Sediment and Erosion Control Plan as approved in Article IV, Section A 1) d) of this Ordinance. Failure to comply with conditions of this approved Plan during construction shall be considered a violation of this Ordinance.
- b) Failure to comply with the approved Stormwater Management Plan as submitted and approved in Article IV, Section A 1) e) shall be considered a violation of this Ordinance.
- c) Upon placement of the lowest floor, or before pouring the columns and/or tie beam, or flood-proofing by whatever construction means, it shall be the duty of the permit holder to submit to the floodplain administrator or Building Official a certification of the NGVD elevation of the lowest floor or flood-proofed elevation, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the lowest floor and flood-proofing elevation survey data submitted. The permit holder shall correct violations detected by such review immediately and prior to further progressive work being permitted. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project, or to initiate other appropriate enforcement action as warranted.

3) Completion of construction phase

- a) Upon completion of the project, after final grading and landscaping has been completed, it shall be the duty of the permit holder to submit to the floodplain administrator a signed and sealed Elevation Certificate showing NGVD elevations that demonstrate compliance with all elevations proposed in the Permit Application, and all elevation requirements established in this ordinance. The permit holder shall correct all deficiencies noted in the Certificate prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.
- b) For those projects with approved floodproofing designs, a signed and sealed as-built Floodproofing Certificate shall be submitted to the

floodplain administrator. Said Certificate must demonstrate compliance with this Ordinance and with the approved floodproofing design Certificate submitted at the Application Phase of development. Said Certificate must also include operational and maintenance plans as defined in this ordinance. Correction to any deficiencies noted in this Certificate must be corrected before issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.

SECTION B. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties of the floodplain administrator shall include, but are not limited to:

- 1) Review permits to assure the proposed project and adjacent properties are reasonably safe from flooding;
- 2) Review all development permits to assure that the permit requirements of this ordinance have been satisfied;
- 3) Require copies of additional Federal, State of Florida, or local permits, especially as they relate to Sections 161.053, 320.8249, 373.036, 380.05, 381.0065, and Chapter 553, Part IV (Florida Building Code), Florida Statutes;
- 4) Notify adjacent communities, the state Division of Emergency Management, Miami-Dade County, the South Florida Water Management District, the Federal Emergency Management Agency and other Federal and/or State of Florida agencies with statutory or regulatory authority prior to any creation, alteration or relocation of a watercourse;
- 5) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;
- 6) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved buildings, in accordance with Article 4, Section A;
- 7) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Article 4, Section A;
- 8) Review certified plans and specifications for compliance. When flood-proofing is utilized for a particular building, certification shall be obtained from a registered engineer or architect certifying that all areas of the building below the required

elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy in compliance with Article 5, Section B (2) of this ordinance;

- 9) Interpret the exact location of boundaries of Special Flood Hazard Areas. When there appears to be a conflict between a mapped boundary and actual field conditions, the floodplain administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance;
- 10) When base flood elevation data has not been provided in accordance with Article 3, Section B, the floodplain administrator shall, at his or her option, obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State of Florida, or any other source, in order to administer the provisions of Article 5, or may require this information from the Permittee;
- 11) Coordinate all change requests to the FIS and FIRM with the requester, State of Florida, Miami-Dade County and FEMA, and
- 12) Where Base Flood Elevation is utilized, obtain and maintain records of lowest floor and floodproofing elevations for new construction and substantial improvements in accordance with Article 5, Sections B (1) and (2), respectively.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of the City, all development sites including new construction and substantial improvements shall be reasonably safe from flooding, and meet the following provisions:

- 1) New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 4) 2) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors;

- 3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage for all areas below the base flood elevation;
- 4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage, both to the proposed structure and surrounding properties. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- 5) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood or ground waters;
- 7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- 8) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance shall meet the requirements of “new construction” as contained in this ordinance;
- 9) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced;
- 10) All applicable additional Federal, State of Florida, and local permits shall be obtained and submitted to The City’s Building Department. Copies of such permits shall be maintained on file with the building permit. State of Florida permits may include, but not be limited to the following:
 - a) South Florida Water Management District(s): in accordance with Section 373.036 (2)(a) Florida Statutes, Flood Protection and Floodplain Management.
 - b) Department of Community Affairs: in accordance with Section 380.05, Florida Statutes, Areas of Critical State Concern, and Chapter 553, Part IV Florida Statutes, Florida Building Code.
 - c) Department of Health: in accordance with Section 381.0065, Florida Statutes, Onsite Sewage Treatment and Disposal Systems.
 - d) Department of Environmental Protection, Coastal Construction Control Line: in accordance with Section 161.053 Florida Statutes, Coastal Construction and Excavation.

- 11) Standards for subdivision proposals and other proposed development (including manufactured homes):
- a) Such proposals shall be consistent with the need to minimize flood damage, both within the site and to properties adjacent to the site;
 - b) Subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
 - c) Proposals shall have adequate drainage provided to retain stormwater runoff within the project site, to reduce exposure to flood hazards for the proposed structures and adjacent properties;
 - d) Require base flood elevation data from the Applicant for subdivision proposals greater than fifty (50) lots or five (5) acres.

- 12) The following disclosure shall be required to be included in contracts for sale of real estate:

In any contract for the sale of improved real estate located in the City that is in a Special Flood Hazard Area, the seller shall include in the contract or a rider to the contract the following disclosure in not less than ten-point bold-faced type:

THIS HOME OR STRUCTURE IS LOCATED IN A SPECIAL FLOOD HAZARD AREA. IF THIS HOME OR STRUCTURE IS BELOW THE APPLICABLE FLOOD ELEVATION LEVEL AND IS SUBSTANTIALLY DAMAGED OR SUBSTANTIALLY IMPROVED, AS DEFINED IN THE CITY OF MIAMI GARDENS FLOODPLAIN MANAGEMENT ORDINANCE, IT MAY, AMONG OTHER REQUIREMENTS, BE REQUIRED TO BE RAISED TO THE CURRENT FLOOD ELEVATION LEVEL AS DEPICTED IN SAID ORDINANCE .

- 13) For all proposed development, when the proposal falls within a Special Flood Hazard Area having more than one BFE, the most stringent of the BFE's shall be used, as referenced in Article 4, Section A of this ordinance.
- 14) For all proposed development, and when the City provides flood hazard information to the public, it is a City determination that when any portion of a proposed structure falls within a Special Flood Hazard Area (SFHA), the entire structure is considered to be within the SFHA, and must comply with the standards specified for that SFHA.

SECTION B. SPECIFIC STANDARDS.

In all A-Zones where base flood elevation data have been provided (Zones AE, A1–30, and AH), as set forth in Article 3, Section B, and in addition to Article 5, Section A, the following provisions shall apply:

- 1) *Residential Construction.* All new construction and substantial improvement of any residential building, including manufactured home shall at a minimum have the lowest floor, including basement, elevated to the base flood elevation, and in accordance with the standards of Article 4, Section A of this ordinance. Should solid foundation perimeter walls be used to elevate a structure, for those enclosed areas below the base flood elevation there must be a minimum of two openings on different sides of each enclosed area sufficient to facilitate automatic equalization of flood hydrostatic forces in accordance with standards of Article 5, Section B (3).
- 2) *Non-Residential Construction.* All new construction or substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated to the base flood elevation, and in accordance with the standards of Article 4, Section A of this ordinance. All non-residential buildings located in the City may be flood-proofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one foot, and as required in Article 4, Section A are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied by using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the Operational and Maintenance Plans shall be provided to the floodplain administrator.
- 3) *Elevated Buildings.* New construction and substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space for the enclosed areas, and shall be designed to allow for the entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls.

- a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed the following minimum criteria:
 - i) Provide a minimum of two openings on different sides of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area;
 - ii) The bottom of all openings shall be no higher than one foot above adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade);
 - iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions;
 - iv) Electrical, plumbing and other utility connections are prohibited below the base flood elevation, and
 - v) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 - b) Fully enclosed areas below the base flood elevation shall be used solely for parking of vehicles, storage, and building access. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway, foyer or elevator);
 - c) A non-conversion agreement will be required to be signed by the property owner for all new construction that includes enclosed areas below the base flood elevation. This agreement shall include but not be limited to the following: "I hereby understand and agree as the owner of this property that enclosed areas that are below the base flood elevation are to be used only for parking, access and storage. I agree not to improve, finish or otherwise convert any enclosed areas below the required elevation to habitable or living space. I understand and agree that the City of Miami Gardens reserves the right to inspect such enclosures for compliance with this provision. I understand that this Agreement will be recorded with the Clerk of the Courts of Miami-Dade County."
- 4) Standards for Manufactured Homes and Recreational Vehicles
- a) All manufactured homes that are placed, or substantially improved within Zones A1-30, AH, and AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a new manufactured home park or

subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, (iv) in an existing manufactured home park, or (v) in a subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood, shall have the lowest floor elevated on a permanent foundation to the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- b) All recreational vehicles placed on sites within Zones A1-30, AH, and AE must either:
 - i) Be on the site for fewer than 180 consecutive days,
 - ii) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions), or
 - iii) Meet all the requirements for new construction, including anchoring and elevation requirements in accordance with Article 4A and 5A.

- 5) Adequate drainage, including on site retention and proper disposal of stormwater runoff, and paths around structures shall be provided to guide water away from structures.

ARTICLE VI. VARIANCE AND APPEAL PROCEDURES.

SECTION A. DESIGNATION OF VARIANCE AND APPEALS BOARD

The City Council hereby designates itself as the Variance and Appeals Board. The Board shall hear and decide appeals of final decisions of the public works director or Floodplain Administrator, and requests for variances from the requirements of this ordinance.

SECTION B. DUTIES OF VARIANCE AND APPEALS BOARD.

- 1) The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the public works director or floodplain administrator in the enforcement or administration of this ordinance.

- 2) Any person aggrieved by any action of decision of the director of public works or floodplain administrator may appeal that decision by filing a written notice of appeal within 15 days after the date of the Board action or decision. This notice shall set forth concisely the action or decision appealed and the reasons or grounds for the appeal.
- 3) The City Manager shall designate **the City Clerk** ~~a member of his staff~~ as the Clerk of the Board. Upon receipt of a timely filed appeal, the Clerk of the board shall set such appeal for hearing at the earliest possible date, and cause notice thereof to be served upon the appellant and the director of public works. The board shall hear and consider all facts material to the appeal and render a decision promptly. The decision shall be in writing and shall be promptly mailed to the appellant. The board may affirm, reverse or modify the action of decision appealed, provided that the board shall not take any action, which conflicts with or nullifies any of the provisions of this ordinance. The words “action” and “decision” as used in the subsection shall not include the filing of any action by the city in any court.
- 4) The board shall not have jurisdiction to reconsider the subject matter of any appeal after its’ final determination unless the board determines that:
 - a. There has been a material and substantial change in the circumstances.
 - b. There is newly discovered evidence that could not have been discovered through the use of due diligence prior to the original hearing and that will probably change the result if a re-hearing is granted; or
 - c. The board has overlooked or failed to consider something that renders the decision issued erroneous.

The director of public works or floodplain administrator may reconsider at any time any action or decision taken by him or her, and therefore may modify such an action or decision.
- 5) The decision of the board shall constitute final administrative review, and no hearing or reconsideration shall be considered except as provided in subsection (4) of this section.

SECTION C. VARIANCE AND APPEALS PROCEDURES.

In acting upon such Applications and Appeals, the Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and shall evaluate:

- 1) The danger that materials may be swept onto other lands to the injury of others;
- 2) The danger of life and property due to flooding or erosion damage;
- 3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 4) The importance of the services provided by the proposed facility to the city;
- 5) The necessity to the facility of a waterfront location, where applicable;
- 6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- 7) The compatibility of the proposed use with existing and anticipated development;
- 8) The relationship of the proposed use to the comprehensive development plan and floodplain management program for that area;
- 9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- 10) The expected heights, velocity, duration, rate of rise, and transport of sediment of the flood waters and the effects of wave action, if applicable, expected at the site;
- 11) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges;
- 12) The effects of such decisions on the continued participation of the City in the National Flood Insurance Program; and
- 13) The effects of Variance and Appeal approvals on possible suspension or probation of the City from the National Flood Insurance Program, including flood insurance premium penalties, loss of continued availability of flood insurance and loss of disaster assistance for City residents and businesses.

SECTION D. CONDITIONS FOR VARIANCES AND APPEALS.

- 1) Variances and Appeals shall only be issued when there is:
 - a) A showing of good and sufficient cause;
 - b) A Determination that failure to grant the Variance or Appeal would result in exceptional hardship; and
 - c) A determination that the granting of a Variance or Appeal will not result in increased flood heights, additional threats to public expense, create a

- 2) Variances or Appeals shall only be issued upon a determination that such action is the minimum necessary deviation from the requirements of this ordinance.
- 3) Variances shall not be granted after-the-fact.
- 4) The floodplain administrator shall maintain the records of all Variance and Appeal actions, including justification for their issuance or denial, and report variances in the community's NFIP Biennial Report or upon request to FEMA and the State of Florida, NFIP Coordinating Office.
- 5) The Variance and Appeals Board may place special conditions on any Variance or Appeal issued.

SECTION E. VARIANCE NOTIFICATION.

Any applicant or owner to whom a Variance is granted shall be given written notice from the Director of Public Works certifying that:

- 1) The issuance of a Variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
- 2) Such construction below the base flood level or other non-compliance with provisions of this ordinance increases risks to life and property.

A copy of the Variance shall be recorded by the floodplain administrator in the Office of the Clerk of the Court, and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

SECTION F. APPEALS

Any person aggrieved by the decision of the board may appeal such decision to the Circuit Court of Miami-Dade County. Such appeal shall not be a hearing de novo, but shall be limited to the record created before the Variance and Appeals Board.

SECTION G. HISTORIC STRUCTURES.

Variations may be issued for the repair or rehabilitation of “historic” structures – meeting the definition in this ordinance – upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a “historic” structure.

Ordinance 2009-20-192, Amendment Ord. 2009-29-201



City of Miami Gardens Zoning Agenda Memo

Zoning Board Meeting Date:	July 6, 2011		Item Type: <i>(Enter X in box)</i>	Resolution X	Ordinance	Other	
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1 st Reading		2 nd Reading	
		x		Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes
					X		
Funding Source:	<i>(Enter Fund & Dept)</i>		Advertising Requirement:	Yes		No	
					x		
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:				
		X					
Strategic Plan Related:	Yes	No	Strategic Plan Priority Area: Enhance Organizational <input type="checkbox"/> Bus. & Economic Dev <input type="checkbox"/> Public Safety <input type="checkbox"/> Quality of Education <input type="checkbox"/> Qual. of Life & City Image <input type="checkbox"/> Communication <input type="checkbox"/>	Strategic Plan Obj./Strategy: N/A			
		X					
Sponsor Name:	Dr. Danny Crew, City Manager		Department:	Planning and Zoning Department			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY FDIC AS RECEIVER FOR REPUBLIC FEDERAL BANK, FOR A VARIANCE OF SECTION 34-342, TABLE 4 OF THE CITY'S LAND DEVELOPMENT REGULATIONS, TO ALLOW A MINIMUM MULTI-FAMILY APARTMENT DWELLING UNIT SIZE OF 552 SQUARE FEET, WHERE A MINIMUM MULTI-FAMILY APARTMENT DWELLING UNIT SIZE OF 800 SQUARE FEET IS REQUIRED; TO ALLOW AN AVERAGE MULTI-FAMILY APARTMENT DWELLING UNIT SIZE OF 575 SQUARE FEET, WHERE AN AVERAGE MULTI-FAMILY APARTMENT DWELLING UNIT SIZE OF 950 SQUARE FEET IS REQUIRED, RELATING TO PROPERTY MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; RELEASING THE DECLARATION OF RESTRICTIVE COVENANTS AS APPROVED BY RESOLUTION NO. 2006-27-373-Z-46, RECORDED IN OFFICIAL RECORDS BOOK 24827, PAGE 382 OF THE OFFICIAL RECORDS OF MIAMI DADE COUNTY, FLORIDA; AND APPROVING A NEW DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

**ITEM 10A) RESOLUTION/PUBLIC HEARING
Application submitted by FDIC**

Staff Summary:

Background

In April 2010 the City adopted the Land Development Regulations (LDRs) which, in part, regulated the minimum multi-family apartment dwelling unit sizes and the average multi-family apartment dwelling unit sizes overall within a development.

- Minimum size for one or more bedroom units is 800 square feet with an overall average of 950 square feet when all the units for the development are factored in. These regulations were adopted primarily to assure that all new residential development would be of a quality and standard consistent with market rate units and to avoid smaller units which lead to overly dense developments and congestion degrading the quality of life and housing standards that the City is striving to avoid. These unit size regulations are supported with multi-family residential development design guidelines plus special housing management and maintenance conditions and stipulations that were also adopted as part of the City's Land Development Regulations to assure quality residential developments.
- The property was previously approved by Resolution 2006-27-373-Z-46 to allow a 154 unit townhouse development which also included the acceptance of a proffered Declaration of Restrictions on the development. That declaration included a \$200,000 contribution to Buccaneer Park.
- The development commenced but was abandoned with only partial improvement of water, sewer and paving infrastructure being completed on the property.

Current Situation

The applicant, FDIC as Corporation as Receiver of Republic Federal Bank, under contract with RUDG, LLC, and represented by Alan S. Kirscher, Esq. seeks approval to develop the partially improved 7.94 acre parcel of land located at southwest corner of N.W. 27 Avenue and N.W. 207 Street with an elderly multi-family housing development of 189 units; to be followed with the future development of a mix use market rate multi-family housing and commercial development on the remainder of the property.

- The elderly housing phase of the development proposes 165 one bedroom units and 24 two bedroom units with a minimum unit size of 552 square feet and an average unit size of 575 square feet. The requested reduced minimum unit size and average size requires the granting of variances to allow the development to proceed as proposed.
- Additional development phases will be a mix use residential commercial development in accordance to the property's Planned Corridor Development zoning designation (PCD) that will be subject to the City's Development Review Committee (DRC) review and administrative site plan review.
- The proposed 189 elderly housing development and future mix use development requires that the Declaration of Restrictions proffered with the previous townhouse development approval in 2006 be released thereby abandoning the previous approval, plans and stipulations for development. City staff is requiring a new Declaration of Restrictive Covenant be proffered with the granting of the variances that will include the donation to Buccaneer Park.

Proposed Action:

Recommend that the Council approve a Resolution subject to the following conditions which are summarized:

1. That the Applicant proffer a Declaration of Restrictive Covenants (Exhibit "C") containing the terms and conditions of the approval prior to issuance of a building permit on the property.
2. That the previously approved contribution to Buccaneer Park will be retained.

3. That 15 stipulations and conditions related to housing maintenance, leasing and other quality items be required to insure continued quality of maintenance and management of the development.
4. That, in addition to elderly housing phase, the project will include recreational and park amenities for residents, a commercial development site facing NW 27 Avenue and an additional market rate housing phase.

Attachments:

- Exhibit "A", Legal Description
 - Exhibit "C", Declaration of Restrictive Covenants
 - Exhibit "B", Staff Recommendation
-

RESOLUTION

RESOLUTION NO. 2011_____

1
2
3 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
4 MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION
5 SUBMITTED BY FDIC AS RECEIVER FOR REPUBLIC FEDERAL
6 BANK, FOR A VARIANCE OF SECTION 34-342, TABLE 4 OF
7 THE CITY'S LAND DEVELOPMENT REGULATIONS, TO ALLOW
8 A MINIMUM MULTI-FAMILY APARTMENT DWELLING UNIT SIZE
9 OF 552 SQUARE FEET, WHERE A MINIMUM MULTI-FAMILY
10 APARTMENT DWELLING UNIT SIZE OF 800 SQUARE FEET IS
11 REQUIRED; TO ALLOW AN AVERAGE MULTI-FAMILY
12 APARTMENT DWELLING UNIT SIZE OF 575 SQUARE FEET,
13 WHERE AN AVERAGE MULTI-FAMILY APARTMENT DWELLING
14 UNIT SIZE OF 950 SQUARE FEET IS REQUIRED, RELATING TO
15 PROPERTY MORE PARTICULARLY DESCRIBED ON EXHIBIT
16 "A" ATTACHED HERETO; RELEASING THE DECLARATION OF
17 RESTRICTIVE COVENANTS AS APPROVED BY RESOLUTION
18 NO. 2006-27-373-Z-46, RECORDED IN OFFICIAL RECORDS
19 BOOK 24827, PAGE 382 OF THE OFFICIAL RECORDS OF
20 MIAMI DADE COUNTY, FLORIDA; AND APPROVING A NEW
21 DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING
22 FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING
23 FOR AN EFFECTIVE DATE.
24

25 WHEREAS, Applicant, FDIC as Receiver of Republic Federal Bank under
26 contract with RUDG, LLC, is seeking approval to develop the partially improved 7.94
27 acre of parcel located at the southwest corner of N.W. 27th Avenue and N.W. 207
28 Street, with an elderly multi-family housing development of 189 units, and

29 WHEREAS, the elderly housing development will consist of 165 one (1) bedroom
30 units and twenty-four (24) two (2) bedroom units with a minimum unit size of 552 square
31 and an average unit size of 575 feet, and

32 WHEREAS, the Applicant has filed an Application requesting the following
33 variances:

34 A. Variance of Section 34-342, Table 4 of the Land
35 Development Regulations to allow a minimum multi-family apartment
36 dwelling unit size of 552 square feet, where a minimum multi-family
37 apartment dwelling unit size of 800 square feet is required;
38

39 B. Variance of Section 34-342, Table 4 of the Land
40 Development Regulations to allow an average multi-family apartment

41 dwelling unit size of 575 square feet, where an average multi-family
42 apartment dwelling unit size of 950 square feet is required; and
43

44 C. The release of Declaration of Restrictions as proffered and
45 adopted by City of Miami Gardens Resolution No. 2006-27-373-Z-46 as
46 recorded in Official Records Book 24827, page 382 of Official Records of
47 Miami-Dade County, Florida in accordance to section 34-52(e)(3)(a).
48

49 WHEREAS, City staff recommends approval of the application, and

50 WHEREAS, City Council has considered the testimony of the Applicant, if any,

51 and

52 WHEREAS, City Council has also considered testimony of the City's Planning
53 and Zoning staff, and the staff report attached hereto as Exhibit "B", and incorporated
54 herein by reference,

55 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
56 OF MIAMI GARDENS, FLORIDA AS FOLLOWS:

57 Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas
58 paragraphs are hereby ratified and confirmed as being true, and the same are hereby
59 made a specific part of this Resolution.

60 Section 2: AUTHORIZATION: The City Council of the City of Miami Gardens
61 hereby approves the application submitted by FDIC as Receiver of Republic Federal
62 Bank for the following:

63 A. Variance of section 34-342, Table 4 of the Land
64 Development Regulations to allow a minimum multi-family apartment
65 dwelling unit size of 552 square feet where a minimum multi-family
66 apartment dwelling unit size of 800 square feet is required;
67

68 B. Variance of section 34-342, Table 4 of the Land
69 Development Regulations to allow an average multi-family apartment
70 dwelling unit size of 575 square feet where an average multi-family
71 apartment dwelling unit size of 950 square feet is required; and
72

73 C. The release of Declaration of Restrictions as proffered and
74 adopted by City of Miami Gardens Resolution No. 2006-27-373-Z-46 as

75 recorded in Official Records Book 24827, page 382 of Official Records of
76 Miami-Dade County, Florida in accordance to section 34-52(e)(3)(a).

77
78 Section 3: DECLARATION OF RESTRICTIVE COVENANTS: The City
79 Council hereby approves and accepts that Declaration of Restrictive Covenants
80 attached hereto as Exhibit C.

81 Section 4: EFFECTIVE DATE: This Resolution shall take effect immediately
82 upon its final passage.

83 PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI
84 GARDENS AT ITS ZONING MEETING HELD ON _____, 2011.

85

86

87

SHIRLEY GIBSON, MAYOR

88

89

90 **ATTEST:**

91

92

93

94 RONETTA TAYLOR, MMC, CITY CLERK

95

96

97 PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

98

99

100 SPONSORED BY: DR. DANNY O. CREW, CITY MANAGER

101

102 Moved by: _____

103

104 **VOTE:** _____

105

106 Mayor Shirley Gibson _____ (Yes) _____ (No)

107 Vice Mayor Aaron Campbell, Jr. _____ (Yes) _____ (No)

108 Councilman David Williams Jr. _____ (Yes) _____ (No)

109 Councilwoman Lisa Davis _____ (Yes) _____ (No)

110 Councilman Oliver Gilbert, III _____ (Yes) _____ (No)

111 Councilwoman Felicia Robinson _____ (Yes) _____ (No)

112 Councilman Andre' Williams _____ (Yes) _____ (No)

113

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT "A"
LEGAL DESCRIPTION

Tract "A"

Folio No. 34 11330030130

33 51 41 2.25 AC SUB OF PART OF PB 2-75 E625FT OF TR 35 LESS SNAKE CREEK CANAL R/W & LESS E175FT FOR R/W LOT SIZE IRREGULAR OR 12755-832 1185 5

Entire Tract

Folio No. 34 11330030110 and *Folio No. 34* 11330030130

33 51 41 4.586 AC M/L SUB OF PART OF PB 2-75 E625FT OF TRS 33 & 34 LESS BEG 405FTW & 41.27FTS OF E1/4 COR OF SEC TH ELY 143.81FT SELY 124.03FT

And;

33 51 41 2.25 AC SUB OF PART OF PB 2-75 E625FT OF TR 35 LESS SNAKE CREEK CANAL R/W & LESS E175FT FOR R/W LOT SIZE IRREGULAR OR 12755-832 1185 5

**EXHIBIT “C”
DECLARATION OF RESTRICTIVE COVENANTS**



Return to: (enclose self-addressed stamped envelope)

Name: Ronetta Taylor, City Clerk
1515 N.W. 167th Street
Building 5, Suite 200
Miami Gardens, Florida 33169

This Instrument Prepared by:

Sonja K. Dickens, Esquire
1515 N.W. 167th Street
Building 5, Suite 200
Miami Gardens, Florida 33169

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

DECLARATION OF RESTRICTIONS

WHEREAS, Applicant, FDIC as Receiver of Republic Federal Bank under contract with RUDG, LLC is seeking approval to develop the partially improved 7.94 acre of parcel located at the southwest corner of N.W. 27th Avenue and N.W. 207 Street with an elderly multi-family housing development of 189 units, and

WHEREAS, the elderly housing development will consist of 165 one (1) bedroom units and twenty-four (24) two (2) bedroom units with a minimum unit size of 552 square and an average unit size of 575 feet, and

WHEREAS, the Applicant has filed an Application requesting the following variances:

A. Variance of Section 34-342, Table 4 of the Land Development Regulations, to allow a minimum multi-family apartment dwelling unit size of 552 square feet where a minimum multi-family apartment dwelling unit size of 800 square feet is required;

B. Variance of Section 34-342, Table 4 of the Land Development Regulations, to allow an average multi-family apartment dwelling unit size of 575 square feet where an average multi-family apartment dwelling unit size of 950 square feet is required; and

C. The release of Declaration of Restrictions as proffered and adopted by City of Miami Gardens Resolution No. 2006-27-373-Z-46 as recorded in Official Records Book 24827, page 382 of Official Records of Miami-Dade County, Florida in accordance to section 34-52(e)(3)(a).

IN ORDER TO ASSURE the City of Miami Gardens that the representations made by the Applicant will be abided by, the Applicant, subject only to conditions contained herein, freely, voluntarily and without duress, makes the following Declaration of Restrictions covering and running with the Property:

1. **Plans**. That the plans submitted for building permit be substantially in compliance with plans submitted with this application titled “The Commons” as prepared by Modis Architects, consisting of cover sheet, sheets A2.1, A3.1, A3.2, A3.3, A4.1, A4.2, dated 05-18-11.
2. **Landscape plans**. That the applicant submit, obtain approval of a landscape plan from the Planning and Zoning Department prior to the issuance of building permit, said plans meeting the approval of the Planning and Zoning Department.
3. **Variance**. That the approval of the unit size variances shall be limited to and restricted to the property more specifically described as “Tract A” on the legal description.
4. **Age**. That the use of the property on “Tract A” shall be specifically limited to and restricted to elderly housing with the minimum age of residents being not less than 55 years of age.
5. **Site plan approval required**. That any future development of the property, not depicted on the submitted plans shall be subject to the City’s Development Review Committee (DRC) review; shall comply with the City’s Land Development Regulations and shall require Site Plan Approval from the Planning and Zoning Department prior to issuance of building permit on any future development.
6. **Parking analysis required**. That a parking analysis be submitted to and meet the approval of the Planning and Zoning Department justifying the parking requirements for the elderly housing as required by the City’s LDRs within sixty (60) days of this approval or prior to issuance of building permit, whichever is earlier.

7. **School concurrency.** That the applicant complete and comply with any findings for school concurrency prior to the issuance of building permit.
8. **Abandonment of previous approval.** That the previously approved development by City Resolution No. 2006-27-373-Z-46 be considered abandoned and no vested rights shall be sought for any development rights previously granted.
9. **Release of Declaration of Restrictions.** That the terms and conditions of the Declaration of Restrictions as recorded in Official Records Book 24827, page 382 of Official Records of Miami-Dade County, shall be released with the proffering of a new Declaration of Restrictive Covenants.
10. **Design standards multi-family residential.** The elderly residential buildings and future residential buildings shall be subject to review of multi-family design standards as set forth in section 34-414 of the LDRs prior to site plan approval and issuance of building permit.
11. **Design standards commercial development.** The future commercial development shall be subject to review of the design standards for the Planned Corridor Development district as set forth in section 34-415 of the LDRs prior to site plan approval and issuance of building permit.
12. **CPTED.** The applicant shall provide the Planning and Zoning Department with an outline of the Crime Prevention Through Environmental Design (CPTED) strategy; said strategy shall meet the approval of the administrative official prior to issuance of building permit.
13. **Sidewalks.** The applicant shall provide the required 10' wide sidewalk adjacent to the site along N.W. 27 Avenue or provide a contribution of funds in lieu of contribution in accordance to section 34-219 of the LDRs prior to issuance of building permit.
14. **Pedestrian amenities.** The applicant shall provide pedestrian amenities and interconnectivity throughout the entire development from N.W. 27 Avenue and N.W. 207 Street; which may include, but not limited to, crosswalks, bus shelters; signals; subject to site plan review approval.
15. **Landscaping in right-of-ways.** The applicant may be required to provide landscaping in the medians along N.W. 27 Avenue and N.W. 207 Street, meeting the approval of the Public Works Department; subject to site plan review approval.

16. **Street lighting.** The applicant shall provide street lights throughout the development, which may include, but not limited to adjacent to and proximate to the site; subject to site plan review approval.
17. **Commencement of development.** The development shall commence and an active building permit maintained within 36 months of site plan approval, in accordance and subject to section 34-53 of the LDRs.
18. **Construction fence, removal of construction debris and construction storage.** Construction fence(s) shall be provided on the property under construction; all construction debris shall be removed from the property; and the storage of construction materials shall meet the approval of the Building Official.
19. **Association required.** The applicant shall provide the renter's or homeowners' association rules governing the development and the requirement to create such association shall be required prior to the issuance of a certificate of use; said rules shall be subject to the approval of the Administrative Official, which shall include, but not limited to;
 - a. Rental and/or leasing restrictions and stipulations imposed upon renters, visitors and/or owners of residential units including but not limited to written approval of the owner or board of directors of the homeowners' association for renting/leasing, background check requirements, lease purchase provisions, related conditions relative timeframes, related stipulation for specific units, and any other similar or related provisions deemed appropriate and necessary to insure continued maintenance of the development;
 - b. Requirements to insure perpetual maintenance of common areas, including but not limited to recreational and landscaped areas, on the property as funded by the owner, homeowners' association or management;
 - c. In-ground irrigation system installed, maintained, and operated to service all areas of the property;
 - d. Scheduled lawn mowing and pruning of landscape related to growing season;
 - e. Prohibiting resident or guest vehicles on any public or private roads, lawns, or swale areas;
 - f. Prohibiting the enclosure of garages to create additional living space;

- g. Prohibiting derelict or abandoned vehicles on the property;
 - h. Removal of graffiti within a specified timeframe;
 - i. Repair of potholes within a specified timeframe;
 - j. Repair of damage to perimeter fences or walls within specified timeframe;
 - k. Preventing the amount of impervious parking area in the front of any building or residential unit to be increased beyond that depicted on the submitted development plans;
 - l. Posting of operational and maintenance restrictions in open view in a common area or designated location at all times.
20. **Scheduled painting.** Applicant shall paint the exterior buildings, walls and other structures every ten (10) years from initial issuance of Certificate of Occupancy or earlier if deemed necessary by the Administrative Official.
21. **Buccaneer Park improvements.** Prior to the issuance of a certificate of use and occupancy for any improvements within the Property, the Owner shall make or cause to be made a contribution of the sum of \$200,000.00 to the City of Miami Gardens Special Revenue Fund, to be specifically designated to pay for the park improvements at Buccaneer Park; said improvements to be determined by the City.
22. **City Inspection.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of the City, 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.
23. **Covenant Running With The Land.** This Declaration on the part of the Applicant shall constitute a covenant running with the land and shall remain in full force and effect and be binding upon the Applicant, and his 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 public welfare.

24. **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming from the date this Declaration is recorded. This Declaration shall be in effect for a period of thirty (30) years from the date of recordation in the public records of Miami-Dade County, Florida, after which time it shall be automatically extended for periods of ten (10) years. This Declaration may be modified, amended or released as to the Property or any portion thereof by a written instrument executed by the then Applicant(s) of the Property, and applicable mortgagees, if any, provided that same is approved by the City Council after public hearing. In such event, the Mayor or City Manager shall execute a written instrument suitable for recordation acknowledging such modification, amendment or release.
25. **Modification, Amendment, Release.** This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the City, or other procedure permitted under the City's Code, whichever by law has jurisdiction over such matters, after public hearing.
26. **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 judge to be reasonable for attorney fees. This enforcement provision shall be in addition to any other remedies available at law or in equity. Jurisdiction shall be proper in Miami-Dade County.
27. **Authorization for Miami Gardens to Withhold Permits and Inspections.** In the event the terms of this Declaration are not complied with, in addition to any other remedies available, the City 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.
28. **Executed Copy to be provided to the City. Executed Copy to be provided to the City Clerk.** The Applicant shall be fully responsible for providing to the City Clerk an original and fully executed copy of the Declaration of Restrictions within thirty (30) days of the approval of this request by the City Council, unless an appeal is filed or otherwise the Director, for good cause shown, grants a time extension. If this is not accomplished, the approval shall become null and void. If circumstances prevent the Applicant from complying with this timeframe condition, the

Applicant may request, in writing, an extension of said thirty-day timeframe in writing to the Development Services Director, who is authorized to take such action upon the request to approve, disapprove or approve with conditions such request.

29. **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.
30. **Recording.** The City, at Applicant's expense following the approval of the same by the City of Miami Gardens, shall file this Declaration of record in the Public Records of Miami-Dade County, Florida.
31. **Acceptance of Declaration.** Applicant acknowledges that acceptance of this Declaration does not obligate the City in any manner, nor does it entitle Applicant to a favorable recommendation or approval of any application, zoning or otherwise, and the City Council retains its full power and authority to deny each such application in whole or in part, and to decline to accept any conveyance.
32. **Applicant.** The term Applicant shall include the Applicant, and its heirs, successors and assigns.
33. **Waiver.** Each and every covenant and agreement contained herein shall be for any and all purposes hereof construed as separate and independent and the breach of any covenant by any party shall not release or discharge such party from its obligations hereunder. No delay or omission by any party to exercise its rights accruing upon any noncompliance or failure of performance by any party shall impair any such right or be construed to be a waiver thereof. A waiver by any party hereto of any of the covenants, conditions or agreements to be performed by any other party shall not be construed to be a waiver of any succeeding breach or of any other covenants, conditions or agreements contained herein.
34. **Severability.** All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any then applicable law and shall be limited to the extent necessary to render the real covenants herein valid and enforceable. If any term, provision, covenant or agreement contained herein or the application thereof to any person, entity or circumstance shall be held to be invalid, illegal or unenforceable, the validity of the remaining terms, provisions, covenants or agreements or the application of such term, provision, covenant or

agreement to persons, entities or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

- 35. **Entire Agreement.** This Agreement and the exhibits attached hereto contain the entire agreement between the parties hereto with respect to the subject matter hereof. This Agreement and exhibits supersede any prior correspondence, memoranda or agreements in total hereto.
- 36. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

IN WITNESS WHEREOF, Applicant has executed this Declaration.

FDIC, as Receiver of Republic Federal Bank

Print Name:_____

By its Attorney-in-Fact:

Signature

Print Name:_____

Print Name

Print Name:_____

Date

Print Name: _____

The City of Miami Gardens, hereby accepts this Declaration of Restrictions hereby made by _____.

CITY OF MIAMI GARDENS, FLORIDA

Attest:

City Clerk

By: _____
Mayor Shirley S. Gibson

Date: _____

**EXHIBIT “B”
STAFF RECOMMENDATION**

STAFF RECOMMENDATION PH-2010-000067

APPLICATION INFORMATION

Applicant: FDIC as Receiver for Republic Federal Bank
Property Location: 20000 N.W. 27 Avenue
Property Size: 7.94 acres
Future Land Use: Commerce
Existing Zoning: R-50, Multi-Family, PCD, Planned Corridor Development
Requested Action(s):

1. Variance of section 34-342, Table 4 to allow a minimum multi-family apartment dwelling unit size of 552 square feet where a minimum multi-family apartment dwelling unit size of 800 square feet is required, on Tract "A";
2. Variance of section 34-342, Table 4 to allow an average multi-family apartment dwelling unit size of 575 square feet where an average multi-family apartment dwelling unit size of 950 square feet is required, on Tract "A";
3. The release of Declaration of Restrictions as proffered and adopted by City of Miami Gardens Resolution No. 2006-27-373-Z-46 as recorded in Official Records Book 24827, page 382 of Official Records of Miami-Dade County, Florida in accordance to section 34-52(e)(3)(a), on Entire Property.

RECOMMENDATION:

Staff recommends approval of the Resolution with conditions. The conditions are as follows:

1. Plans. That the plans submitted for building permit be substantially in compliance with plans submitted with this application titled "The Commons" as prepared by Modis Architects, consisting of cover sheet, sheets A2.1, A3.1, A3.2, A3.3, A4.1, A4.2, dated 05-18-11.
2. Landscape plans. That the applicant submit, obtain approval of a landscape plan from the Planning and Zoning Department prior to the issuance of building permit, said plans meeting the approval of the Planning and Zoning Department.
3. Variance. That the approval of the unit size variances shall be limited to and restricted to the property more specifically described as "Tract A" on the legal description.
4. Age. That the use of the property on "Tract A" shall be specifically limited to and restricted to elderly housing with the minimum age of residents being not less than 55 years of age.
5. Site plan approval required. That any future development of the property, not depicted on the submitted plans shall be subject to the City's Development Review Committee (DRC) review; shall comply with the City's Land Development Regulations and shall require Site Plan Approval from the Planning and Zoning Department prior to issuance of building permit on any future development.

6. Parking analysis required. That a parking analysis be submitted to and meeting the approval of the Planning and Zoning Department justifying the parking requirements for the elderly housing as required by the City's LDRs within sixty (60) days of this approval or prior to issuance of building permit, whichever is earlier.
7. School concurrency. That the applicant complete and comply with any findings for school concurrency prior to the issuance of building permit.
8. Abandonment of previous approval. That the previously approved development by City Resolution No. 2006-27-373-Z-46 shall be considered abandoned and no vested rights shall be sought for any development rights previously granted.
9. Release of Declaration of Restrictions. That the terms and conditions of the Declaration of Restrictions as recorded in Official Records Book 24827, page 382 of Official Records of Miami-Dade County, shall be released with the proffering of a new Declaration of Restrictive Covenants.
10. Design standards multi-family residential. The elderly residential buildings and future residential buildings shall be subject to review of multi-family design standards as set forth in section 34-414 of the LDRs prior to site plan approval and issuance of building permit.
11. Design standards commercial development. The future commercial development shall be subject to review of the design standards for the Planned Corridor Development district as set forth in section 34-415 of the LDRs prior to site plan approval and issuance of building permit.
12. CPTED. The applicant shall provide the Planning and Zoning Department with an outline of the Crime Prevention Through Environmental Design (CPTED) strategy; said strategy shall meet the approval of the administrative official prior to issuance of building permit.
13. Sidewalks. The applicant shall provide the required 10' wide sidewalk adjacent to the site along N.W. 27 Avenue or provide a contribution of funds in lieu of contribution in accordance to section 34-219 of the LDRs prior to issuance of building permit.
14. Pedestrian amenities. The applicant shall provide pedestrian amenities and interconnectivity throughout the entire development from N.W. 27 Avenue and N.W. 207 Street; which may include, but not limited to, crosswalks, bus shelters; signals; subject to site plan review approval.
15. Landscaping in right-of-ways. The applicant may be required to provide landscaping in the medians along N.W. 27 Avenue and N.W. 207 Street, meeting the approval of the Public Works Department; subject to site plan review approval.
16. Street lighting. The applicant shall provide street lights throughout the development, which may include, but not limited to adjacent to and proximate to the site; subject to site plan review approval.
17. Commencement of development. The development shall commence and maintain an active building permit maintained within 36 months of site plan approval, in accordance and subject to section 34-53 of the LDRs.
18. Construction fence, removal of construction debris and construction storage. Construction fence(s) shall be provided on the property under construction; all construction debris shall be removed from the property; and the storage of construction materials shall meet the approval of the Building Official.
19. Association required. The applicant shall provide the renter's or homeowners' association rules governing the development and the requirement to create such

association shall be required prior to the issuance of a certificate of use; said rules shall be subject to the approval of the Administrative Official, which shall include, but not limited to;

- a. rental and/or leasing restrictions and stipulations imposed upon renters, visitors and/or owners of residential units including but not limited to written approval of the owner or board of directors of the homeowners' association for renting/leasing, background check requirements, lease purchase provisions, related conditions relative timeframes, related stipulation for specific units, and any other similar or related provisions deemed appropriate and necessary to insure continued maintenance of the development;
 - b. requirements to insure perpetual maintenance of common areas, including but not limited to recreational and landscaped areas, on the property as funded by the owner, homeowners' association or management;
 - c. in-ground irrigation system installed, maintained, and operated to service all areas of the property;
 - d. scheduled lawn mowing and pruning of landscape related to growing season;
 - e. prohibiting of resident or guest vehicles on any public or private roads, lawns, or swale areas;
 - f. prohibiting the enclosure of garages to create additional living space;
 - g. prohibiting derelict or abandoned vehicles on the property;
 - h. removal of graffiti within specified timeframe;
 - i. fixing potholes within specified timeframe;
 - j. repair of damage to perimeter fences or walls within specified timeframe;
 - k. preventing the amount of impervious parking area in the front of any building or residential unit to be increased beyond that depicted on the submitted development plans;
 - l. posting of operational and maintenance restrictions in open view in a common area or designated location at all times.
20. Scheduled painting. Applicant shall paint the exterior buildings, walls and other structures every ten (10) years from initial issuance of Certificate of Occupancy or earlier if deemed necessary by the Administrative Official.
21. Buccaneer Park improvements. Prior to the issuance of a certificate of use and occupancy for any improvements within the Property, the Owner shall make or cause to be made a contribution of the sum of \$200,000.00 to the City of Miami Gardens Special Revenue Fund, to be specifically designated to pay for the park improvements at Buccaneer Park; said improvements to be determined by the City.
22. Declaration of Restrictive Covenants. That the applicant proffer a Declaration of Restrictive Covenant, on a form approved by the City Attorney, containing the terms and conditions of set forth with this approval; same be executed and recorded prior to issuance of building permit on the property.

REVIEW AND ANALYSIS:

Neighborhood Land Use Characteristics

Property	Future Land Use Designation	Zoning Classification	Existing Use
Site	Commerce	R-50, Multi-Family and PCD, Planned Corridor Development	Vacant
North	Commerce	PCD, Planned Corridor Development, ROW	Commercial
South	Preservation	Other	Snake Creek Canal
East	Neighborhood	R-1, Single Family Residential	Single Family Residential
West	Neighborhood	R-1, Single Family Residential	Single Family Residential

The subject property is partially improved with water, sewer and paving from an abandoned townhouse development, but with no building structures. The property directly to the south is the Snake Creek Canal while to the north is developed with a self storage facility. The Racetrack gas station is directly on the corner of N.W. 207 Street and N.W. 27 Avenue. To the east and west are developed with single family residences.

Project Summary/Background

- The property is under control of the FDIC as Corporation for Receiver for Federal Bank with a contract to purchase from RUDG, LLC to develop the 7.94 acres with elderly multi-family residential, and a mix use of market rate multi-family residential and commercial development.
- The 189 unit elderly residential development is proposed on the 3.5 acre southern portion of the site, labeled as “Tract A”.
- The elderly residential development consists of 165 one bedroom units and 24 two bedroom units, with an average unit size of 575 square feet; and a minimum unit size of 552 square feet.
- The City’s Land Development Regulations (LDRs) requires an average unit size of 950 square feet and a minimum unit size of 800 square feet. The granting of the variances are required to allow the proposed development to proceed.
- The development of the property is currently restricted by a recorded Declaration of Restrictions which limits the development to a previously approved 154 unit townhouse development. The release of the previously recorded Declaration of Restrictions is a procedural matter that is required to allow for the proposed elderly and mix-use development.

Zoning History

On April 5, 2006 the City Council granted approval of Resolution No. 2006-27-373-Z-46 which approved a special exception and several non-use variances to permit a 154 unit townhouse development. As part of that approval a Declaration of Restrictions was proffered containing terms and conditions of the approval.

Consistency with City of Miami Gardens Comprehensive Development Master Plan

The subject parcel is designated Commerce on the adopted 2006-2016 Land Use Plan (LUP) Map of the Future Land Use Element (FLUE) of the Comprehensive Development Master Plan (CDMP) of the City of Miami Gardens.

Objective 1.3 states:

“The Commerce designation is intended for planned urban commercial, urban industrial, urban cultural and economic hubs. The Commerce areas shall include existing and planned activity centers that are primarily located along the City’s three major roadway corridors.”

Policy 1.3.4 states:

“The location of Commerce areas shall emphasize access to public transportation.”

Policy 1.3.5 states:

“Future development and redevelopment in Commerce areas shall be designed to provide attractive urban places to live, work, and shop”.

Policy 1.3.6 states:

“Uses that consistent with the Commerce land use category include mixed use developments such as Urban Center, Urban Core and Golden Glades-Palmetto Area, single use developments including Urban Commercial and Office, Urban Industrial, residential development including Medium Density Residential, Medium-High Density Residential, High Density Residential, and Very High Density Residential, plus Public and Semi-Public uses”.

The proposed 189 unit elderly multi-family residential on the 3.5 acres will be part of an overall mix-use development with residential and commercial uses on the entire 7.94 acre property. The development is located on N.W. 27 Avenue, one of the City’s major arterials with access to public transportation and proposed as a mixed use medium-high density residential and commercial uses conducive with creating an urban place to live, work and shop. The medium-high density residential (25-50 units/acre) component of the development is not exceeded with the 189 units over the entire 7.94 acre site.

Conclusion: The proposed development is consistent with the goals and objectives of the CDMP.

Zoning Review and Analysis

The City Council may grant or deny approval of a variance and waiver request as set forth in Section 34-47(h) of the City's Zoning and Land Development Code:

Sec. 34-47- Granting of variances and waivers.

“(h)

Criteria for granting variances. Upon appeal or direct application in specific cases to hear and grant applications for non-use variances and waivers of this chapter, when authorized, the zoning appeals board may grant approval, approval with conditions of the application upon showing by the applicant that the non-use variance or waiver that all the following have been met:

(1)

The particular physical surroundings, shape, topographical condition, or other physical or environmental condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the regulations were carried out literally.

(2)

The conditions upon which the request for a variance is based are unique to the parcel and would not be generally applicable to other property within the vicinity.

(3)

The alleged difficulty or hardship was not deliberately created to establish a use or structure which is not otherwise consistent with this Code.

(4)

The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity.

(5)

The proposed variance will not substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the vicinity.

(6)

The variance request is the minimum variance that will make possible the reasonable use of the land, building, or structure;

(7)

The granting of the variance request will be in harmony with the general intent and purpose of these regulations and the comprehensive plan;

(8)

Nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and the permitted use of lands, structures, or buildings in other zoning districts, shall not be considered grounds for the authorization of a variance; and

(9)

Financial hardship is not the only evidence of a hardship considered in the authorization of a variance.

In analyzing the proposed variance requests of the minimum unit size and average unit size for the multi-family residential development based on the criteria set forth above the following was considered:

- The proposed elderly residential housing projects provides for 165 one bedroom units at 552 square feet and 24 two bedroom units at 732 square feet; where a minimum unit size of 800 square feet is required. The average unit size of the 189 units is 575 square feet; where a 900 square feet average unit size is required. The request for variance is limited and restricted to the 189 elderly housing units. To provide the minimum unit size and overall average unit size would require not just a mere inconvenience but much larger buildings and land area and where the housing units are adequately sized for the specific use as elderly housing the larger units the result providing the additional square footage would lead to an increase cost factor that would then result in a more expensive elderly housing unit. The additional costs would exclude many of the targeted elderly residences from acquiring or affording this specific type of housing.
- Though the LDRs were adopted with minimum unit sizes and average unit sizes to specifically promote market rate quality and housing standards; the LDRs does not specifically distinguish between different types of market rate housing; in particular elderly housing type units. In this situation the variances are specific to the elderly housing on one portion of the property and the development will be balanced with market rate housing and commercial development on the remainder of the entire site that will be required to comply the minimum and average unit sizes, density, and other requirement of the LDRs.
- The 189 elderly housing units are within the allowable residential density of the entire 7.94 acre site and the proposed reduction of the minimum unit sizes and average unit sizes and the anticipated dependency on public/private transportation versus private vehicles do not create any additional traffic congestion so no additional detrimental impacts on the surrounding area and improvements is anticipated with the proposed reduction in unit sizes.
- The proposed minimum unit size of 552 square feet for the one bedroom units and 732 square feet for the two bedroom units are adequate for the accommodation of age specific elderly housing where children or families are generally prohibited. These reductions represent the minimum reduction of the unit size and average size from what is required to maintain the quality, standards, and financial affordability to allow a reasonable use of the property specifically targeted for elderly residences.

The additional requests to release the previously proffered Declaration of Restrictions is an procedural matter that is required with the granting of the variances which in turn would require a newly proffered Declaration of Restrictive Covenants releasing terms and conditions while at the same time abandoning the previous approval for the 154 townhouses.

Conclusion

The proposed requests for the reduction of the minimum and average unit size limited to the elderly housing development meets the criteria for granting of the variances as set forth in the Zoning and Land Development Code.

Anticipated Facilities Impact

General: Concurrency determinations are not finalized during the zoning approval process. Specific impacts will be determined at building permit review.

Public Notification/Comments

In accordance with the Land Development Regulations, two (2) notifications of the applicant's requests were mailed to property owners within a five hundred (500) foot radius of the subject site to provide them an opportunity to comment on the application. No comments were received from property owners within that radius at the date of this writing. (See Mailed Notice Radius Map, attached).

Attachments:

- Public Hearing Checklist
- Letter of Intent
- Hearing Map-Zoning
- Hearing Map-Aerial
- Mailed Notice Radius Map
- Submitted Plans and Survey
- Power of Attorney

LETTER OF INTENT

Holland & Knight

701 Brickell Avenue, Suite 3000 | Miami, FL 33131 | T 305.374.8500 | F 305.789.7799
Holland & Knight LLP | www.hklaw.com

May 18, 2011

Via Hand Delivery

Mr. Jay Marder
Administrative Official
Developmental Services Department
City of Miami Gardens
1515 N.W. 167th Street, Bldg. 5, Suite 200
Miami Gardens, Florida 33169

Re: Letter of Intent - Federal Deposit Insurance Corporation as Receiver of Republic
Federal Bank - Southwest Corner of N.W. 27th Avenue and N.W. 207th Street

Dear Mr. Marder:

This constitutes the Letter of Intent for Republic Federal Bank, N.A. (the "Applicant") in its request for public hearing approval of two non-use variances to permit the development of a mixed-use project at the intersection of N.W. 27th Avenue and N.W. 207th Street, Miami Gardens, Florida. In addition, the Applicant is requesting a release of a previously recorded Declaration of Restrictions in order to permit the mixed-use project, comprised of elderly housing, a market-rate residential component, and a commercial development. The Applicant is also requesting variances of the minimum and average unit sizes set forth in Section 34-342 (Table 4) of the Code of the City of Miami Gardens (the "Code"), in order to accommodate the smaller unit sizes of the elderly housing component.

The property that is the subject of this application is a parcel consisting of approximately 7.94 acres located at approximately the southwest corner of N.W. 27th Avenue and N.W. 207th Street, more particularly described in the legal description attached as Exhibit "A" hereto (the "Property"). The Property runs to the west and south of the existing Racetrac service station located at that corner, as shown in the below aerial photograph.

May 18, 2011

Page 2



The Property is currently designated "Commerce" on the Future Land Use Map of the Miami Gardens Comprehensive Plan. That designation permits mixed-use and commercial developments, including medium to high density residential development. The Property has two separate zoning districts; the southern portion of the Property is currently zoned R-50, Multiple-Family Dwelling Residential District, while the northern portion of the Property is currently zoned PCD, Planned Corridor Development.

In 2006, the City of Miami Gardens Council granted Resolution No. 2006-27-373-Z-46 (the "Resolution"), approving a special exception and several non-use variances to permit a townhouse development on the Property. As part of that approval, the then-owner of the Property recorded a Declaration of Restrictions (the "Declaration") which provided, among other things, that development of the Property would be in substantial accordance with the townhouse site plan proffered at public hearing (the "Site Plan"). Copies of the Resolution and the Declaration are attached for your review.

In 2008, the Applicant completed foreclosure proceedings against the prior owner of the Property. On December 11, 2009, the Office of the Comptroller of the Currency ordered the closure of the Applicant's operations and appointed the Federal Deposit Insurance Company ("FDIC") to serve as receiver over the Applicant. The Applicant has entered into a contract to convey the Property to RUDG, LLC (the "Purchaser").

In order to effectuate that sale, the Applicant is requesting the release of the prior Declaration and acceptance of a new declaration of restrictions, so that the Property can be developed with a new development plan. The new development program would retain a market-rate residential component, which would consist of twenty-four (24) dwelling units located on the northern portion of the Property. The center of the Property is anticipated to be developed with a general commercial center, consisting of roughly 33,000 square feet of development. The southernmost portion of the property would be used for elderly housing, with approximately one hundred and eighty-nine (189) units.

May 18, 2011

Page 3

In order to accommodate the development pattern commonly associated with elderly housing, the Applicant and Purchaser are proposing unit sizes that are smaller than those required City-wide by code. Thus, we are requesting a variance from the requirements of Table 4 of Section 34-342 of the Code to provide a minimum unit size of 552 square feet (800 square feet required) and an average unit size of 575 square feet (900 square feet required with mixed-use bonus). This variance is only requested as to the portion of the Property to be utilized for elderly housing.

This development program will allow for an effective utilization of the overall Property, and is consistent with the City's established goals set forth in the PCD zoning district to provide for a mix of residential and commercial uses within development parcels along major corridors like 27th Avenue. The proposed development is also consistent with the Commerce designation of the Property on the City's comprehensive plan, by providing a mix of both commercial and residential uses. Objective 1.7 of the City's comprehensive plan also calls for the City to support the provision of housing to meet the special needs of the elderly. The provision of elderly housing in close proximity to a commercial center is also beneficial to that portion of the community that generally has less access to (and need for) automotive transport.

Based upon the foregoing, the Applicant requests your favorable consideration of this application. Should you need any additional information or documentation, please do not hesitate to contact me.

Sincerely yours,

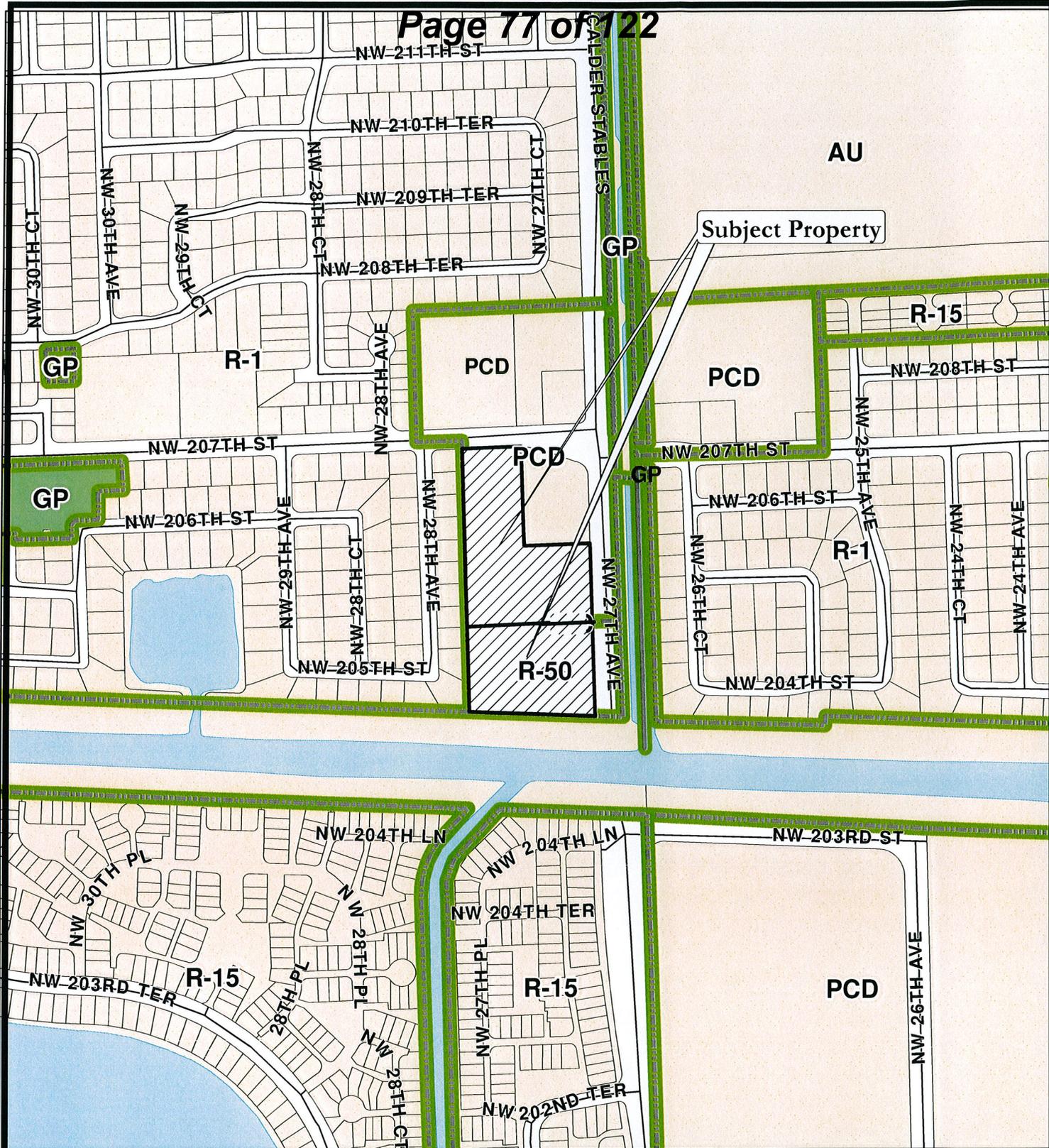
HOLLAND & KNIGHT LLP



Alan Samuel Krischer

HEARING MAP-ZONING





HEARING MAP: ZONING



City of Miami Gardens
 Planning & Zoning Department

 Subject Property Zoning: PCD, R-50

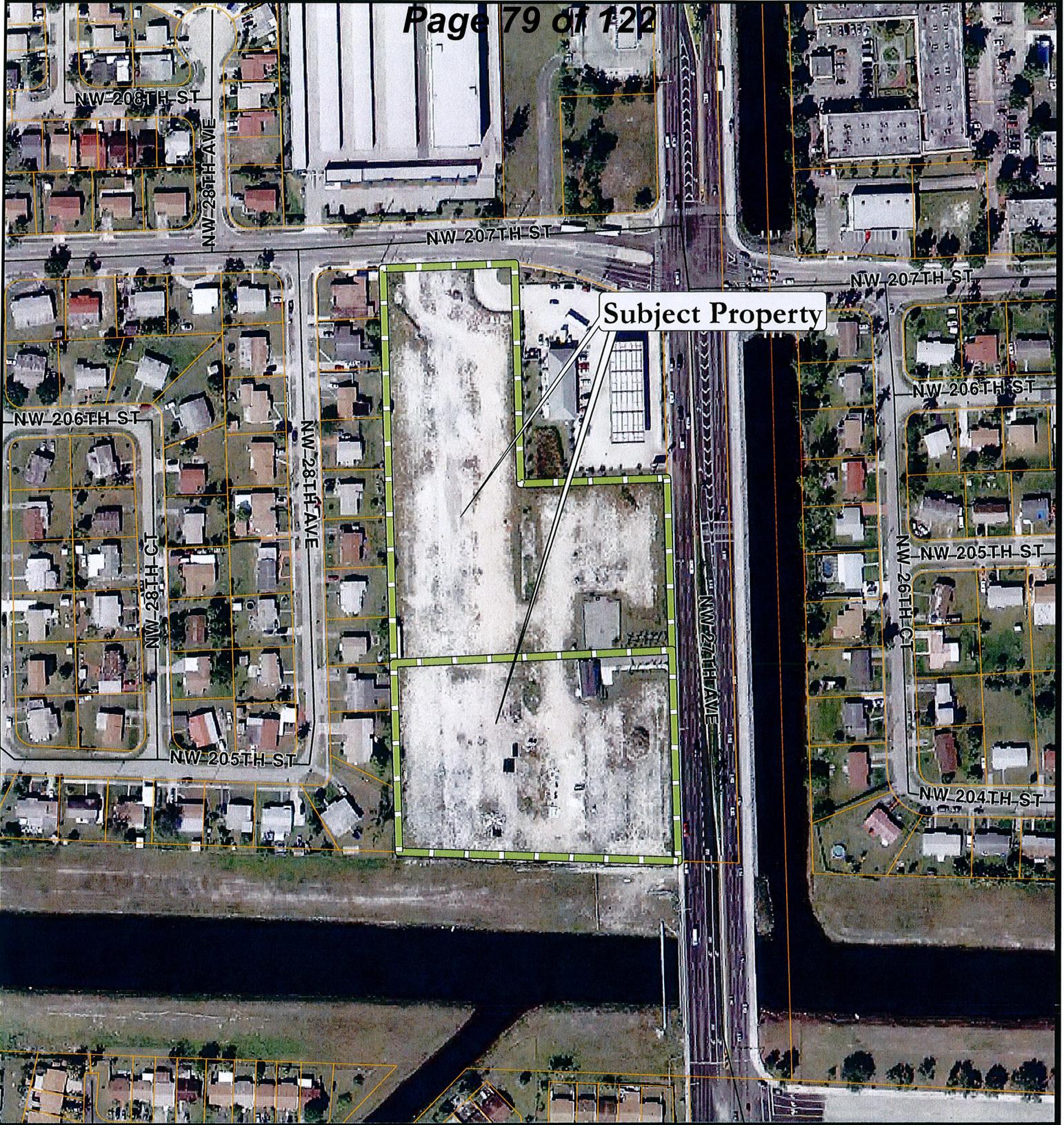
Applicant:
 The Commons

Project Location: 20000 NW 27 Avenue
 Miami Gardens, FL 33056



1 inch = 457 feet
 June 2011

HEARING MAP- AERIAL



HEARING MAP: AERIAL



City of Miami Gardens
 Planning & Zoning Services

 Subject Property

Applicant:
 The Commons

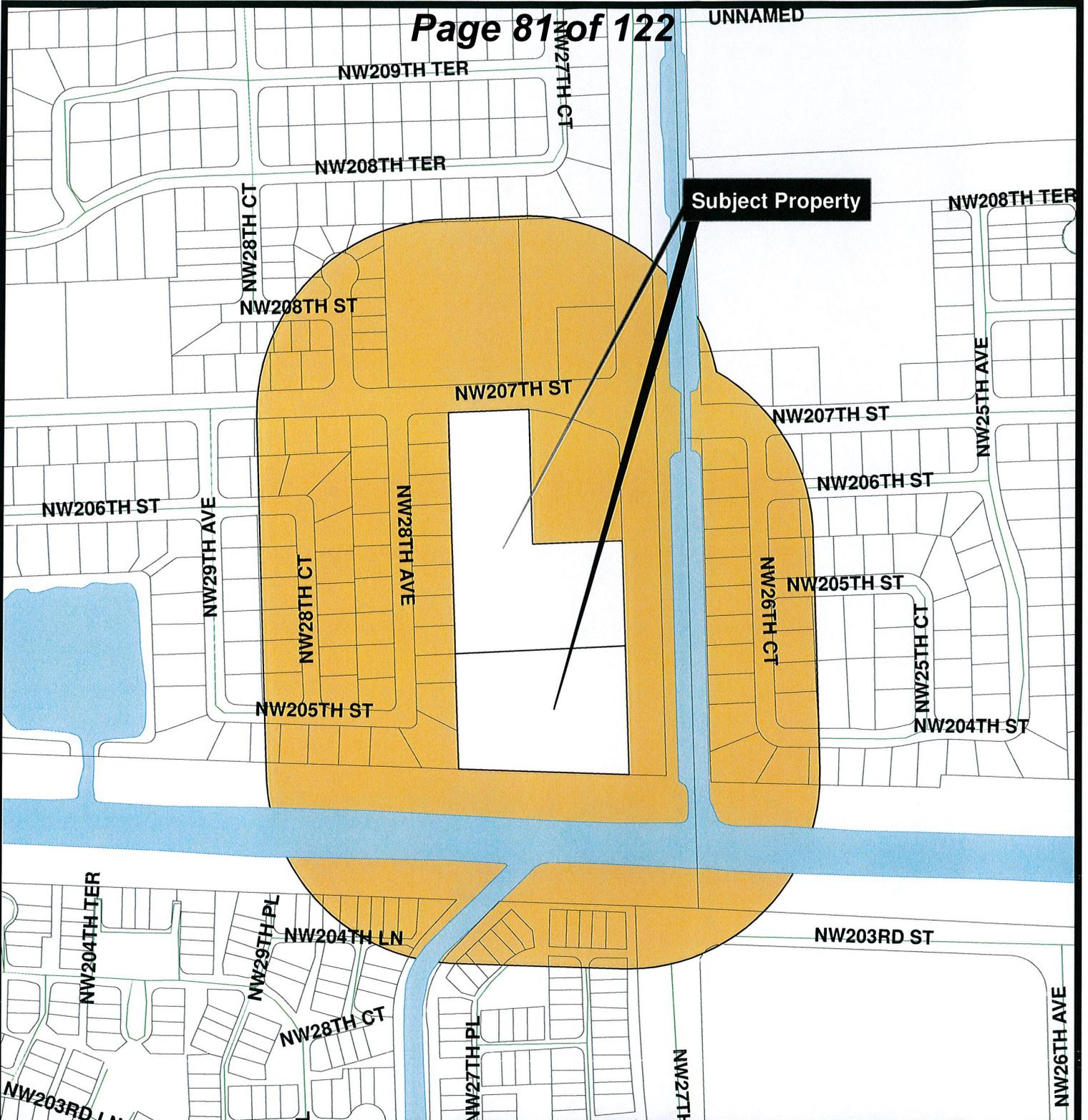
Project Location:
 20000 NW 27 AVE
 Miami Gardens, FL 33056



1 inch = 200 feet

June 2011

MAILED NOTICE RADIUS MAP



MAILED NOTICE RADIUS MAP



City of Miami Gardens
 Planning and Zoning Services

 Subject Property  500 ft. Radius

Applicant:
 The Commons

Project Location:
 20000 NW 27 Avenue
 Miami Gardens 33056



1 inch = 340 feet

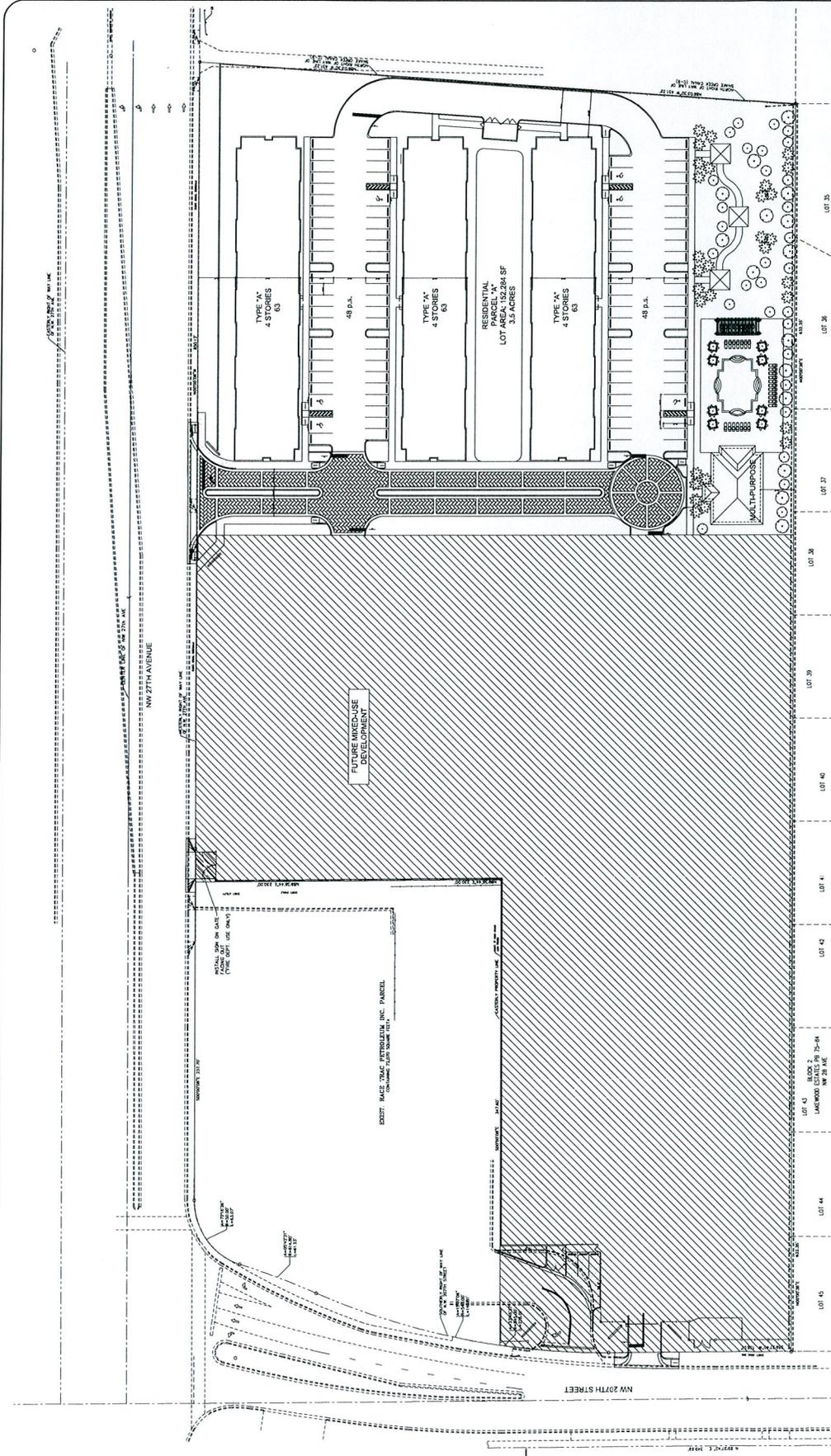
June 2011

SUBMITTED PLANS AND SURVEY

THE COMMONS

MIAMI GARDENS, FLORIDA





ZONING DATA

SITE ADDRESS: 207th Street NW 27th Avenue
 Miami Gardens, FL

NET LOT AREA: 545,874 sq ft
 7.64 ACRES

CURRENT ZONING: R-50 (Elderly Phase)
 PCD (Plan Corridor Development) (Future Phase)
 PCD (Plan Corridor Development) (Future Phase)

MAXIMUM HEIGHT: 40 units per net lot area
 109 units
 "Total Units for Elderly Phase Only"

MAXIMUM BUILDING HEIGHT: 10 Stories
 16 ft
 20 ft
 25 ft
 15 ft
 20 ft

SETBACKS: Front: NW 27th Avenue
 Side Street: NW 207 Street
 Sides:

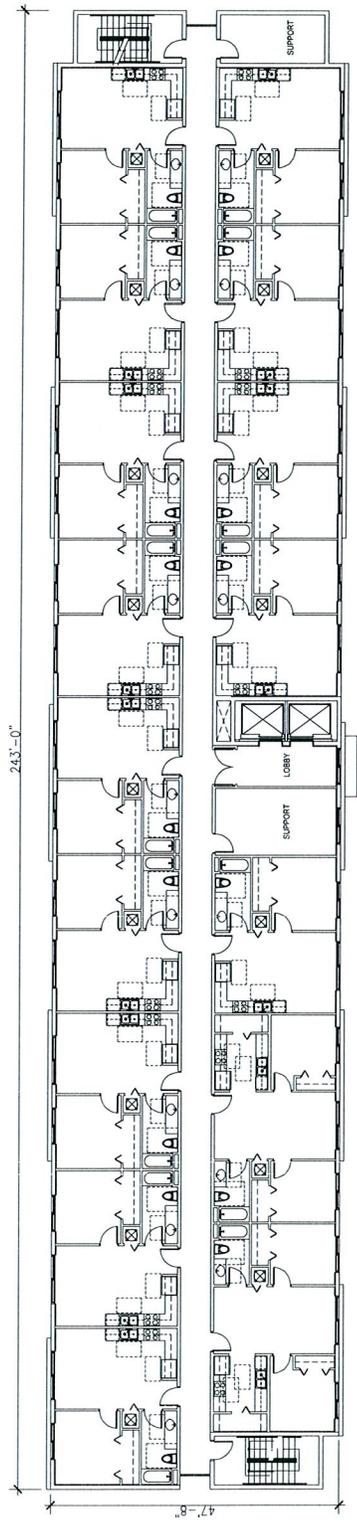
MAXIMUM LOT COVERAGE: 381,455 sq ft (as per 34-342)
 "Total Lot Coverage for Elderly Phase Only"

ELDERLY UNIT AVERAGE ANALYSIS

FLOOR LEVEL	Unit Type	Unit	SF	20	SF	20	Unit SF	Units
Parcel A	1B	552	2,454	2	1,454	2	1,454	752
	2	13	7,728	2	1,454	2	1,454	1,302
	3	14	7,728	2	1,454	2	1,454	1,302
	4	14	7,728	2	1,454	2	1,454	1,302
Parcel B	1	13	7,776	2	1,454	2	1,454	1,302
	2	14	7,728	2	1,454	2	1,454	1,302
	3	14	7,728	2	1,454	2	1,454	1,302
	4	14	7,728	2	1,454	2	1,454	1,302
Parcel C	1	13	7,776	2	1,454	2	1,454	1,302
	2	14	7,728	2	1,454	2	1,454	1,302
	3	14	7,728	2	1,454	2	1,454	1,302
	4	14	7,728	2	1,454	2	1,454	1,302
PROPOSED		Total Units	160	24	24	180		
		Total Units	87%	13%	100%			
		Unit Average Size	3,400	600	3,000			
		Minimum Unit Size	AS PER SECTION 34-342 TABLE 4					
		Maximum Unit Size	AS PER SECTION 34-342 TABLE 4					
		Proposed Unit Size After PCD Reduction	800					
		Variance Request	800					
		Average Unit Size After PCD Reduction	55					

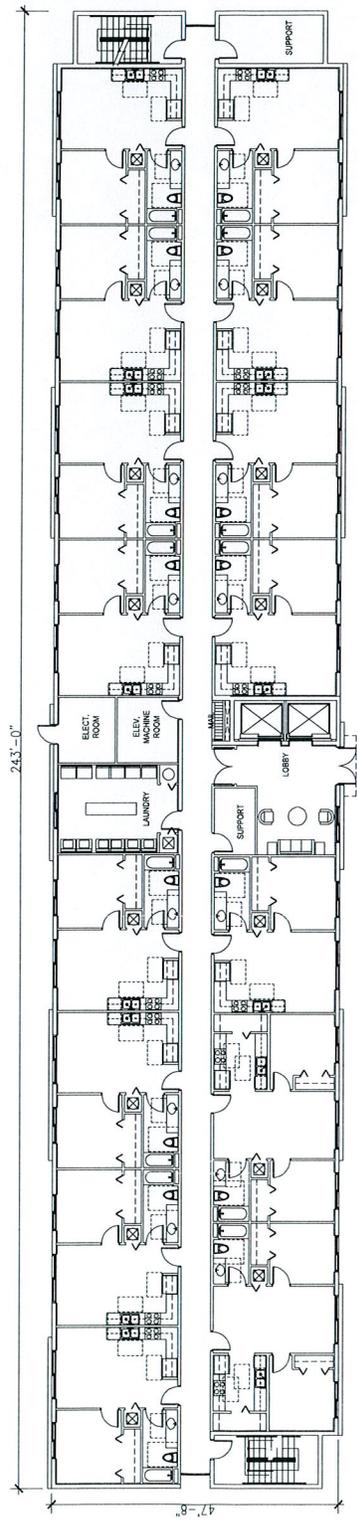
PROPOSED SITE PLAN
 SCALE: 1"=30'-0"

NOTE: VARIANCE REQUEST IS ONLY FOR ELDERLY UNITS WITHIN TRACT "A"



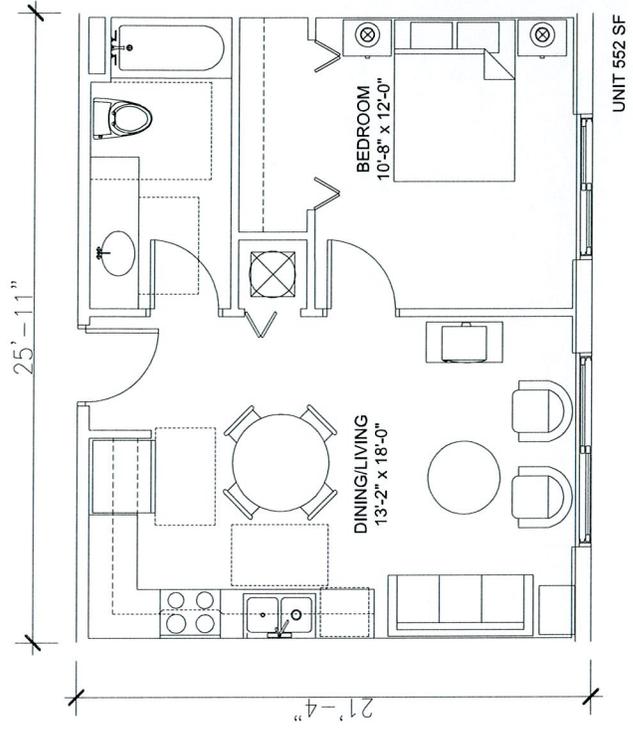
TYPE "A" SECOND-FOURTH FLOOR PLAN

 SCALE: NTS



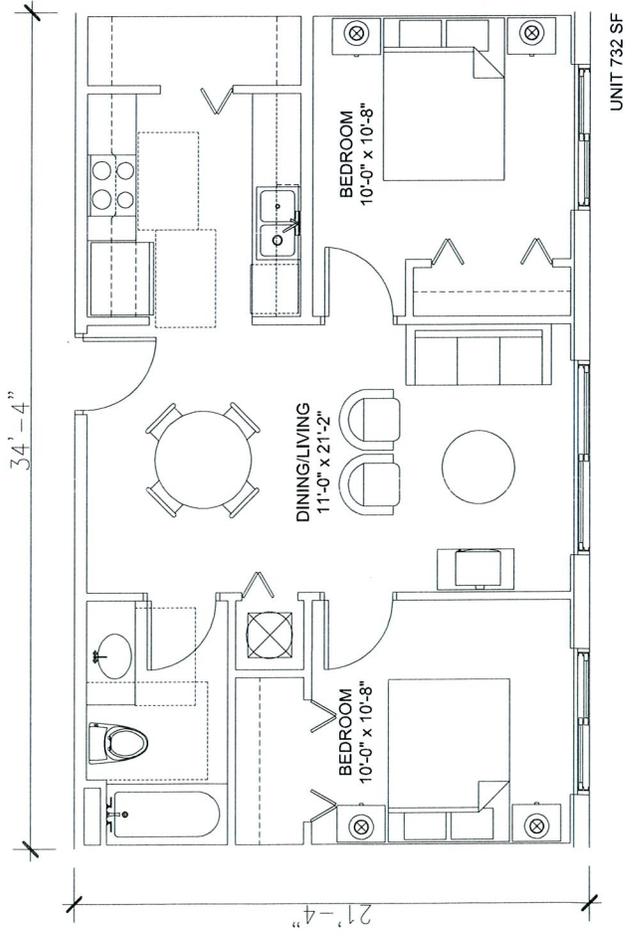
TYPE "A" GROUND FLOOR PLAN

 SCALE: NTS



TYPICAL ELDERLY ONE BEDROOM FLOOR PLAN

 SCALE: NTS



TYPICAL ELDERLY TWO BEDROOM FLOOR PLAN

 SCALE: NTS



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MODIS@MODISarchitects.com
e: MODIS@MODISarchitects.com

THE COMMONS
20000 NW 207 STREET
MIAMI GARDENS, FLORIDA

Page 87 of 122

DATE: 05/18/11
DRAWN BY: [illegible]
CHECKED BY: [illegible]
PROJECT: [illegible]

SCALE: 1/4"=1'-0"

PROJECT: [illegible]

DATE: [illegible]

DRAWN BY: [illegible]

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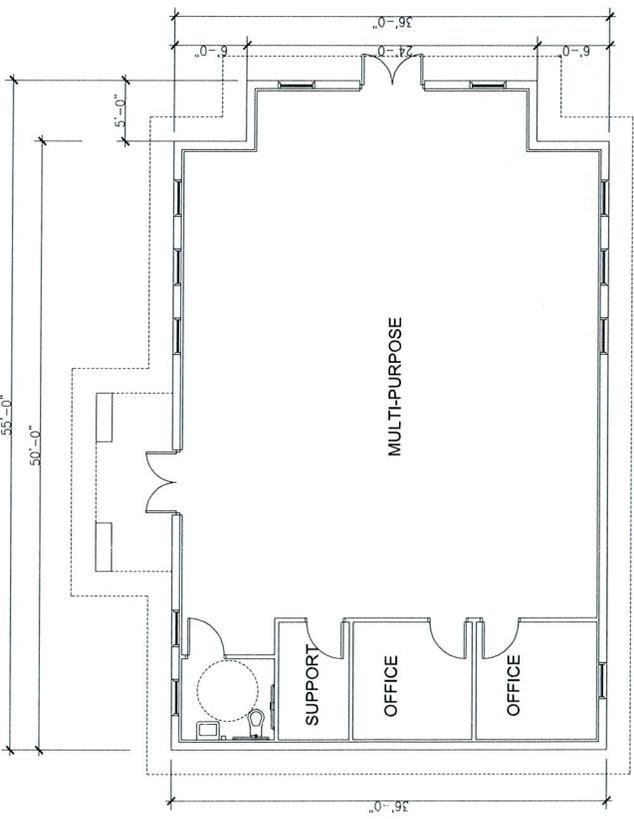
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MULTI-PURPOSE FLOOR PLAN
SCALE: 1/4"=1'-0"

Sheet number: A3.3

Project name: [illegible]

Phase: [illegible]

Drawing date: [illegible]

Drawing scale: [illegible]

Project number: [illegible]

POWER OF ATTORNEY

Prepared by: Renee Marie Araujo, Esq.
FDIC East Coast Temporary Satellite Office
7777 Baymeadows Way West
Jacksonville, FL 32256

(Leave Blank Above this Line for Recording Information)
(Space above this line must be at least 3 Inches)

LIMITED POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the **FEDERAL DEPOSIT INSURANCE CORPORATION**, a Corporation organized and existing under an Act of Congress, hereinafter called the "FDIC," acting in its Receivership capacity or separate Corporate capacity or as Manager of the FSLIC Resolution Fund has acquired and will acquire certain assets for liquidation and has determined that it is necessary to appoint a representative to act on its behalf in connection with the maintenance and liquidation of said assets, hereinafter called the "Acquired Assets."

WHEREAS, the FDIC desires to designate **CHRISTIAN E. MENZEL** as attorney-in-fact for the limited purpose of facilitating the management and disposition of the Acquired Assets; and

WHEREAS, the undersigned has full authority to execute this instrument on behalf of the FDIC under applicable Resolutions of the FDIC's Board of Directors and redelegations thereof.

NOW, THEREFORE, the FDIC appoints **CHRISTIAN E. MENZEL** as its true and lawful attorney-in-fact to act in its name, place, and stead, and hereby grants **CHRISTIAN E. MENZEL** the authority, subject to the limitations herein, as follows:

(1) Sign, seal and deliver as the act and deed of the FDIC any instrument in writing, and to do every other thing necessary and proper for the collection and recovery of any and all monies and properties of every kind and nature whatsoever for and on behalf of the FDIC and to give proper receipts and acquittance therefor in the name and on behalf of the FDIC;

(2) Release, discharge or assign any and all judgments, mortgages on real estate or personal property, including the release and discharge of the same of record in the Official or Public Records of the Clerk of any Circuit Court or any other official public records or registries, wherever located, where payments on account of the same in redemption or otherwise may have been made by the

debtor(s), and to endorse receipt of such payment upon the records in any appropriate public office;

(3) Receive, collect and give all proper acquittance for any other sums of money owing to the FDIC for any Acquired Asset which the attorney-in-fact may sell or dispose of;

(4) Execute any and all transfers and assignments as may be necessary to assign any securities or other choses in action;

(5) Sign, seal, acknowledge and deliver any and all agreements, easements, or conveyances as shall be deemed necessary or proper by the FDIC attorney-in-fact in the care and management of the Acquired Assets;

(6) Sign, seal, acknowledge and deliver indemnity agreements and surety bonds in the name of and on behalf of the FDIC;

(7) Sign receipts for the payment of all rents and profits due or to become due on the Acquired Assets;

(8) Execute, acknowledge and deliver deeds of real property in the name of the FDIC;

(9) Extend, postpone, release and satisfy or take such other action regarding any mortgage lien held in the name of the FDIC;

(10) Execute, acknowledge and deliver in the name of the FDIC a power of attorney wherever necessary or required by law to any attorney employed by the FDIC;

(11) Foreclose any mortgage or other lien on either real or personal property, wherever located;

(12) Do and perform every act necessary for the use, liquidation or collection of the Acquired Assets held in the name of the FDIC;

(13) Sign, seal, acknowledge and deliver any and all documents as may be necessary to settle any action(s) or claim(s) asserted against the FDIC, either in its Receivership or Corporate capacity, or as Manager of the FSLIC Resolution Fund.

This Power of Attorney shall be effective **August 19, 2009**, and shall continue in full force and effect through **August 18, 2011**, unless otherwise terminated by any official of the FDIC authorized to do so by the Board of Directors of the FDIC.

IN WITNESS WHEREOF, the FDIC, by its duly authorized officer empowered by appropriate resolution of its Board of Directors, has caused these presents to be subscribed in its name this 08th day of March, 2010.

FEDERAL DEPOSIT INSURANCE CORPORATION

By: [Signature]
Name: **OPHELIA JONES**
Title: Manager of Customer Service -
East Coast Temporary Satellite Office
7777 Baymeadows Way West
Jacksonville, FL 32256

Signed in the presence of:

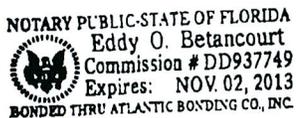
Witness: [Signature]
Printed Name: Bonnie V. Young

Witness: [Signature]
Printed Name: Charles E. Jones

STATE OF FLORIDA }
 }
COUNTY OF DUVAL }

On this 08th day of March, 2010, before me, a Notary Public in and for the State of Florida appeared **OPHELIA JONES**, to me personally known, who, being by me first duly sworn did depose that he/she is Manager of Customer Service, East Coast Temporary Satellite Office of the Federal Deposit Insurance Corporation (the "Corporation"), in whose name the foregoing Limited Power of Attorney was executed and subscribed, and the said Limited Power of Attorney was executed and subscribed on behalf of the said Corporation by due authority of the Corporation's Board of Directors, and the said **OPHELIA JONES**, acknowledged the said Limited Power of Attorney to be the free act and deed of said Corporation.

[PLACE NOTARY SEAL BELOW HERE]



[Signature]
Notary Public
Printed Name of Notary: Eddy O Betancourt
Commission No.: DD937749
My Commission expires: NOV. 02, 2013

STATE OF FLORIDA }
 }
COUNTY OF DUVAL }

On this 02nd day of March, 2010, before me, a Notary Public in and for the State of Florida appeared Beneva V. Young (witness #1) and Charles E. Jones (witness #2), to me personally known to be the persons whose names are subscribed as witness to the foregoing instrument of writing, and after being duly sworn by me stated on oath that they saw **OPHELIA JONES**, Manager of Customer Service, East Coast Temporary Satellite Office, of the Federal Deposit Insurance Corporation, the person who executed the foregoing instrument, and had subscribed the same, and that they had signed the same as a witness at the request of the person who executed the same.

[PLACE NOTARY SEAL BELOW HERE]

NOTARY PUBLIC-STATE OF FLORIDA
Eddy O. Betancourt
Commission # DD937749
Expires: NOV. 02, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

Eddy O. Betancourt
Notary Public
Printed Name of Notary: Eddy O. Betancourt
Commission No. : DD937749
My Commission expires: Nov. 02, 2013

STATE OF FLORIDA
DUVAL COUNTY
I, THE UNDERSIGNED Clerk of the Circuit Court, Duval County Florida, DO HEREBY CERTIFY the within and foregoing is a true and correct copy of the original as it appears on record and file in the office of the Clerk of Circuit Court of Duval County, Florida and the same is in full force and effect.
WITNESS my hand and seal of Clerk of Circuit Court at Jacksonville, Florida, this the 9 day of March, 2010
JIM FULLER
Clerk, Circuit and County Courts
Duval County, Florida
By D. B. [Signature]



City of Miami Gardens Zoning Agenda Memo

Zoning Board Meeting Date:	July 6, 2011		Item Type: <i>(Enter X in box)</i>	Resolution X	Ordinance	Other	
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1 st Reading		2 nd Reading	
		x		Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes
				X			
Funding Source:	<i>(Enter Fund & Dept)</i>		Advertising Requirement:	Yes		No	
				x			
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:				
		X					
Strategic Plan Related:	Yes	No	Strategic Plan Priority Area: Enhance Organizational <input type="checkbox"/> Bus. & Economic Dev <input type="checkbox"/> Public Safety <input type="checkbox"/> Quality of Education <input type="checkbox"/> Qual. of Life & City Image <input type="checkbox"/> Communication <input type="checkbox"/>	Strategic Plan Obj./Strategy: N/A			
		X					
Sponsor Name:	Dr. Danny Crew, City Manager		Department:	Planning and Zoning Department			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY PUBLIC STORAGE PROPERTIES LIMITED, FOR A VARIANCE OF SECTION 34-677(1)(b)(c) OF THE CITY'S LAND DEVELOPMENT CODE, TO ALLOW A MONUMENT SIGN WITH A SIGN AREA OF 309.5 SQUARE FEET, WHERE A MAXIMUM SIGN AREA OF 150 SQUARE FEET IS ALLOWED, AND TO ALLOW A SIGN HEIGHT OF 25.0 FEET WHERE A MAXIMUM HEIGHT OF 15.0 FEET IS ALLOWED; A VARIANCE OF SECTION 34-657(f) TO ALLOW A MONUMENT SIGN TO BE SPACED 9.1 FEET FROM A BUILDING, WHERE A MINIMUM SPACING OF 10.0 FEET IS REQUIRED, FOR PROPERTY LOCATED AT 15760 N.W. 27TH AVENUE MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR CONDITIONS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Summary:

Background

In February 2008 the City adopted new sign regulations with an intent and purpose that the "display of signs should be appropriate to the land, building or use they identify and be adequate, but not excessive, for the intended purpose of identification or advertisement"; . . . With respect to signs advertising business uses, these regulations

**ITEM 10B) RESOLUTION/PUBLIC HEARING
Application submitted by Public Storage**

Public Storage Sign Variance
PH-2011-000066

are specifically intended to avoid excessive competition and clutter among sign displays in the demand for public attention.” The sign regulations were developed to be primarily applicable to the commercial centers and businesses along the City’s major roadways such as N.W. 27 Avenue which is classified as a Major Arterial. A sign variance process was adopted as part of the regulations to allow the City Council to evaluate whether the intent and purpose of the regulations are being met in situations where the regulations cannot be fully complied with, or may not be practical in already developed business properties.

Current Situation

The applicant, Interstate Sign Crafters, on behalf of Public Storage Prop. Ltd., is a single-use property located on N.W. 27 Avenue. The sign regulations were specifically intended to be applied to uses adjacent to major roadways such as N.W. 27 Avenue.

- The existing pole sign is 28.25 feet in height, 125 square feet in sign area and set back 9.1 feet from the existing building.
- The code requires a maximum 15 feet in height, 150 square feet in sign area and a setback of 10 feet from the building.
- The sign modification proposed is to change existing pole sign to a monument sign. The proposed monument sign is to be 25 feet in height, 309 square feet in sign area and set back 9.1 feet from the existing building.
- The proposed sign will be located between the existing buildings at the same location of the existing pole sign.
- Staff recommends that the applicant’s proposed sign height of 25 feet be reduced to 20 feet in order to provide the minimum variance necessary for the sign to be seen from the street above the buildings. The required setback from adjacent buildings could not physically be met without relocating the sign to another location along N.W. 27 Avenue. This would require additional variances and would obstruct site circulation. While maintaining the sign width, the lowered height reduces sign area to 280 square feet.
- Pictures of the existing and proposed signs are included in Exhibit “C”, Recommendation.

The proposed Sign Plan has been crafted to meet the intent and purpose of the City’s sign criteria within the building constraints of an already developed business property. In addition to transforming the pole sign into a monument sign, the applicant has agreed and the proposed resolution includes the requirement for a Landscape Plan to be implemented in conjunction with the new monument sign. Thus the property will undergo a significant facelift, including Royal Palm trees. Further, the application meets the criteria set forth for sign variances.

Proposed Action:

Therefore, City Staff recommends Council approve the Resolution subject to the following conditions:

1. That the plans submitted for building permit for the sign be substantially in compliance with the plans submitted with this application titled “Public Storage” as prepared by US Signs, Dallas Houston, consisting of page 1.1 dated 3-10-11, provided that the height of the monument sign shall not exceed 20 feet and the sign area shall not exceed 280 square feet.
2. That the applicant submit and obtain approval of a landscape plan from the Planning and Zoning Department prior to the issuance of building permit for the sign; and said landscaping shall be installed and finalized prior to the final inspection of the sign.

Public Storage Sign Variance
PH-2011-000066

Attachments:

- Exhibit "A", Legal Description
 - Exhibit "B", Staff Recommendation
-

RESOLUTION

RESOLUTION NO. 2011_____

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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY PUBLIC STORAGE PROPERTIES LIMITED, FOR A VARIANCE OF SECTION 34-677(1)(b)(c) OF THE CITY'S LAND DEVELOPMENT CODE, TO ALLOW A MONUMENT SIGN WITH A SIGN AREA OF 309.5 SQUARE FEET, WHERE A MAXIMUM SIGN AREA OF 150 SQUARE FEET IS ALLOWED, AND TO ALLOW A SIGN HEIGHT OF 25.0 FEET WHERE A MAXIMUM HEIGHT OF 15.0 FEET IS ALLOWED; A VARIANCE OF SECTION 34-657(f) TO ALLOW A MONUMENT SIGN TO BE SPACED 9.1 FEET FROM A BUILDING, WHERE A MINIMUM SPACING OF 10.0 FEET IS REQUIRED, FOR PROPERTY LOCATED AT 15760 N.W. 27TH AVENUE MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR CONDITIONS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Applicant, Public Storage Properties Limited, owns property located at 15760 N.W. 27th Avenue, more particularly described on Exhibit "A", and

WHEREAS, the Applicant has filed an application requesting the following:

- A. A variance of Section 34-667(1)(b)(c) of the Land Development Regulations to allow a monument sign with a sign area of 309.5 square feet, where a maximum sign area of 150 square feet is allowed, and to allow a sign height of 25.0 feet where a maximum height of 15.0 feet is allowed; and
- B. A variance of Section 34-657(f) of the Land Development Regulations to allow a monument sign to be spaced 9.1 feet from a public building, where a minimum spacing of 10.0 feet is required.

WHEREAS, in February 2008, the City adopted a new Sign Code and implemented new regulations relating to commercial centers and businesses along the City's major roadways such as N.W. 27th Avenue, and

WHEREAS, the City's regulations require that by February 12, 2011, a sign plan be approved, and by February 12, 2013, that all signage be in compliance with an approved sign plan pursuant to the adopted regulations, and

39 WHEREAS, the existing signage on the Applicant's property does not comply
40 with the City's Sign Code regulations and the Applicant is seeking the above variances,
41 and

42 WHEREAS, City staff is recommending that the applicant's proposed sign height
43 of 25 feet be reduced to 20 feet in order to provide the minimum variance necessary for
44 the sign to be seen from the street above the buildings, and

45 WHEREAS, the City Council considered the testimony of the Applicant, if any,
46 and

47 WHEREAS, the City Council also considered the testimony of the City's Planning
48 and Zoning Staff, and the Staff Report is attached hereto as Exhibit "B" incorporated
49 herein by reference,

50 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
51 OF MIAMI GARDENS, FLORIDA AS FOLLOWS:

52 Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas
53 paragraphs are hereby ratified and confirmed as being true, and the same are hereby
54 made a specific part of this Resolution.

55 Section 2: AUTHORIZATION: The City Council of the City of Miami Gardens
56 hereby approves the application submitted by Public Storage Properties, Limited for the
57 following:

58 A. A variance of Section 34-667(1)(b)(c) of the Land
59 Development Regulations to allow a monument sign with a sign area of
60 309.5 square feet, where a maximum sign area of 150 square feet is
61 allowed, and to allow a sign height of 25.0 feet where a maximum height
62 of 15.0 feet is allowed; and

63
64 B. A variance of Section 34-657(f) of the Land Development
65 Regulations to allow a monument sign to be spaced 9.1 feet from a public
66 building, where a minimum spacing of 10.0 feet is required.
67

68 Section 3: CONDITIONS: The approval of this application is subject to the
69 following conditions:

70 a. That the plans submitted for building permit for the sign be
71 substantially in compliance with the plans submitted with this application
72 titled "Public Storage" as prepared by US Signs, Dallas Houston, consisting
73 of page 1.1 date 3-10-11.

74
75 b. That the applicant submit and obtain approval of a
76 landscape plan from the Planning and Zoning Department prior to the
77 issuance of building permit for the sign; and said landscaping shall be
78 installed and finalized prior to the final inspection of the sign.

79
80 Section 4: EFFECTIVE DATE: This Resolution shall take effect immediately
81 upon its final passage.

82 PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI
83 GARDENS AT ITS ZONING MEETING HELD ON _____, 2011.

84 _____
85 SHIRLEY GIBSON, MAYOR
86
87
88

89 **ATTEST:**

90
91
92 _____
93 RONETTA TAYLOR, MMC, CITY CLERK
94
95

96 PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY
97
98

99 SPONSORED BY: DR. DANNY O. CREW. CITY MANAGER
100

101 Moved by: _____
102

103 **VOTE:** _____
104

105 Mayor Shirley Gibson	_____ (Yes)	_____ (No)
106 Vice Mayor Aaron Campbell, Jr.	_____ (Yes)	_____ (No)
107 Councilman David Williams Jr.	_____ (Yes)	_____ (No)
108 Councilwoman Lisa Davis	_____ (Yes)	_____ (No)
109 Councilman Oliver Gilbert, III	_____ (Yes)	_____ (No)

110	Councilwoman Felicia Robinson	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
111	Councilman Andre' Williams	<input type="checkbox"/> (Yes)	<input type="checkbox"/> (No)

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EXHIBIT "A"
LEGAL DESCRIPTION

Public Storage Sign Variance
PH-2011-000066

EXHIBIT "A"
LEGAL DESCRIPTION

16 52 41 3.22 AC M/L MC DONALD PROPERTIES 1ST ADDN PB 73-4 N40FT TR A & ALL OF TRS B
THRU E LOT SIZE 140334 SQ FT OR 10540-1030 & 1034 1079 1 THEREOF, LYING AND BEING IN
MIAMI-DADE COUNTY FLORIDA

**EXHIBIT “B”
STAFF RECOMMENDATION**

STAFF RECOMMENDATION PH-2010-000066

APPLICATION INFORMATION

Applicant: Interstate Sign Crafters on behalf of Public Storage Prop. Ltd.
Property Location: 15760 N.W. 27 Avenue
Property Size: 3.22 acres
Future Land Use: Commerce
Existing Zoning: PCD, Planned Corridor Development
Requested Action(s):

1. Variance of section 34-667(1)(b)(c) to allow a monument sign with a sign area of 309.5 square feet where a maximum sign area of 150 square feet is allowed; and a height of 25.0 feet where a maximum height of 15.0 feet is allowed;
2. Variance of section 34-657(f) to allow a monument sign spaced 9.1 feet from a building where a minimum spacing of 10.0 feet is required.

RECOMMENDATION:

City Staff recommends Council approve the Resolution subject to the following conditions:

1. That the plans submitted for building permit for the sign be substantially in compliance with the plans submitted with this application titled "Public Storage" as prepared by US Signs, Dallas Houston, consisting of page 1.1 dated 3-10-11, provided that the height of the monument sign shall not exceed 20 feet.
2. That the applicant submit and obtain approval of a landscape plan from the Planning and Zoning Department prior to the issuance of building permit for the sign; and said landscaping shall be installed and finalized prior to the final inspection of the sign.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

<u>Property</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
Site	Commerce	PCD, Planned Corridor Development	self storage facility
North	Commerce	PCD, Planned Corridor Development	vacant
South	Commerce	PCD, Planned Corridor Development	vacant
East	Neighborhood	R-1, Single Family Residential	single family residences
West	Neighborhood	R-1, Single Family Residential	single family residences

The 3.22 acre property is developed with a 68,000 square foot self storage facility. Properties to the north and south are undeveloped, while to the east and to the west are developed with single family residences.

Project Summary/Background

- The approximate 68,000 square feet self storage facility owned by Public Storage is located along N.W. 27 Avenue south of the Palmetto Expressway at the southern portion of the City boundary. The facility is located on a 3.22 acre site with 615.28' of frontage on N.W. 27 Avenue.
- The existing sign is 28.25' high pole design sign with a sign face of approximately 125 square feet containing copy of "Public Storage", the corporate logo and the 800 number. The applicant has no other signage on the property.
- The City's sign regulations require that by February 12, 2011 a Sign Plan approval be obtained and by Feb. 12, 2013 (five (5) years from adoption) all signage be in compliance with the approved Sign Plan pursuant to the regulations adopted on February 13, 2008. The applicant is not able to obtain sign plan approval without depicting signage that will be in compliance with the City's regulation come 2013. The existing pole sign on the property does not comply with the City's 2008 adopted sign regulations.
- The variances requested are a result of the applicant attempt to comply with monument sign design standards of the City's sign code.

Zoning History

There are no previous zoning approvals on the property relative to signage.

Consistency with City of Miami Gardens Comprehensive Development Master Plan

The requested waivers of the sign regulations do not impact or change the use or the development on the property in a manner that is inconsistent with the Commerce designation of the property in the Future Land Use Element of the of the City of Miami Gardens Comprehensive Development Master Plan (CDMP).

The CDMP's Community Vision states as a Medium overall rating under Physical Development and Improvement: "1i. Need better signage citywide and on major routes." The Suggested Modified Implementation Priority and Statements further state: ". . . Freestanding signage should be eliminated in favor of small monument signs coordinated with building architecture. . ."

Conclusion: The request is not inconsistent with general objectives and policies of the Future Land Use Element of the CDMP and attempts to be consistent with the Community Vision which is an adopted part of the CDMP with the monument sign design and coordination with the building architecture.

Zoning Review and Analysis

In evaluating the request consideration is given to purpose and intent of the sign regulations.

"Section 34-649 – Purpose and intent" states:

“(a)

These sign regulations and requirements are the minimum requirements to promote the public health, safety, comfort, good order, appearance, morals and general welfare, and to protect the character of residential, business and industrial areas throughout the city, and to conserve the taxable value of land and buildings and to protect the character and maintain the stability of residential, business, and industrial areas within the city and to promote the orderly and beneficial development of such areas. The display of signs should be appropriate to the land, building or use they identify and be adequate, but not excessive, for the intended purpose of identification or advertisement.

(b)

Unless otherwise prescribed herein, signs placed on land or on a building for the purpose of message display, identification or for advertising a use conducted thereon or therein shall be deemed to be accessory and incidental to subject land, building or use. With respect to signs advertising business uses, these regulations are specifically intended to avoid excessive competition and clutter among sign displays in the demand for public attention.”

In granting of the waiver consideration is given to the on how the request is evaluated:

“Section 34-656 – Variances and waivers” states:

Whereas it is the attempt of this sign code to reduce the proliferation of the number, size and types of signs, and whereas it has been determined that less-obtrusive signs will ultimately lead to a healthier economy within the city, therefore no sign shall be permitted to be installed, altered, erected, constructed, posted, painted, maintained, or relocated, contrary to the provisions of this article unless a variance or waiver is approved by a majority vote in favor of granting such a variance and waiver by the members of the city council.

(1)

A decision to grant a variance or waiver must be in conformance with the following criteria and procedure:

a.

There is something unique about the building or site configuration that would cause the signage permitted by this article to be ineffective in identifying a use or structure that would otherwise be entitled to a sign.

b.

The grant of a variance or waiver is not contrary to the plan and intent of the sign code or any adopted redevelopment plan or policies, the aesthetics of the area, and does not create a nuisance or adversely affect any neighboring properties.

c.

The sign provides certain aesthetics, landmark recognition, or public benefit that is in the best interest and general welfare of the city, without detrimental impacts to the surrounding area.”

In reviewing the above criteria for the granting the variances consideration was given to the following:

- The overall size of the site is 3.22 acres with 615.28’ of frontage along N.W. 27 Avenue and is developed with 68,000 square feet of self storage space with existing drive aisles and traffic circulation patterns on the property. The site is also secured along the 615’ frontage by a six (6) foot high decorative wrought iron fence. Due to the configuration of the site and the unique development of the property as a self storage facility full compliance with the sign code for a monument sign in terms of size, height, required setbacks, landscaping area, etc. would result in an ineffective sign and may still require granting of variances. The property has limited open space along the frontage to allow for a monument sign of adequate size while at the same time meeting all the other sign regulations for a monument sign.
- The applicant is proposing only one sign for the property (no other monument signs or wall signs are proposed); considering the property has 615’ of frontage, the one proposed sign is consistent with the purpose and intent of the sign code since the overall size and height of the one sign is adequate for the size of the property, yet not resulting in an excessive clutter of signs. The location of sign between the existing buildings maintains the required setback from N.W. 27 Avenue and allows the sign to be more than adequately spaced from any residential uses minimizing any intrusive and adverse impacts and nuisances on the surrounding properties.
- The proposed sign area of 309.5 square feet, though greater than the allowed 150 square feet is a direct result of the sign area being calculated to include the base of the monument sign. The proposed sign copy area comprises 125 square feet of the sign while the remainder is the base necessary to comply with the monument sign design standards. The additional base area is result of the sign being located between two buildings
- The proposed sign height is 25.0 feet to allow visibility from N.W. 27 Avenue above the 10 foot high storage buildings. This represents a proposed variance of 10 feet above the 15 foot maximum height requirement. Variances should be the minimum amount necessary. In this case, the sign height needs to be a minimum of 10 feet in height. The sign copy is 8 feet 9 inches in height. The minimum height necessary for the sign copy to be above the buildings is 18 feet 9 inches. Staff recommends that a height variance of 5 feet for a total sign height of 20 feet. Keeping the same proposed sign width of 14 feet, this reduces the sign area to 280 square feet.
- The spacing of the sign from the buildings of 9.1 feet is less than one foot of the 10.0’ that is required and has inconsequential impacts.
- Existing wall signs located on the north side of building are not permitted and must be removed. They are not included in the applicant’s proposed signage.
- The Public Storage use is a prominent and established use along N.W. 27 Avenue and a destination for many residents of the City. The proposed signage, which is architecturally

Public Storage sign variances
PH-2011-000066

compatible with the self storage building by maintaining the orange/purple color theme allows for the business to adequately maintain the landmark recognition which is the best interest and general welfare of the City. Notwithstanding, staff is recommending the applicant submit a landscape plan that will include, but not be limited to landscaping along the 615' frontage to improve the aesthetics of the property from N.W. 27 Avenue, said landscaping shall include royal palms planting 25.0' on center with consideration given to the visibility of the signage.

Conclusion: The variance request maintains the intent and purpose of the sign code and meets the criteria for granting the variances.

Anticipated Facilities Impact

The subject application pertains to existing signage and does not create additional impact upon public services and facilities.

Public Notification/Comments

In accordance with Section 34-46(d)(7)(a) of the City's Zoning and Land Development Code, notification of the applicant's requests was mailed to all abutting property owners to provide them an opportunity to comment on the application. No comments were received. (See Mailed Notice Radius Map, attached).

Attachments:

- Letter of Intent
- Hearing Map-Zoning
- Hearing Map-Aerial
- Mailed Notice Radius Map
- Picture of Existing Sign
- Submitted Plans and Survey

LETTER OF INTENT

130 Commerce Road
Boynton Beach, FL. 33426
Phone: 561-547-3760 Fax: 561-547-3842

April 8, 2011

Development Services Department
1515 North West 167th Street
Building 5, Suite 200
Miami Gardens, Florida 33169

Re: Public Storage – 15760 North West 27th Avenue

To Whom It May Concern:

Allow me to describe our intentions for the enclosed variance sign permit request. Our customer has asked us to bring some things to your attention concerning the existing ground sign, located at the property listed above.

In order to remain compliant with the new sign code coming up in 2013, we have been informed that we must remove the existing pylon sign by February 2013 and submit for a new sign design, bringing the current pylon to a monument style sign. The new sign proposed is a monument with a base cover incorporating the look of the new design. The size of the proposed monument is smaller than the existing sign and complies with the 2013 code regarding size. The variance, however, is being requested for the overall height of the sign.

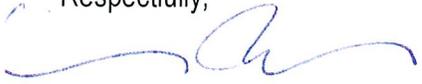
Currently the overall height of the existing pylon is 28'-1/4" and the overall height of the proposed monument is 25'-0". The reason we are requesting a variance for the overall height of the new sign is due to the fact that the property is not conducive for a monument sign with an overall height of 15'-0" maximum, which is what would be allowed per the new code. The new sign cannot be installed at either end of the property due to the setback requirements from the property line. On one end of the property, the sign would be located in the access drive area and on the other end; it would be located in the middle of their parking spaces.

The location of the existing sign is the same location for the proposed sign but there are obstacles to contend with there as well. The sign location is setback between two buildings on the property, therefore requiring the additional height in order for the sign to be seen by the public. Furthermore, in the same area, there is a customer access drive in front of these two buildings. A security fence exists between the two buildings, near the sign as well, in order to provide safe access to the storage units after dark. Therefore, revealing safety issues as well as visibility issues.

Please keep all these details in mind when considering our request for a sign variance permit for this location.

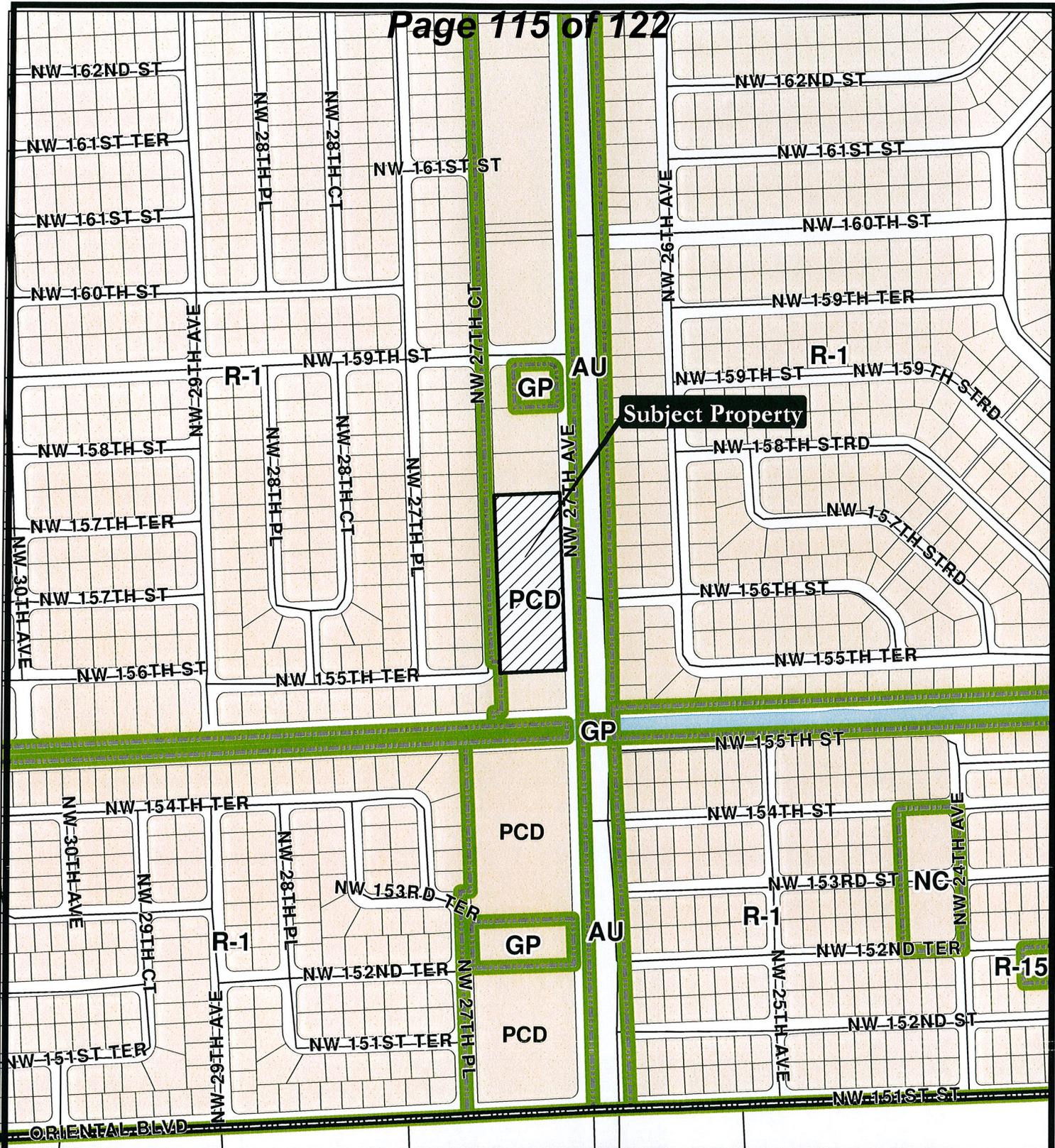
Thank you in advance for your consideration. Please feel free to contact me should you need further details to complete your review.

Respectfully,



Lisa Johnson
Vice President

HEARING MAP-ZONING



HEARING MAP: ZONING

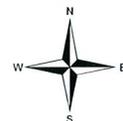


City of Miami Gardens
 Planning & Zoning Department

 Subject Property Zoning: PCD

Applicant:
 Public Storage

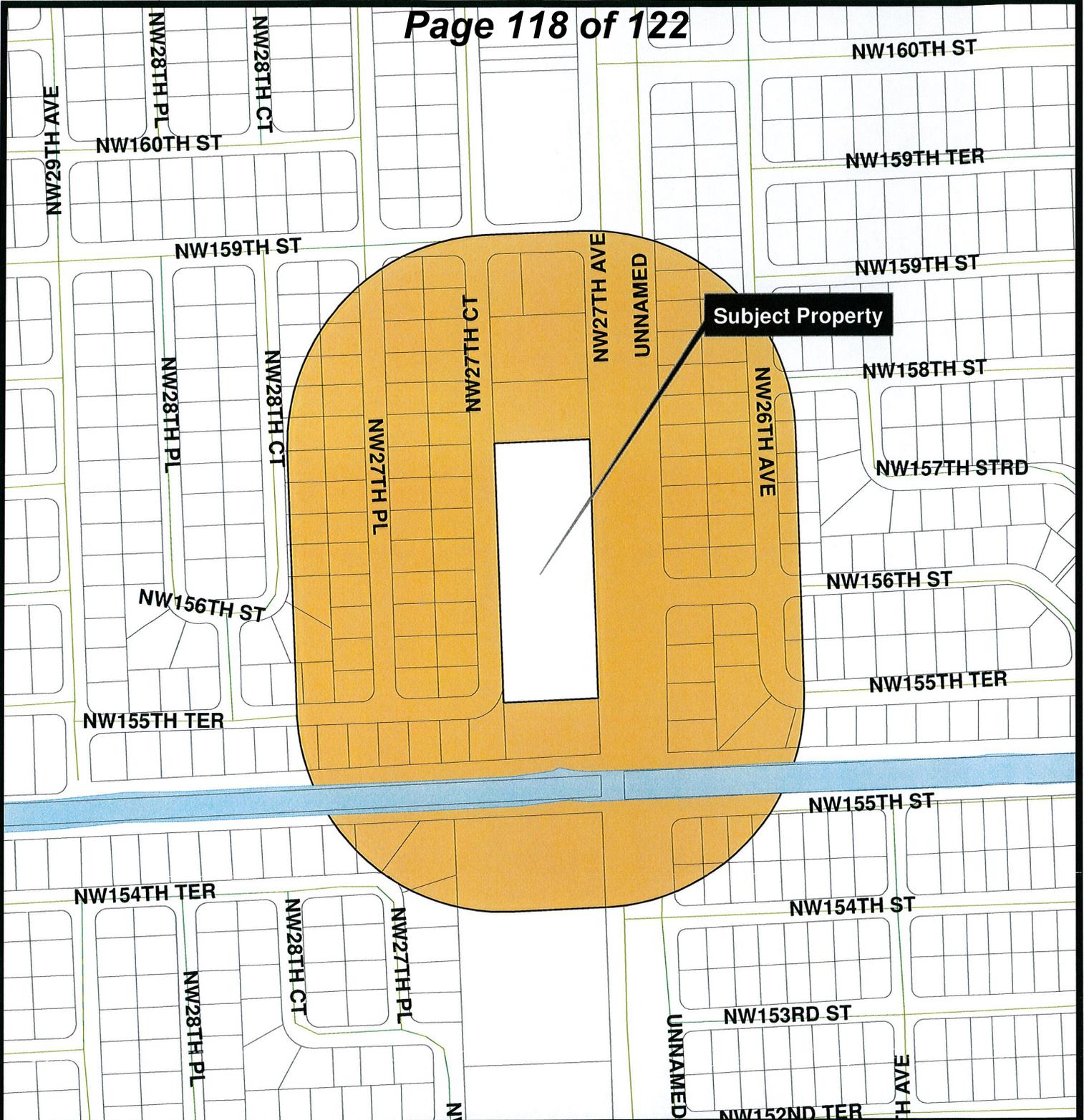
Project Location: 15760 NW 27 Avenue
 Miami Gardens, FL 33054



1 inch = 457 feet
 June 2011

HEARING MAP- AERIAL

MAILED NOTICE RADIUS MAP



Subject Property

MAILED NOTICE RADIUS MAP



City of Miami Gardens
 Planning and Zoning Services

 Subject Property  500 ft. Radius

Applicant:
 Public Storage

Project Location:
 15760 NW 27 Avenue
 Miami Gardens 33054



1 inch = 315 feet

June 2011

PICTURE OF EXISTING SIGN



SUBMITTED PLANS AND SURVEY
