

RESOLUTION NO. 2015-R-16

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING THE PREVIOUSLY ISSUED CONDITIONAL USE PERMIT AND CONCEPTUAL MASTER DEVELOPMENT PLAN FOR TRACT A OF BISCAYNE LANDING PLAT, IN ACCORDANCE WITH ARTICLE 3, SECTION 3-405 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.

WHEREAS, on May 23, 2012, the Mayor and Council of the City of North Miami ("City") passed and adopted Resolution Number R-2012-67, authorizing the execution of a Lease Agreement (the "Lease") between the City and Oleta Partners, LLC ("Developer"), for the master development of real property consisting of approximately 183.8 acres of land known as "Biscayne Landing", as legally described in Exhibit "A", attached hereto ("Development"); and

WHEREAS, the Developer filed an application with the Community Planning & Development Department requesting issuance of a Conditional Use Permit and approval of the Conceptual Master Development Plan for the Development, pursuant to the requirements of Article 3, Division 4 of the City Land Development Regulations ("LDRs"); and

WHEREAS, on June 25, 2013, the Mayor and Council of the City of North Miami ("City Council") passed and adopted Resolution No. R-2013-73, authorizing the issuance of a Conditional Use Permit (the "Initial CUP") including the Conceptual Master Development Plan (the "CMDP") for the Development, which Plan included a mixture of residential, commercial and retail uses, as well as parks and open space; and

WHEREAS, on August 27, 2013, the Mayor and City Council passed and adopted Resolution No. R-2013-96 approving an Amended Conditional Use Permit (the "Amended CUP"), which pertains to the construction of a new Spine Road to serve the Development; and

WHEREAS, the City and the Developer believe it to be in their respective best interests to amend and restate, in their entirety, the CUP, as amended, in the form attached hereto as composite Exhibit "B"; providing for a restated CUP including the amended CDMP which

includes residential units (including elderly assisted living units), hotel, commercial, office, retail, vehicle sales/display and institutional uses, as well as parks and open space; and

WHEREAS, the Planning Commission, held a duly noticed public hearing on December 2, 2014, and after reviewing the reports and recommendations of City staff, and public testimony, denied the proposed amendment to the CUP; and

WHEREAS, the Mayor and Council of the City of North Miami have determined that such Amended and Restated Conditional Use Permit (the "Restated CUP"), together with the Developer's revised CMDP (the "Amended CMDP") attached hereto as composite Exhibit "B" are in the best interest of the City and will not adversely affect the health, safety, and welfare of the City's residents; and thereby approve the issuance of the Restated CUP including the Amended CMDP.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. Recitals. The above recitals are true and correct and incorporated herein.

Section 2. Approval of Amended and Restated Conditional Use Permit including the Amended Conceptual Master Development Plan. The Mayor and City Council of the City of North Miami, Florida, hereby approve the Restated Conditional Use Permit including the Amended CMDP attached hereto as composite Exhibit "B".

Section 3. Issuance of Conditional Use Permit. The Mayor and City Council of the City of North Miami, Florida, hereby issue the Restated CUP including the Amended CMDP in the form attached hereto as composite Exhibit "B" (the Restated CUP and Amended CMDP respectively).

Section 4. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, this 27th day of January, 2015.



DR. SMITH JOSEPH
MAYOR

ATTEST:



MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Galvin

Seconded by: Bien-Aime

Vote:

- Mayor Smith Joseph, DO
- Vice Mayor Carol Keys, Esq.
- Councilperson Marie Erlande Steril
- Councilperson Philippe Bien-Aime
- Councilperson Scott Galvin

<u> x </u>	(Yes)	<u> </u>	(No)
<u> x </u>	(Yes)	<u> </u>	(No)
<u> x </u>	(Yes)	<u> </u>	(No)
<u> x </u>	(Yes)	<u> </u>	(No)
<u> x </u>	(Yes)	<u> </u>	(No)

EXHIBIT A

LEGAL DESCRIPTION OF DEVELOPMENT

Exhibit A

Legal Description

TRACT "A" of BISCAYNE LANDING, according to the Plat thereof, as recorded in Plat Book 161, at Page 72, of the Public Records of Miami-Dade County, Florida, lying in Section 21, Township 52 North, Range 42 East, less (LESS OUT PARCEL "A"), and less (LESS OUT PARCEL "B"), also known as that piece of land depicted on "THE OAKS I CONDOMINIUMS", recorded in Official Records Book 25427 at Page 4874 of the Public Records of Miami-Dade County, Florida, said LESS OUT parcels being more particularly described as follows:

LESS OUT PARCEL "A": Commence at the Northeast corner of the West 1/2 of the Northeast 1/4 of Section 21, Township 52 South, Range 42 East, the same being the Northeast Corner of said Tract "A" of BISCAYNE LANDING; thence South 87°02'55" West along the North boundary line of said Tract "A" of BISCAYNE LANDING, and along the North line of the Northeast 1/4 of said Section 21, and along the South Right of Way Line of N.E. 151st Street for a distance of 396.01 feet to the POINT OF BEGINNING of the hereinafter described parcel of land; thence along the boundary of The Oaks Condominium as described in Official Record Book 25427 at page 4813 of the Public Records of Miami-Dade County, Florida, for the following (4) courses: (1) thence South 03°17'25" East for a distance of 522.10 feet; (2) thence North 86°42'35" East for a distance of 159.56 feet; (3) thence South 27°35'03" East for a distance of 138.47 feet; (4) thence South 83°13'16" East for a distance of 177.81 feet to a point on the West line of the NE 1/4 of the NE 1/4 of said Section 21, also being the East line of said Tract "A"; thence South 02°55'05" East along said line for a distance of 252.90 feet; thence South 87°09'14" West for a distance of 501.91 feet to a point on a circular curve concave to the west whose radius point bears North 82°36'35" West from said point; thence Northwesterly to the whose radius point bears North 85°51'34" East from said point; thence North 78°35'03" East for 122.19 feet to a point on a circular curve concave to the Southeast; thence North 34°14'03" East for 70.48 feet; thence North 51°25'22" West for 70.73 feet; thence North 43°42'31" West for 108.81 feet to a point of curvature with a circular curve concave to the east; thence Northwesterly to the right along the arc of said curve having a radius of 60.00 feet, through a central angle of 72°52'56" for an arc distance of 76.32 feet to a point of reverse curvature with a circular curve concave to the northwest; thence Northwesterly to the left along the arc of said curve having a radius of 25.00 feet, through a central angle of 31°32'21" for an arc distance of 13.76 feet to a point of tangency; thence North 02°21'55" West for a distance of 173.92 feet to a point of curvature with a circular curve concave to the southwest; thence Northwesterly to the left along the arc of said curve having a radius of 125.00 feet, through a central angle of 78°55'58" for an arc distance of 172.20 feet; thence North 02°57'01" West for a distance of 138.00 feet to a point on the North boundary line of said Tract "A" of BISCAYNE LANDING, and also being to the North line of the Northeast 1/4 of said Section 21, and also being to the South Right of Way Line of said N.E. 151st Street; thence North 87°02'55" East along said North boundary line of said Tract "A" of BISCAYNE LANDING, and along said North line of the Northeast 1/4 of said Section 21, and along said South Right of Way Line of N.E. 151st Street for a distance of 149.64 feet to the POINT OF BEGINNING; Said parcel contains 4.33 acres, more or less.

AND

LESS OUT PARCEL "B": Beginning at the most Northeasterly Corner of said Tract "A" of BISCAYNE LANDING, said point being further described as being the Northeast Corner of the West 1/2 the Northeast 1/4 of Section 21, Township 52 South, Range 42 East; thence South 02°55'05" East, along the East Line of said Tract "A"; a distance of 677.46 feet; thence North 83°13'18" West, a distance of 177.81 feet; thence North 27°35'03" West, a distance of 136.47 feet; thence South 86°42'35" West, a distance of 159.56 feet; thence North 03°17'25" East, a distance of 522.10 feet to a point on the North Line of said Tract "A"; thence North 87°02'55" East, along said North Line, a distance of 396.01 feet to the POINT OF BEGINNING. Said parcel contains 5.37 acres more or less.

AND

LESS OUT PARCEL "C"

COMMENCE at the Northwest corner of Lot 1, Block 1, of PAGRO SUBDIVISION, according to the plat thereof, as recorded in Plat Book 105, Page 59 in the Public records of Miami-Dade County, Florida, said point lying on the East right-of-way line of State Road 5 (U.S. 1 / Biscayne Blvd.), as shown on the Florida Department of Transportation Right of Way Map for said State Road 5, Section 87030-2571, dated 03/10/1992; thence S 86°24'56" W, along said right-of-way line of State Road 5, a distance of 25.53 feet; thence N 08°08'23" E, along said East right-of-way line, 33.58 feet to the POINT OF BEGINNING of the following described parcel:

Thence continue N 08°08'23" E, along said East right-of-way line of State Road 5, a distance of 115.28 feet to the beginning of a non-tangent curve concave to the Southeast, having a radius of 13,276.42 feet and a chord bearing of N 09°29'42" E; thence northeasterly along the arc of said curve and said East right-of-way line of State Road 5 a distance of 167.86 feet, through a central angle of 06°43'28" to a point of reverse curvature, with a curve concave to the Northwest, having a radius of 13,388.42 feet and a chord bearing of N 09°12'39" E; thence northeasterly along the arc of said curve and said East right-of-way line of State Road 5 a distance of 302.02 feet, through a central angle of 01°17'35" to the beginning of a non-tangent curve concave to the Southeast, having a radius of 35.00 feet and a chord bearing of N 89°01'49" E; thence northeasterly along the arc of said curve 21.23 feet, through a central angle of 34°45'36" to the intersection with the South right-of-way line of NE 151st Street; thence N 86°24'37" E, along said South right-of-way line of NE 151st Street 2.62 feet; thence S 53°01'04" W 11.20 feet; thence S 09°22'05" W 223.48 feet; thence S 09°04'01" E 6.33 feet; thence S 09°22'05" W 38.13 feet; thence S 31°10'10" W 5.39 feet; thence S 09°22'05" W 271.32 feet; thence S 22°01'34" W 45.34 feet to the POINT OF BEGINNING.

Containing 6,914 Square Feet of land, more or less.

EXHIBIT B

**AMENDED AND RESTATED CONDITIONAL USE PERMIT
FOR BISCAYNE LANDING**

WHEREAS, the City of North Miami, Florida (the "**City**") is the owner of the real property more particularly described in **Exhibit "A"** attached hereto (the "**Property**"), consisting (as of the date hereof) of approximately 183.6 acres of land; and

WHEREAS, on May 23, 2012, the Mayor and Council of the City of North Miami ("**City**") passed and adopted Resolution Number R-2012-67, authorizing the execution of a Lease Agreement between the City and Oleta Partners LLC ("**Developer**"), which lease has been amended from time to time (the "**Lease**"), for the master development of the Property which is presently known as Biscayne Landing ("**Biscayne Landing**" or the "**Project**"); and

WHEREAS, the Developer originally filed an application with the Community Planning & Development Department requesting issuance of a Conditional Use Permit and approval of the Conceptual Master Development Plan (the "**Initial CMDP**") for the Project, pursuant to the requirements of Article 3, Division 4 of the City Land Development Regulations ("**LDRs**"); and

WHEREAS, the Initial CMDP included a mixture of residential (including elderly assisted living units), hotel, commercial and retail uses, as well as parks and open space; and

WHEREAS, on June 25, 2013 the Mayor and City Council of the City of North Miami ("**City Council**") passed and adopted Resolution R-2013-73 approving the Conditional Use Permit (the "**Initial CUP**") and Initial CMDP for Biscayne Landing; and

WHEREAS, on August 27, 2013 the Mayor and City Council passed and adopted Resolution R-2013-96 approving an Amended Conditional Use Permit (the "**Amended CUP**") including the amended plans pertaining to the construction of a new Spine Road to serve the Development; and

WHEREAS, on October 28, 2014, the Acting Mayor and City Council passed and adopted Resolution 2014-R-98 approving the finalization of that certain Agreement Regarding Residential Parcel which, among other things, provides for the City Council's consideration of this Restated CUP (which serves to clarify and simplify the development process and the conditions of approval for the development of Biscayne Landing), including the revised CMDP attached to this Restated CUP as composite **Exhibit "B"** (the "**Restated CUP**" and the "**Amended CMDP**" respectively); and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on December 2, 2014, after reviewing the proposed request, public testimony, reports and the recommendation of approval by City staff with conditions, voted to recommend denial of the proposed amendment to the CUP; and

WHEREAS, the Mayor and City Council have determined that this Restated CUP including the Amended CMDP are in the best interest of the City and will not adversely affect the health, safety, and welfare of residents; and thereby, approve the issuance of this Restated CUP including the Amended CMDP.

NOW, THEREFORE, the Mayor and City Council hereby approve this Restated CUP including the Amended CMDP attached hereto as Exhibit "B" for the Project known as Biscayne Landing), along with the following findings and conditions:

1. This Restated CUP including the Amended CMDP is approved, and the Project is vested with the right to be developed in accordance with the Restated CUP, for the following uses, density and intensity:

(a) 4390 residential units including (X) approximately 4315 multifamily units and/or elderly assisted housing units; and (Y) a hotel with a rating of no less than three (3) stars, containing approximately 150 keys (equivalent to 75 units for density) (the foregoing residential and hotel limitations, the "**Density Limitation**");

(b) 1,491,256 sf of commercial, office, vehicle sales/display, institutional and/or retail uses (each and collectively, "**Commercial Use**"), in any combination (the foregoing Commercial Use limitations, the "**Intensity Limitation**");

(c) An active park of not less than 7.2 acres;

(d) A passive park of not less than 13.7 acres; and

(e) an aggregate of no less than 37.0 acres of the Property (inclusive of the above-described active park and passive park) will be devoted to recreational, community, open space, park, access or similar use (including but not limited to a community center).

2. Modifications - Developer agrees that all plans submitted to the Community Planning and Development Department for building permits (a "**Development Plan**") shall be consistent with the spirit and intent of this Restated CUP. Pursuant to the provisions outlined in

Section 3-410 of the City's Land Development Regulations (the "LDRs") minor revisions are permitted so long as any proposed modification to the previously approved plan for development of any portion of the Property does not cause the entirety of the Project to exceed the Density Limitation or the Intensity Limitation, and so long as such Development Plan is in substantial compliance with the development standards set forth in Section 3-410 of the LDRs ("**Land Development Standards**"). Accordingly, provided such conditions are met, the approval of each subsequent phase of the Development Plan shall be an administrative function, subject only to administrative review by the City's Development Review Committee (the "**DRC**") to confirm substantial compliance with this Restated CUP, the Land Development Standards and the City's Code of Ordinances ("**City Code**"), and shall not require approval by the City Planning Commission or the City Council. In the event that there is a disagreement between the Developer and the DRC as to whether a Development Plan is in substantial compliance with this Restated CUP, the Land Development Standards and/or the City Code, the Developer shall have the right to appeal that administrative determination as provided for in the Section 3-702 of the LDRs. Any Substantial Revisions not meeting the provisions of section 3-410 must be reviewed in accordance with the requirements of Article 3, sections 3 - 401 to 3 - 409 of the LDRs.

3. The City acknowledges that the Property will be considered to be a single site for land use and zoning purposes. As such, the Density Limitation and the Intensity Limitation set forth herein shall apply and be calculated as to the Property as a whole, and Developer and Developer's successors and assigns shall be permitted to construct improvements on and within the Property ("**Improvements**") consistent with the foregoing Density Limitation and Intensity Limitation anywhere within the Property (it being understood that the Developer shall be expressly permitted to allocate the Density Limitation and Intensity Limitation to and among various portions of the Property and to third parties developing such portions of the Property; each such third party a "**Sub-Developer**"), without regard to and irrespective of any future change in the ownership and/or control of any portion of the Property (whether by fee simple title or leasehold estate) or internal divisions within the Property.

4. Development Plans shall comply with the City's development standards, with particular emphasis on Article 4, Section 4-402 (Planned development) and Article 5, Division 12 (Landscaping), Division 14 (Parking & Parking Garage Standards) and Division 15 (Signage)

of the LDRs, provided, however, that in the event of a conflict between those standards and the specific conditions of approval set forth in this Restated CUP, this Restated CUP shall control.

5. Prior to the issuance of a building permit for any Improvement on or within the Property, the applicant shall deposit with the Department of Community Planning and Development a cash bond, surety bond, or time-deposit bond in an amount equal to one hundred ten (110%) percent of the estimated cost of any and all improvements which may be required within dedicated rights-of-way and/or public facility easements to ensure the completion thereof.

6. The development of the Project pursuant to this Restated CUP shall be substantially in accordance with the following (the "**Development Standards**"):

A. Setbacks:

1. Minimum 15' setback from property lines to buildings of 2 stories or less;
2. Minimum 30' setback from property lines to buildings of more than 2 stories.

B. Building Height:

1. Maximum of 25 residential stories above base flood elevation at building entrance or above provided parking decks.
2. Free standing parking garages shall have a maximum of 6 stories elevated above base flood elevation. Amenity decks and other similar uses including code required facilities such as bathrooms, elevators, etc. may be added to the roof above such parking structures.
3. For buildings incorporating parking into the main structure the maximum height shall be 31 stories above base flood elevation. Amenity decks and other similar uses including code required facilities such as bathrooms, elevators, etc. may be added to the roof above such structures.

C. Fences:

1. A combination of hedges, walls and fences will be used in combination with landscape material to create a secure environment. Specific perimeter treatments will be provided prior to obtaining building permits.

D. Hedges and Walls:

1. A combination of hedges, walls and fences will be utilized. All final colors and finishes will be provided for the City of North Miami review and approval prior to obtaining building permits.

E. Signs:

1. A series of signage guidelines will be included as part of an overall signage program for project identity, way finding and neighborhood identity, subject to Article 5, Division 15 Section 5-1506 of the City's

LDRs. Specific signage programs for each building will be provided prior to obtaining building permits for such building.

2. Comprehensive signage guidelines shall be developed for the entire Project site, subject to the administrative approval of the City's Community Planning & Development Department.

F. Lighting:

1. Exterior lighting to be included that is consistent with the City of North Miami code.

G. Bike & Pedestrian Circulation:

1. Promenades and public spaces adjacent to a street and transit stops should be welcoming to the pedestrian with landscaping, benches, bicycle parking, public art and other attractive features.
2. Roadways should be designed to maximize bicycle, pedestrian and transit connections, internally and to adjacent or nearby compatible schools or developments, by allowing movement in any direction to minimize travel distance. A sidewalk shall be provided on NE 143rd Street along with two activity lanes.
3. All bicycle parking facilities should be placed in areas that are well-lighted and such spaces shall be identified with a permanent and properly maintained aboveground "Bicycle Parking" sign.

H. Open Space:

1. Open Space within the site will serve a series of roles, including passive and active recreation areas, landscape, and retention. The public open space will include a pedestrian pathway to accommodate multiple modes of recreation.

I. Grading and Drainage:

1. All Grading and Drainage for the site shall adhere to the Standards and Regulations of the Miami-Dade County Division of Environmental Resources Management ("DERM"), South Florida Water Management District ("SFWMD"), and the City of North Miami.

J. Sanitation:

1. Solid Waste amounts will be calculated based on the city of North Miami's generation rates.

K. Parking:

1. Each Development Plan shall comply with minimum parking requirements, as determined at submittal of the applicable Development Plan, consistent with the City's parking standards established in Article 5, Division 14 of the LDRs.

- L. Public Utilities:
 - 1. Design and installation of water lines, force mains and lift stations shall be in compliance with the Code of Ordinances of the City of North Miami. Design and installation shall meet the criteria, set forth by the Florida Department of Environmental Protection ("FDEP"), DERM and the Miami-Dade County Health Department.
- M. Common Areas:
 - 1. Common areas within each individual private development within the Property will match the character set forth by the applicable individual development, and will complement and be compatible with the overall master plan design intent. These areas will provide aesthetic and functional qualities to the development.
- N. Landscaping:
 - 1. The intent of the landscaping is to provide the site with a "natural" look throughout the majority of the site. It is the intention to create only pockets of formal planting at the main entrance and focal points throughout the Project. Subsequently plant spacing, heights, and massing will be irregular to achieve this effect.
- O. Notwithstanding any phases depicted on the Amended CMDP, construction and Development Plan phasing shall occur in the order established by the Developer from time to time in accordance with the Lease in response to market demand and conditions as long as the infrastructure necessary to support such Development Plan is either in place or included in such Development Plan. The Developer shall provide the Community Planning and Development Department with copies of any updated CMDP with each Development Plan submittal but in no event less than once each year by December 1, of each year. NE 135th Street will not be included as a part of this or any other amended CMDP.
- P. All ground level and roof top mechanical equipment will be enclosed or obscured from public view from ground level on the closest adjoining public right of way.
- Q. Parking shall be in compliance with City's Parking requirements outlined in Article 5, Division 14.
- R. All utility construction and vehicle/pedestrian paths construction shall be coordinated through the Director of City's Public Works Department.
- S. Each Sub-Developer will pay applicable impact fees to the City prior to the issuance of building permits for each Development Plan.
- T. Traffic: The parties each acknowledge that Property falls within the Traffic Concurrence Exemption Area (TCEA) and is therefore not subject to concurrence level of service requirements. The City and Developer jointly acknowledge that Biscayne Boulevard and in particular the proposed Project access intersections at NE 143rd Street and NE 151st Street are currently operating at level of service F.

Therefore, traffic conditions shall not operate or be utilized to limit the Developer's right to develop the Property to the approved Density Limitation or the Intensity Limitation. In order to cooperate with the City, FIU, Miami-Dade County and the Florida Department of Transportation in attempting to partially address any further reduction in the existing level of service at these intersections, the Developer agrees that:

1. After completion of the construction of the Spine Road and at such time as the completion of the Development Plans either individually or cumulatively warrant signal improvements, ("**Signal Improvements**"), the Developer agrees to apply for and diligently pursue permits from the County and the Florida Department of Transportation ("**FDOT**") for improvements to the NE 143rd Street and Biscayne Boulevard intersection to at least partially mitigate material decreases in the level of service at that intersection. Subject to the issuance of all necessary Approvals (as defined in the Lease) and permits the Developer will work with all parties involved to construct the improvements. The City will not be responsible for any construction or costs associated with the aforementioned improvements, however, the Developer shall be permitted to seek funding from the Community Redevelopment Agency ("**CRA**") for this improvement and any other intersection improvements that may be identified as appropriate or required it being acknowledged that there is no binding obligation for the CRA to provide any such funding. The CRA will make such determination independently when and if such request is made based on funding availability.

2. In addition to the traffic due diligence study already provided, within 12 months of the completion of the Spine Road the Developer agrees to provide a supplemental traffic analysis of the NE 151st Street & Biscayne Blvd intersection from 1:15 pm to 3:15 pm to assess the currently failing intersection and work with all partners involved (FIU, County, FDOT, Miami Dade School District and City) to develop a program of improvements to be implemented over time to attempt to, at least partially, alleviate or mitigate any decreases in the level of service of this failing intersection. Said study shall also identify proportionate fair share allocations for the implementation of the improvements among each of: the existing major users contributing to backlog condition, the new major users and the operational agencies. The Developer agrees to reasonably cooperate with the City and the operational agencies and other users to identify funding for the improvements and as appropriate shall fund its proportionate fair share of the improvement program in conjunction with the other users and operational agencies. However the Developer shall not be required to fund its proportionate share until the funding for the program is identified and the other parties also agree to fund their proportionate fair share.

3. As part of each submittal of the plan for each phase, the Developer agrees to provide a traffic generation statement for the proposed development based upon professionally accepted methods applying to the most up to date version of the ITE Traffic Generation Manual taking into account internal capture, pass-by trips, public transportation and other alternate transportation modes as may be identified and encouraged by the TMDP defined below.

4. The Developer shall submit a Transportation Demand Management Program ("TDMP") to the City, for each Development Plan substantially meeting the requirements of Section 5-702 of the City's LDRs. The TMDP shall propose multi modal transportation alternatives such as connected sidewalks, bicycle parking, transit facilities for bus/shuttle stops and carpooling to partially mitigate the added traffic anticipated from the Development Plan consistent with the requirements of Policy 2A.1.3.V of the City's Comprehensive Plan. The TDMP shall be appropriate to the size, scale and location of the Development Plan and shall demonstrate that reasonable efforts will be made to ensure the proposed TDMP strategies will help reduce the traffic impacts anticipated from the Development Plan. To the extent that the TMDP involves Miami-Dade Transit or the FDOT facilities it shall also be submitted to such agencies.

U. The Developer and the City agree to work to identify any available federal, state or local programs that may be able to provide possible tax credits or incentives or other funding available to the Project as part of the Community Redevelopment Area designation.

7. Pursuant to Section 3-410 (C) of the LDRs, the following shall define what constitutes minor and substantial revisions for the purpose of this CUP, under Sections 3-410 (A) and (B).

A. Alterations of the location of major spine road or walkway by more than 10 feet shall be considered minor changes, unless such changes substantially alter the location of the two major entry intersections or the character of the uses otherwise permitted pursuant to this CUP as described in sub-paragraph H below, provided however that movement of the major entry intersection with 151st Street further east away from Biscayne Boulevard shall be considered a minor change and shall not constitute a substantial revision.

B. Changes in uses shall be minor changes unless a proposed change is to a use that would otherwise be prohibited within the CUP, and except as described in sub-paragraph H below.

C. Changes in setbacks and landscaping shall be minor changes unless the proposed change does not meet the requirements set forth in this CUP.

D. As the CMDP is conceptual in nature and subject to change as set forth in this CUP, changes to the location of buildings and structures shown on the CMDP shall be minor changes unless such changes do not otherwise comply with the requirements of this CUP.

E. Adjustment to the boundaries and size of the Property or a development parcel related to surveying and or adjustments to the right of ways shall be considered minor amendments.

F. Adjustment to heights of building and structures shall be minor changes unless the proposed changes do not comply with the provisions of condition 6 (B) of this CUP.

G. This CUP is unique in that: it covers approximately 183 acres of land, which is expected to be developed over a substantial period of years; the property has unique environmental characteristics and requirements which may require changes; the CMDP is conceptual in nature and will change over time; due to the extended project build out the market conditions will change; and it is likely that the applicable regulations will change, therefore future changes which comply with the then applicable LDRs shall be considered minor changes.

H. Substantial and material modifications to the location of the principal uses such that the primary use of the residential areas is no longer residential or the primary use of the commercial areas is no longer commercial, as depicted on the land use plan included in this CUP, shall be considered Substantial Revisions requiring approval in accordance with the procedures for the original approval or then then applicable procedures under the LDRs.

EXHIBIT A

LEGAL DESCRIPTION

Exhibit A

Legal Description

TRACT "A" of BISCAYNE LANDING, according to the Plat thereof, as recorded in Plat Book 161, at Page 72, of the Public Records of Miami-Dade County, Florida, lying in Section 21, Township 52 North, Range 42 East, less (LESS) OUT PARCEL "B"), and less (LESS) OUT PARCEL "B"), also known as that piece of land depicted on "THE OAKS I CONDOMINIUMS" recorded in Official Records Book 25427 at Page 4674 of the Public Records of Miami-Dade County, Florida, said LESS OUT parcels being more particularly described as follows:

LESS OUT PARCEL "A": Commence at the Northeast corner of the West 1/2 of the Northeast 1/4 of Section 21, Township 52 South, Range 42 East, the same being the Northeast Corner of said Tract "A" of BISCAYNE LANDING; thence South 87°02'55" West along the North boundary line of said Tract "A" of BISCAYNE LANDING, and along the North line of the Northeast 1/4 of said Section 21, and along the South Right of Way Line of N.E. 151st Street for a distance of 396.01 feet to the POINT OF BEGINNING of the hereinafter described parcel of land; thence along the boundary of The Oaks Condominium as described in Official Record Book 25427 at page 4613 of the Public Records of Miami-Dade County, Florida, for the following (4) courses; (1) thence South 03°17'25" East for a distance of 522.10 feet; (2) thence North 86°42'35" East for a distance of 159.56 feet; (3) thence South 27°35'03" East for a distance of 138.47 feet; (4) thence South 63°13'18" East for a distance of 177.81 feet to a point on the West line of the NE 1/4 of the NE 1/4 of said Section 21, also being the East line of said Tract "A"; thence South 02°55'05" East along said line for a distance of 252.90 feet; thence South 87°09'14" West for a distance of 501.91 feet to a point on a circular curve concave to the west whose radius point bears North 62°36'35" West from said point; thence Northwest to the left along the arc of said curve having a radius of 352.64 feet, through a central angle of 23°27'40" for an arc distance of 144.40 feet; thence North 78°35'03" East for 122.19 feet to a point on a circular curve concave to the Southeast whose radius point bears North 85°51'34" East from said point; thence North 34°11'40" East for 70.48 feet; thence North 51°25'22" West for 106.61 feet to a point of curvature with a circular curve concave to the east; thence Northwesterly to the right along the arc of said curve having a radius of 60.00 feet, through a central angle of 72°52'56" for an arc distance of 76.32 feet to a point of reverse curvature with a circular curve concave to the northwest; thence Northwesterly to the left along the arc of said curve having a radius of 25.00 feet, through a central angle of 31°32'21" for an arc distance of 13.76 feet to a point of tangency; thence North 02°21'55" West for a distance of 173.92 feet to a point of curvature with a circular curve concave to the southwest; thence Northwest to the left along the arc of said curve having a radius of 125.00 feet, through a central angle of 78°55'58" for an arc distance of 172.20 feet; thence North 02°57'01" West for a distance of 138.00 feet to a point on the North boundary line of said Tract "A" of BISCAYNE LANDING, and also being to the North line of the Northeast 1/4 of said Section 21, and also being to the South Right of Way Line of said N.E. 151st Street; thence North 87°02'55" East along said North boundary line of said Tract "A" of BISCAYNE LANDING, and along said North line of the Northeast 1/4 of said Section 21, and along said South Right of Way Line of N.E. 151st Street for a distance of 149.64 feet to the POINT OF BEGINNING; Said parcel contains 4.33 acres, more or less.

AND

LESS OUT PARCEL "B": Beginning at the most Northeast corner of said Tract "A" of BISCAYNE LANDING, said point being further described as being the Northeast Corner of the West 1/2 the Northeast 1/4 of Section 21, Township 52 South, Range 42 East; thence South 02°55'05" East, along the East Line of said Tract "A", a distance of 677.06 feet; thence North 83°13'18" West, a distance of 177.81 feet; thence North 27°35'03" West, a distance of 138.47 feet; thence South 86°42'35" West, a distance of 159.56 feet; thence North 03°17'25" West, a distance of 522.10 feet to a point on the North Line of said Tract "A"; thence North 87°02'55" East, along said North Line, a distance of 396.01 feet to the POINT OF BEGINNING; Said parcel contains 5.37 acres more or less.

AND

LESS OUT PARCEL "C"

COMMENCE at the Northwest corner of Lot 1, Block 1, of PARGO SUBDIVISION, according to the plat thereof, as recorded in Plat Book 105, Page 59 in the Public records of Miami-Dade County, Florida, said point lying on the East right-of-way line of State Road 5 (U.S. 1 / Biscayne Blvd.), as shown on the Florida Department of Transportation Right of Way Map for said State Road 5, Section 87030-2571, dated 03/01/1992; thence S 86°24'55" W, along said right-of-way line of State Road 5, a distance of 25.53 feet; thence N 08°08'23" E, along said East right-of-way line, 33.56 feet to the POINT OF BEGINNING of the following described parcel:

Thence continue N 08°08'23" E, along said East right-of-way line of State Road 5, a distance of 115.28 feet to the beginning of a non-tangent curve concave to the Southeast, having a radius of 13,276.42 feet and a chord bearing of N 09°29'42" E; thence northwesterly along the arc of said curve and said East right-of-way line of State Road 5 a distance of 167.86 feet, through a central angle of 00°43'28" to a point of reverse curvature with a curve concave to the Northwest, having a radius of 13,386.42 feet and a chord bearing of N 09°12'39" E; thence northwesterly along the arc of said curve and said East right-of-way line of State Road 5 a distance of 302.02 feet, through a central angle of 01°17'35" to the beginning of a non-tangent curve concave to the Southeast, having a radius of 35.00 feet and a chord bearing of N 69°01'49" E; thence northwesterly along the arc of said curve 21.23 feet, through a central angle of 34°45'56" to the intersection with the South right-of-way line of NE 151st Street; thence N 86°24'37" E, along said South right-of-way line of NE 151st Street 2.62 feet; thence S 53°01'04" W 11.20 feet; thence S 09°22'05" W 223.48 feet; thence S 09°04'01" E 6.33 feet; thence S 09°22'05" W 38.13 feet; thence S 31°10'10" W 5.39 feet; thence S 09°22'05" W 271.32 feet; thence S 22°07'34" W 45.34 feet to the POINT OF BEGINNING.

Containing 6,914 Square Feet of land, more or less.

LD-1

EXHIBIT B

AMENDED AND RESTATED CONDITIONAL USE PERMIT FOR THE BISCAAYNE LANDING CONCEPTUAL MASTER DEVELOPMENT PLAN

WHEREAS, ~~City~~ the City of North Miami, Florida (the "City") is the owner of the real property more particularly described in ~~the legal description contained in Exhibit "A" attached hereto~~ (the "Property"), ~~consisting (as of the date hereof) of approximately 183.6 acres of land;~~ and

WHEREAS, on May 23, 2012, the Mayor and Council of the City of North Miami ("City") passed and adopted Resolution Number R-2012-67, authorizing the execution of a Lease Agreement between the City and Oleta Partners LLC ("**Developer**"), which lease has been amended from time to time (the "Lease"), for the master development of ~~said real property consisting of approximately 183.8 acres of land~~ the Property which is presently known as Biscayne Landing ("**Biscayne Landing**" or the "**Project**"); and

WHEREAS, the Developer originally filed an application with the Community Planning & Development Department requesting issuance ~~and approval~~ of a Conditional Use Permit ~~for the~~ and approval of the Conceptual Master Development Plan (the "**Initial CMDP**") for the ~~Development~~ Project, pursuant to the requirements of Article 3, Division 4 of the City Land Development Regulations ("**LDRs**"); and

WHEREAS, ~~the proposed Conceptual Master Development Plan includes Initial CMDP included~~ a mixture of residential (including elderly assisted living units), hotel, community/open space, and commercial uses ~~and retail uses, as well as parks and open space;~~ and

WHEREAS, on June 25, 2013 the Mayor and City Council of the City of North Miami ("**City Council**") passed and adopted Resolution R-2013-73 approving the Conditional Use Permit (the "**Initial CUP**") and Initial CMDP for Biscayne Landing;
and

WHEREAS, on August 27, 2013 the Mayor and City Council passed and adopted Resolution R-2013-96 approving an Amended Conditional Use Permit (the "Amended CUP") including the amended plans pertaining to the construction of a new Spine Road to serve the Development; and

WHEREAS, on October 28, 2014, the Acting Mayor and City Council passed and adopted Resolution 2014-R-98 approving the finalization of that certain Agreement Regarding Residential Parcel which, among other things, provides for the City Council's consideration of this Restated CUP (which serves to clarify and simplify the development process and the conditions of approval for the development of Biscayne Landing), including the revised CMDP attached to this Restated CUP as composite Exhibit "B" (the "Restated CUP" and the "Amended CMDP" respectively); and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on April 2, 2013, could not achieve a majority vote December 2, 2014, after reviewing the proposed request, public testimony, reports, and the recommendation of approval by City staff with conditions, voted to recommend denial of the proposed amendment to the CUP; and

WHEREAS, the Mayor and City Council of the City of North Miami have determined that the proposed requeststhis Restated CUP including the Amended CMDP are in the best interest of the City and will not adversely affect the health, safety, and welfare of residents; and thereby, approve the issuance of the Conditional Use Permit in conjunction with the Conceptual Master Development Planthis Restated CUP including the Amended CMDP.

NOW, THEREFORE, the Mayor and City Council hereby approve this Conditional Use PermitRestated CUP including the Amended CMDP attached hereto as Exhibit "B" for the Project known as Biscayne Landing), along with the following findings and conditions:

1. This Restated CUP including the Amended CMDP is approved, and the Project is vested with the right to be developed in accordance with the Restated CUP, for the following uses, density and intensity;Submit an amended conditional use permit

~~application and precise plan for each phase of the development in accordance with the City's zoning regulations.~~

(a) 4390 residential units including (X) approximately 4315 multifamily units and/or elderly assisted housing units; and (Y) a hotel with a rating of no less than three (3) stars, containing approximately 150 keys (equivalent to 75 units for density) (the foregoing residential and hotel limitations, the "**Density Limitation**");

(b) 1,491,256 sf of commercial, office, vehicle sales/display, institutional and/or retail uses (each and collectively, "**Commercial Use**"), in any combination (the foregoing Commercial Use limitations, the "**Intensity Limitation**");

(c) An active park of not less than 7.2 acres;

(d) A passive park of not less than 13.7 acres; and

(e) an aggregate of no less than 37.0 acres of the Property (inclusive of the above-described active park and passive park) will be devoted to recreational, community, open space, park, access or similar use (including but not limited to a community center).

2. ~~Developer agrees that all plans submitted to the Building Division for building permits shall be consistent with the spirit and intent of the Approved Conceptual Master Development Plan.~~ Modifications - Developer agrees that all plans submitted to the Community Planning and Development Department for building permits (a "**Development Plan**") shall be consistent with the spirit and intent of this Restated CUP. Pursuant to the provisions outlined in Section 3-410 of the City's Land Development Regulations (the "LDRs") minor revisions are permitted so long as any proposed modification to the previously approved plan for development of any portion of the Property does not cause the entirety of the Project to exceed the Density Limitation or the Intensity Limitation, and so long as such Development Plan is in substantial compliance with the development standards set forth in Section 3-410 of the LRDs ("**Land Development Standards**"). Accordingly, provided such conditions are met, the approval of each subsequent phase of the Development Plan shall be an administrative function, subject only to administrative review by the City's Development Review Committee (the "**DRC**") to confirm substantial compliance with this Restated CUP, the Land Development Standards and the City's Code of Ordinances ("**City Code**"), and shall not

require approval by the City Planning Commission or the City Council. In the event that there is a disagreement between the Developer and the DRC as to whether a Development Plan is in substantial compliance with this Restated CUP, the Land Development Standards and/or the City Code, the Developer shall have the right to appeal that administrative determination as provided for in the Section 3-702 of the LDRs. Any Substantial Revisions not meeting the provisions of section 3-410 must be reviewed in accordance with the requirements of Article 3, sections 3 - 401 to 3 - 409 of the LDRs.

3. ~~That the overall Development Master Plan for the site is approved for the following uses:~~

- ~~■ 4,390 residential units which represent
 - ~~▶ 3755 Multifamily units~~
 - ~~▶ Minimum of 4 star hotel containing 150 hotel rooms (equivalent to 75 units for density).~~
 - ~~▶ 560 elderly assisted living units~~~~
- ~~■ 1,172,256 Commercial/Retail Use~~
- ~~■ 7.2 acre active park~~
- ~~■ 13.7 acre passive park~~
- ~~■ No less than 35.7 acres of open space~~

The City acknowledges that the Property will be considered to be a single site for land use and zoning purposes. As such, the Density Limitation and the Intensity Limitation set forth herein shall apply and be calculated as to the Property as a whole, and Developer and Developer's successors and assigns shall be permitted to construct improvements on and within the Property ("Improvements") consistent with the foregoing Density Limitation and Intensity Limitation

anywhere within the Property (it being understood that the Developer shall be expressly permitted to allocate the Density Limitation and Intensity Limitation to and among various portions of the Property and to third parties developing such portions of the Property; each such third party a "Sub-Developer"), without regard to and irrespective of any future change in the ownership and/or control of any portion of the Property (whether by fee simple title or leasehold estate) or internal divisions within the Property.

4. ~~The Developer agrees to apply and diligently pursue permits from the County and (FDOT) Florida Department of Transportation for improvements of 143rd Street and Biscayne Boulevard. At such time as the County may approve, the Developer will work with all parties involved to construct the improvements. The City will not be responsible for any construction or costs associated with the aforementioned improvements.~~5. Comply 4. Development Plans shall comply with the City's development standards, with particular emphasis on Article 4, Section 4-402 (Planned development) and Article 5, Division 12 (Landscaping), Division 14 (Parking & Parking Garage Standards) and Division 15 (Signage) of the LDRLDRs, provided, however, that in the event of a conflict between those standards and the specific conditions of approval set forth in this Restated CUP, this Restated CUP shall control.

~~6. Bonding or financial guarantee.~~5. Prior to the issuance of a building permit for any Improvement on or within the Property, the applicant shall deposit with the Department of Community Planning and Development a cash bond, surety bond, or time-deposit bond in an amount equal to one hundred ten (110%) percent of the estimated cost of any and all improvements which may be required within dedicated rights-of-way and/or public facility easements to ensure the ~~plac~~ing completion thereof.

~~7. The Conditional Use Permit for Conceptual Master Development Plan 6.~~
The development of the Project pursuant to this Restated CUP shall be developed substantially in accordance with the following development standards (the "**Development Standards**"):

A. Setbacks:

1. Minimum 15' setback from property lines to buildings of 2 stories or less;
2. Minimum 30' setback from property lines to buildings of more than 2 stories.

B. Building Height:

1. Maximum of 25 residential stories above ~~grade~~base flood elevation at building entrance or above provided parking decks;
2. ~~Parking Free standing parking garages with 6 parking levels elevated above grade and amenity decks and building above shall~~have a maximum of 6 stories elevated above base flood elevation. Amenity decks and other similar uses including code required facilities such as bathrooms, elevators, etc. may be added to the roof above such parking structures.
3. ~~For buildings incorporating parking into the main structure the~~maximum height shall be 31 stories above base flood elevation. Amenity decks and other similar uses including code required facilities such as bathrooms, elevators, etc. may be added to the roof above such structures.

C. Fences:

1. A combination of hedges, walls and fences will be used in combination with landscape material to create a secure environment. Specific perimeter treatments will be provided prior to obtaining building permits.

D. Hedges and Walls:

1. A combination of hedges, walls and fences will be utilized. All final colors and finishes will be provided for the City of North Miami review and approval prior to obtaining building permits.

E. Signs:

1. A series of signage ~~elements~~guidelines will be included as part of an overall signage program for project identity, way finding and neighborhood identity, subject to Article 5, Division 15 Section 5-1506 of the City's LDRs, ~~Specific signage treatments~~programs for

each building will be provided prior to obtaining building permits for such building.

2. ~~A comprehensive Signage Program~~ Comprehensive signage guidelines shall be developed for the entire ~~Project~~ site, subject to the administrative approval of the City's Community Planning & Development Department.

F. Lighting:

1. Exterior lighting to be included that is consistent with the City of North Miami code.

G. Bike & Pedestrian Circulation:

1. Promenades and public spaces adjacent to a street and transit stops should be welcoming to the pedestrian with landscaping, benches, bicycle parking, public art and other attractive features.
2. Roadways should be designed to maximize bicycle, pedestrian and transit connections, internally and to adjacent or nearby compatible schools or developments, by allowing movement in any direction to minimize travel distance. A sidewalk shall be provided on NE 143rd Street along with two activity lanes.
3. All bicycle parking facilities should be placed in areas that are well-lighted and such spaces shall be identified with a permanent and properly maintained aboveground "Bicycle Parking" sign.

H. Open Space:

1. Open Space within the site will ~~take on~~ serve a series of roles, including passive and active recreation areas, landscape, and retention. The public open space will include a pedestrian pathway to accommodate multiple modes of recreation.

I. Grading and Drainage:

1. All Grading and Drainage for the site shall adhere to the Standards and Regulations of the Miami-Dade County Division of Environmental Resources Management ("DERM"), South Florida Water Management District ("SFWMD"), and the City of North Miami.

J. Sanitation:

1. Solid Waste amounts will be calculated based on the city of North Miami's generation rates.

K. ~~That Developer~~ Parking:

1. Each Development Plan shall comply with minimum parking requirements, as determined at ~~each subsequent phase of the master development plan submittal~~ submittal of the applicable

Development Plan, consistent with the City's parking standards established in Article 5, Division 14 of the LDRs.

L. Public Utilities:

1. Design and installation of water lines, force mains and lift stations shall be in compliance with the Code of Ordinances of the City of North Miami. Design and installation shall meet the criteria, set forth by the Florida Department of Environmental Protection ("FDEP"), DERM and the Miami-Dade County Health Department.

M. Common Areas:

- 4.1. Common areas within ~~the~~each individual private development within the Property will match the character set forth by the applicable individual development, and will complement and be compatible with the overall master plan design intent. These areas will provide aesthetic and functional qualities to the development.

N. Landscaping:

1. The intent of the landscaping is to provide the site with a "natural" look throughout the majority of the site. It is the intention to create only pockets of formal planting at the main entrance and focal points throughout the ~~p~~Project. Subsequently plant spacing, heights, and massing will be irregular to achieve this effect.

O. ~~Construction Phasing: Shall be consistent with the approved phasing schedule as referenced in Section 5.5 of the approved Master Development Plan.~~ Notwithstanding any phases depicted on the Amended CMDP, construction and Development Plan phasing shall occur in the order established by the Developer from time to time in accordance with the Lease in response to market demand and conditions as long as the infrastructure necessary to support such Development Plan is either in place or included in such Development Plan. The Developer shall provide the Community Planning and Development Department with copies of any updated CMDP with each Development Plan submittal but in no event less than once each year by December 1, of each year. NE 135th Street will not be included as a part of this or any other amended CMDP.

- P. All ground level and roof top mechanical equipment will be enclosed or obscured from public view ~~at~~from ground level ~~and at roof level~~on the closest adjoining public right of way.

- Q. Parking shall be in compliance with City's Parking requirements outlined in Article 5, Division 14.
- R. All utility construction and vehicle/pedestrian paths construction shall be coordinated through ~~He of~~the Director of City's Public Works Department.
- S. Each Sub-Developer will pay applicable impact fees to the City prior to the issuance of building permits for each phase of the development/Development Plan.
- T. ~~In addition to the traffic due diligence study already provided prior to the commencement of Phase 2 the applicant agrees to provide a supplemental traffic analysis of NE 151 Street & Biscayne Blvd from 1:15pm to 3:15pm to accurately assess the currently failing intersection and work with all partners involved (FIU, County, FOOT, Miami Dade School District and City) to develop a proportionate fair share solution to resolve or alleviate the failing intersection. Traffic: The parties each acknowledge that Property falls within the Traffic Concurrency Exemption Area (TCEA) and is therefore not subject to concurrency level of service requirements. The City and Developer jointly acknowledge that Biscayne Boulevard and in particular the proposed Project access intersections at NE 143rd Street and NE 151st Street are currently operating at level of service F. Therefore, traffic conditions shall not operate or be utilized to limit the Developer's right to develop the Property to the approved Density Limitation or the Intensity Limitation. In order to cooperate with the City, FIU, Miami-Dade County and the Florida Department of Transportation in attempting to partially address any further reduction in the existing level of service at these intersections, the Developer agrees that:~~
1. After completion of the construction of the Spine Road and at such time as the completion of the Development Plans either individually or cumulatively warrant signal improvements, ("Signal Improvements"), the Developer agrees to apply for and diligently pursue permits from the County and the Florida Department of Transportation ("FDOT") for improvements to the NE 143rd Street and Biscayne Boulevard intersection to at least partially mitigate material decreases in the level of service at that intersection. Subject to the issuance of all necessary Approvals (as defined in the Lease) and permits the Developer will work with all parties involved to construct the improvements. The City will not be responsible for any construction or costs associated with the aforementioned improvements, however, the Developer shall be permitted to seek funding from the Community Redevelopment Agency ("CRA") for this improvement and any other intersection improvements that may be identified as appropriate or required it being acknowledged that there is no binding obligation for the CRA to provide any such funding. The CRA will make such determination independently when and if such request is made based on funding availability.

2. In addition to the traffic due diligence study already provided, within 12 months of the completion of the Spine Road the Developer agrees to provide a supplemental traffic analysis of the NE 151st Street & Biscayne Blvd intersection from 1:15 pm to 3:15 pm to assess the currently failing intersection and work with all partners involved (FIU, County, FDOT, Miami Dade School District and City) to develop a program of improvements to be implemented over time to attempt to, at least partially, alleviate or mitigate any decreases in the level of service of this failing intersection. Said study shall also identify proportionate fair share allocations for the implementation of the improvements among each of: the existing major users contributing to backlog condition, the new major users and the operational agencies. The Developer agrees to reasonably cooperate with the City and the operational agencies and other users to identify funding for the improvements and as appropriate shall fund its proportionate fair share of the improvement program in conjunction with the other users and operational agencies. However the Developer shall not be required to fund its proportionate share until the funding for the program is identified and the other parties also agree to fund their proportionate fair share.
 3. As part of each submittal of the plan for each phase, the Developer agrees to provide a traffic generation statement for the proposed development based upon professionally accepted methods applying to the most up to date version of the ITE Traffic Generation Manual taking into account internal capture, pass-by trips, public transportation and other alternate transportation modes as may be identified and encouraged by the TMDP defined below.
 4. The Developer shall submit a Transportation Demand Management Program ("TDMP") to the City, for each Development Plan substantially meeting the requirements of Section 5-702 of the City's LDRs. The TMDP shall propose multi modal transportation alternatives such as connected sidewalks, bicycle parking, transit facilities for bus/shuttle stops and carpooling to partially mitigate the added traffic anticipated from the Development Plan consistent with the requirements of Policy 2A.1.3.V of the City's Comprehensive Plan. The TDMP shall be appropriate to the size, scale and location of the Development Plan and shall demonstrate that reasonable efforts will be made to ensure the proposed TDMP strategies will help reduce the traffic impacts anticipated from the Development Plan. To the extent that the TMDP involves Miami-Dade Transit or the FDOT facilities it shall also be submitted to such agencies.
- U. Demand Management Program (DMP) — The applicant shall submit a Transportation Demand Management (TDM) Program to the

~~City, for each "vertical construction" phase of development meeting the requirements of Section 5-702 of the City's Land Development Regulations. Said plan to be submitted also to Miami Dade Transit and Florida Department of Transportation in accordance with Policy 2A.2.12 of the City's Comprehensive Plan. The TDM program shall be appropriate to the size, scale and location of the proposed development and shall demonstrate that every effort will be made to ensure the proposed transportation strategies will reduce the traffic impacts anticipated from the proposed development. The DMP shall propose multi modal transportation alternatives such as connected sidewalks, bicycle parking, transit facilities for bus/shuttle stops and carpooling to alleviate the added traffic anticipated from the site consistent with the requirements of Policy 2A.1.3.V. Prior to submittal of each amended conditional use permit application for individual phases, the applicant shall provide an updated traffic analysis to the Director of Community Planning & Development with proposed mitigation strategies to alleviate the anticipated impacts. The Developer and the City agree to work to identify any available federal, state or local programs that may be able to provide possible tax credits or incentives or other funding available to the Project as part of the Community Redevelopment Area designation.~~

- ~~W. Within 45 days of Council adoption, work with City staff to identify any available federal, state or local programs that may be able to provide possible tax credit opportunities.~~
- ~~X. Comply with all DRC comments issued by all City Departments and/or Consultants as provided in written form by the City's Zoning Administrator, Joanne Martin.~~
- 7. Pursuant to Section 3-410 (C) of the LDRs, the following shall define

what constitutes minor and substantial revisions for the purpose of this CUP, under Sections 3-410 (A) and (B).

- A. Alterations of the location of major spine road or walkway by more than 10 feet shall be considered minor changes, unless such changes substantially alter the location of the two major entry intersections or the character of the uses otherwise permitted pursuant to this CUP as described in sub-paragraph H below, provided however that movement of the major entry intersection with 151st Street further east away from Biscayne Boulevard shall be considered a minor change and shall not constitute a substantial revision.
- B. Changes in uses shall be minor changes unless a proposed change is to a use that would otherwise be prohibited within the CUP, and except as described in sub-paragraph H below.

- C. Changes in setbacks and landscaping shall be minor changes unless the proposed change does not meet the requirements set forth in this CUP.
- D. As the CMDP is conceptual in nature and subject to change as set forth in this CUP, changes to the location of buildings and structures shown on the CMDP shall be minor changes unless such changes do not otherwise comply with the requirements of this CUP.
- E. Adjustment to the boundaries and size of the Property or a development parcel related to surveying and or adjustments to the right of ways shall be considered minor amendments.
- F. Adjustment to heights of building and structures shall be minor changes unless the proposed changes do not comply with the provisions of condition 6 (B) of this CUP.
- G. This CUP is unique in that: it covers approximately 183 acres of land, which is expected to be developed over a substantial period of years; the property has unique environmental characteristics and requirements which may require changes; the CMDP is conceptual in nature and will change over time; due to the extended project build out the market conditions will change; and it is likely that the applicable regulations will change, therefore future changes which comply with the then applicable LDRs shall be considered minor changes.
- H. Substantial and material modifications to the location of the principal uses such that the primary use of the residential areas is no longer residential or the primary use of the commercial areas is no longer commercial, as depicted on the land use plan included in this CUP, shall be considered Substantial Revisions requiring approval in accordance with the procedures for the original approval or then then applicable procedures under the LDRs.

EXHIBIT A

LEGAL DESCRIPTION

Exhibit A

Legal Description

TRACT "A" of BISCAYNE LANDING, according to the Plat thereof, as recorded in Plat Book 161, at Page 72, of the Public Records of Miami-Dade County, Florida, lying in Section 21, Township 52 North, Range 42 East, less (LESS OUT PARCEL "A"), and less (LESS OUT PARCEL "B"), also known as that piece of land depicted on THE OAKS CONDOMINIUMS recorded in Official Records Book 25427 at Page 4674 of the Public Records of Miami-Dade County, Florida, said LESS OUT parcels being more particularly described as follows:

LESS OUT PARCEL "A": Commence at the Northeast corner of the West 1/2 of the Northeast 1/4 of Section 21, Township 52 South, Range 42 East, the same being the Northeast Corner of said Tract "A" of BISCAYNE LANDING; thence South 87°02'55" West along the North boundary line of said Tract "A" of BISCAYNE LANDING, and along the North line of the Northeast 1/4 of said Section 21, and along the South Right of Way Line of N.E. 151st Street for a distance of 396.01 feet to the POINT OF BEGINNING of the hereinafter described parcel of land; thence along the boundary of The Oaks Condominium as described in Official Record Book 25427 at page 4613 of the Public Records of Miami-Dade County, Florida, for the following (4) courses: (1) thence South 03°17'25" East for a distance of 522.10 feet; (2) thence North 68°42'35" East for a distance of 159.56 feet; (3) thence South 27°35'03" East for a distance of 138.47 feet; (4) thence South 83°13'18" East for a distance of 177.81 feet to a point on the West line of the NE 1/4 of the NE 1/4 of said Section 21, also being the East line of said Tract "A"; thence South 02°55'05" East along said line for a distance of 252.90 feet; thence South 87°09'14" West for a distance of 501.91 feet to a point on a circular curve concave to the west whose radius point bears North 82°36'35" West from said point; thence Northwesterly to the west along the arc of said curve having a radius of 352.64 feet, through a central angle of 23°27'40" for an arc distance of 144.40 feet; thence North 78°35'03" East for 122.19 feet to a point on a circular curve concave to the Southeast whose radius point bears North 85°51'34" East from said point; thence Northwesterly to the right along the arc of said curve having a radius of 100.00 feet, through a central angle of 38°22'29" for an arc distance of 66.98 feet to a point of tangency; thence North 34°14'03" East for 70.48 feet; thence North 51°25'22" West for 70.73 feet; thence North 43°42'31" West for 108.61 feet to a point of curvature with a circular curve concave to the east; thence Northwesterly to the right along the arc of said curve having a radius of 60.00 feet, through a central angle of 72°52'58" for an arc distance of 76.32 feet to a point of reverse curvature with a circular curve concave to the northwest; thence Northwesterly to the left along the arc of said curve having a radius of 25.00 feet, through a central angle of 31°32'21" for an arc distance of 13.76 feet to a point of tangency; thence North 02°21'55" West for a distance of 173.92 feet to a point of curvature with a circular curve concave to the southwest; thence Northwesterly to the left along the arc of said curve having a radius of 125.00 feet, through a central angle of 78°55'58" for an arc distance of 172.20 feet; thence North 02°57'01" West for a distance of 138.00 feet to a point on the North boundary line of said Tract "A" of BISCAYNE LANDING, and also being to the North line of the Northeast 1/4 of said Section 21, and also being to the South Right of Way Line of said N.E. 151st Street; thence North 87°02'55" East along said North boundary line of said Tract "A" of BISCAYNE LANDING, and along said North line of the Northeast 1/4 of said Section 21, and along said South Right of Way Line of N.E. 151st Street for a distance of 149.64 feet to the POINT OF BEGINNING; Said parcel contains 4.33 acres, more or less.

AND

LESS OUT PARCEL "B": Beginning at the most Northeasterly Corner of said Tract "A" of BISCAYNE LANDING, said point being further described as being the Northeast Corner of the West 1/2 the Northeast 1/4 of Section 21, Township 52 South, Range 42 East; thence South 02°55'05" East, along the East Line of said Tract "A", a distance of 677.06 feet; thence North 83°13'18" West, a distance of 177.81 feet; thence North 27°35'03" West, a distance of 138.47 feet; thence South 86°42'35" West, a distance of 159.56 feet; thence North 03°17'25" West, a distance of 522.10 feet to a point on the North Line of said Tract "A"; thence North 87°02'55" East, along said North Line, a distance of 396.01 feet to the POINT OF BEGINNING; Said parcel contains 5.37 acres more or less.

AND

LESS OUT PARCEL "C"

COMMENCE at the Northwest corner of Lot 1, Block 1, of PAGRO SUBDIVISION, according to the plat thereof, as recorded in Plat Book 105, Page 59 in the Public records of Miami-Dade County, Florida, said point lying on the East right-of-way line of State Road 5 (U.S. 1 / Biscayne Blvd.), as shown on the Florida Department of Transportation Right of Way Map for said State Road 5, Section 87030-2571, dated 03/10/1992; thence S 86°24'55" W, along said right-of-way line of State Road 5, a distance of 25.53 feet; thence N 08°08'23" E, along said East right-of-way line, 33.58 feet to the POINT OF BEGINNING of the following described parcel.

Thence continue N 08°08'23" E, along said East right-of-way line of State Road 5, a distance of 115.26 feet to the beginning of a non-tangent curve concave to the Southeast, having a radius of 13,276.42 feet and a chord bearing of N 09°29'42" E; thence northwesterly along the arc of said curve and said East right-of-way line of State Road 5, a distance of 167.86 feet, through a central angle of 00°43'28" to a point of reverse curvature with a curve concave to the Northwest, having a radius of 13,368.42 feet and a chord bearing of N 09°12'39" E; thence northwesterly along the arc of said curve and said East right-of-way line of State Road 5, a distance of 302.02 feet, through a central angle of 01°17'35" to the beginning of a non-tangent curve concave to the Southeast, having a radius of 35.00 feet and a chord bearing of N 69°01'49" E; thence northwesterly along the arc of said curve 21.23 feet, through a central angle of 34°45'36" to the intersection with the South right-of-way line of NE 151st Street; thence N 06°24'37" E, along said South right-of-way line of NE 151st Street 2.62 feet; thence S 53°01'04" W 11.20 feet; thence S 09°22'05" W 223.48 feet; thence S 09°04'01" E 6.33 feet; thence S 09°22'05" W 38.13 feet; thence S 31°10'10" W 5.39 feet; thence S 22°01'34" W 45.34 feet to the POINT OF BEGINNING.

Containing 6,914 Square Feet of land, more or less.