NORTH MIAMI PLANNING COMMISSION AGENDA
Tuesday, December 2, 2014, 7:00PM
Council Chambers
776 NE 125th Street, North Miami, FL 33161

I. ASSEMBLY AND ORGANIZATION:

A. Call to Order
B. Pledge of Allegiance
C. Roll Call of Board Members
D. Amendments to the Agenda

II. APPROVAL OF MINUTES: November 6, 2014

III. COMMUNICATIONS: None

IV. CONTINUED PUBLIC HEARINGS: None

V. PUBLIC HEARINGS:

~~PC 15-14:~~ ~~**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, ADOPTING A SMALL SCALE LAND USE PLAN AMENDMENT TO THE CITY OF NORTH MIAMI COMPREHENSIVE PLAN FUTURE LAND USE MAP, FOR FOUR (4) LOTS GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTHEAST 135TH STREET AND MEMORIAL HIGHWAY, WITH FOLIO NUMBERS 06-2230-000-0290; 06-2230-000-0120; 06-2230-000-0121; AND 06-2230-000-0122, FROM LOW-MEDIUM DENSITY RESIDENTIAL TO COMMERCIAL LAND USE DESIGNATION, IN ORDER TO ALLOW A PROPOSED COMMERCIAL DEVELOPMENT, CONSISTENT WITH THE INTENT OF THE CITY OF NORTH MIAMI COMPREHENSIVE PLAN; AND FURTHER AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO EFFECTUATE THE SUBJECT SMALL SCALE LAND USE PLAN AMENDMENT, AS REQUIRED BY FLORIDA LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND FOR AN EFFECTIVE DATE.**~~

1. Staff Report
2. Commission Action

~~PC 16-14:~~ ~~**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING THE CITY OF NORTH MIAMI OFFICIAL ZONING MAP REFERENCED IN ARTICLE 1, SECTION 1-106, TO REFLECT THE REZONING OF FOUR (4) LOTS GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTHEAST 135TH STREET**~~

~~**AND MEMORIAL HIGHWAY, WITH FOLIO NUMBERS 06-2230-000-0290; 06-2230-000-0120; 06-2230-000-0121; AND 06-2230-000-0122, FROM THE CURRENT R-4 (RESIDENTIAL) ZONING TO C-1 (COMMERCIAL) ZONING, TO ALLOW A PROPOSED COMMERCIAL DEVELOPMENT, CONSISTENT WITH THE INTENT OF THE CITY OF NORTH MIAMI COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTS, SEVERABILITY AND FOR AN EFFECTIVE DATE.**~~

1. Staff Report
2. Commission Action

PC 17-14: **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.**

1. Staff Report
2. Commission Action

PC 18-14: **AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 3, DIVISION 4, ENTITLED "CONDITIONAL USES", AT SECTION 3-409, ENTITLED "APPEALS" AND SECTION 3-410, ENTITLED "CHANGES TO CONDITIONAL USE APPROVALS", TO FURTHER CLARIFY CONDITIONAL USE REQUIREMENTS FOR MASTER PLANNED DEVELOPMENTS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

1. Staff Report
2. Commission Action

VI. COMMITTEE REPORTS: None

VII. OLD BUSINESS: None

VIII. NEW BUSINESS: None

IX. ADJOURNMENT

Interested parties may appear at the meeting and be heard with respect to the matter. Any person wishing to appeal the recommendations of the Planning Commission will need a verbatim record of the meetings proceedings, which record includes the testimony and evidence upon which the appeal is to be based (Chapter 286.0105 F.S.) In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation to participate in this proceeding should contact the Community Planning & Development Department no later than four (4) days prior to the proceeding. Telephone (305) 893-6511, Ext. 12252, for assistance. If hearing impaired, telephone our TDD line at (305) 893-7936 for assistance.

NORTH MIAMI
FLORIDA
776 N.E. 125 Street, North Miami, Florida 33161

Staff Report

Date: December 2, 2014

To: Planning Commission

From: Bhairvi Pandya, AICP, City Planner, Community Planning & Development

Re: Amendment to the Previously Approved Biscayne Landings Conditional Use Permit and Conceptual Master Development Plan.

A RESOLUTION OF THE ACTING 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.

RECOMMENDATION

That the Planning Commission recommends approval of the proposed Resolution to amend the previously issued Conditional Use Permit and Conceptual Master Development Plan for Tract A of Biscayne Landings Plat (subject development) in accordance with Article 3, Section 3-405 of the City's Land Development Regulations ("LDR") and forward said Resolution to City Council for final consideration.

PURPOSE & INTENT

Section 3-410 of the City's land development regulations currently allows for both minor and substantial revisions to a previously approved CUP based on certain established criteria. Furthermore, minor revisions are subject to administrative approval while substantial revisions are subject to review by both the Planning Commission and City Council. Given the foregoing, the applicant, Oleta Partners is requesting an amendment to the previously approved Conditional Use Permit (the "CUP") and Conceptual Master Development Plan (the "CMDP") for the proposed Biscayne Landings project, located at 15055 Biscayne Boulevard, in order to clarify and expressly outline~~d~~ what constitutes a minor versus substantial amendment as permitted under Section 3-410 of the City's LDRs.

Background:

On May 23, 2012, the Mayor and Council of the City of North Miami adopted Resolution R-2012-67, authorizing the execution of a Lease Agreement between the City and Oleta Partners, LLC (the "Developer") for the master development of the Biscayne Landing plat, consisting of approximately 184 acres in size.

On June 25, 2013, the Mayor and Council of the City of North Miami ("City Council") subsequently 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 CMDP included a mixture of residential, commercial and retail uses, as well as parks and open space (See Map 1 below - Previously Approved Conceptual Master Plan Map).

On August 27, 2013, the Mayor and City Council passed and adopted Resolution No. R-2013-96, approving an amendment to the previously issued Conditional Use Permit (the "Amended CUP"), which included, a new Spine Road to serve the Development.

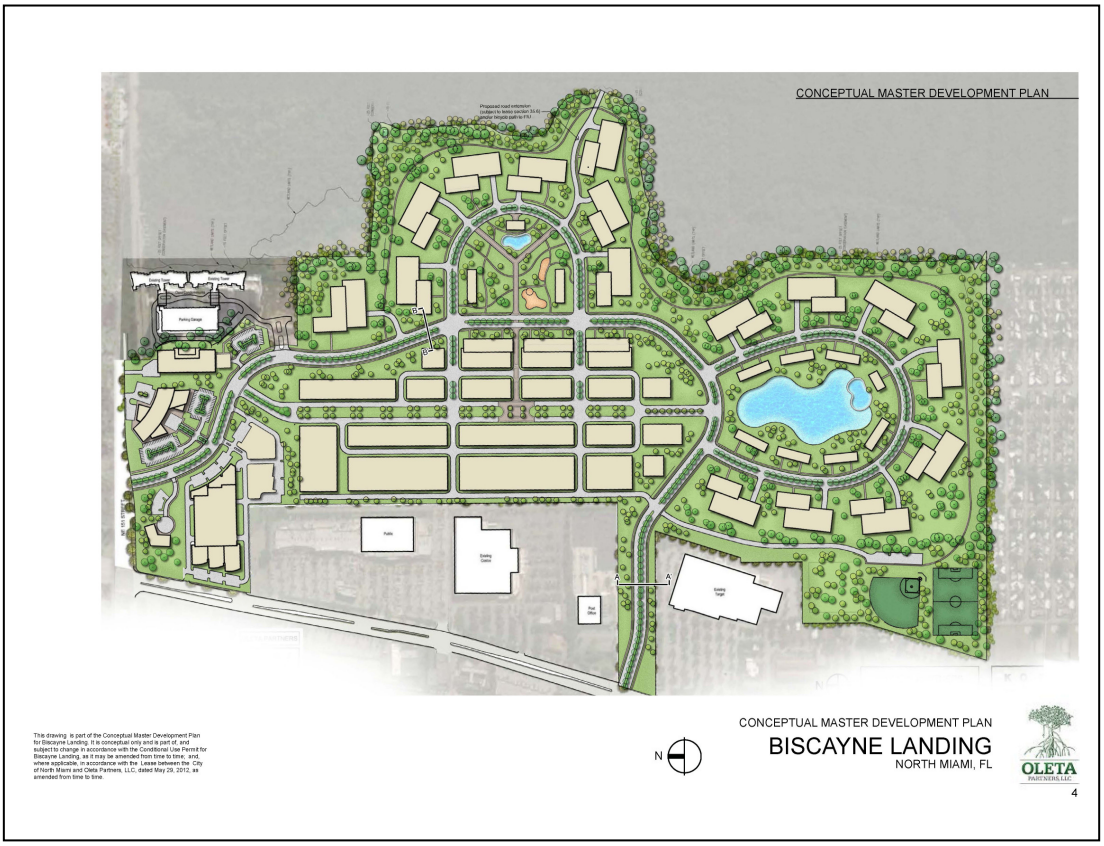
Map 1: Previously Approved Conceptual Master Plan Map June 2013

Current Request:

Pursuant to Section 3-401B of the City's Land Development Regulations, all Planned Developments are required to obtain a Conditional Use Permit with specific guidelines and development standards (as established by City Council) for the implementation of the proposed development, consistent with the terms of the executed Lease Agreement. As such, on November 7, 2014, Oleta Partners, LLC filed an application with the Community Planning & Development Department requesting an amendment to the previously approved CUP in the form of an Amended and Restated CUP and modification to the CMDP.

As stated earlier, the proposed amendment seeks to clarify and streamline the development review process by differentiating what constitutes a minor versus major revision in the CUP, as well as update the CMDP to reflect the developer's current intent for the site (as depicted in map 2 shown below). As such, Section 7, A through H of the Amended and Restated CUP outlines what constitutes minor and major revisions to the CUP (refer to attached exhibit).

Map 2: Proposed Conceptual Master Development Plan November 7, 2014



It is important to note that the proposed amendment does not increase the amount of development, nor does it modify any of the previously approved development standards as relates to lot size, height, setbacks, or use. To that end, the density and intensity of the previously approved uses i.e. residential units (including elderly assisted living units), hotel, commercial, office, retail, vehicle sales/display and institutional uses, remain unchanged. However, the amount of open space was increased by 1.3 acres. However, as depicted in the attached exhibit several conditions have been modified to provide additional clarity and to reduce any possible ambiguity as the project moves forward. The following is a tabular summary showing a comparison of the previously approved and proposed uses for the subject development.

Previously Approved Uses	Proposed Uses	Difference
4,390 Residential Units • 3,755 Multifamily Units • At least a 4 Star Hotel with 150 Rooms equivalent to 75 units for density) • 560 Elderly Assisted Living Units	4,390 Residential Units • 4,315 Multifamily Units and/or Elderly Assisted Housing Units • At least a 3 Star Hotel containing 150 keys (equivalent to 75 units for density)	No Change
1,172,256 Commercial/Retail Uses	1,172,256 Commercial/Retail Uses	No Change
7.2 Acre Active Park	7.2 Acre Active Park	No Change
13.7 Acre Passive Park	13.7 Acre Passive Park	No Change
No Less than 35.7 Acres of Open Space	No less than 37.0 acres of the Property (inclusive of the 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).	An increase of 1.3 Acres of Open Space

Based on the criteria outlined in Section 3-410 of the City's LDR, the revisions contemplated in the proposed amendment are considered substantial in nature and as such **must demonstrate compliance with the following standards:**

1. The application is consistent with the comprehensive land use plan;

The proposed amendments to the Conceptual Master Development Plan and Conditional Use Permit do not change or increase the amount of permitted development nor modify any of the previously established development standards regarding use, height, setbacks, open space or parks.

As such, the proposed amendments maintain~~s~~ consistency with the goals, objectives and policies of the Comprehensive Plan, specifically Policy 1.13.12 that promotes redevelopment efforts within Regional Activity Center ("RAC") that "promote large-scale development and redevelopment as well as small parcel infill development and redevelopment that facilitate a balanced mix of land uses by providing maximum flexibility for development and redevelopment activities." In addition, the previous land use designation and the uses are consistent with those allowed under the Mixed Use Medium Land Use category of the Comprehensive Plan.

2. The application is in compliance with the district regulations applicable to the proposed development, including the bonus provisions in section 4-405, if applicable;

The proposed amendment does not include a request for bonus units. As proposed, the current request does not change any permitted uses nor does it change any development standards, density or intensity of the uses, the proposed Conceptual Master Development Plan & Conditional Use Permit amendment is in compliance with the land use, Planned Development, and RAC District regulations.

3. The application is consistent with the applicable development standards in these LDRs;

Based on the information provided staff believes the proposed amendment to the CUP and Conceptual Master Development Plan for the proposed development is in compliance with the development standards outlined in the LDRs. In addition, the City Council will apply those development standards not established by the LDRs through the Conditional Use Permit process.

4. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use or adequate mitigation is provided;

Again, as stated earlier, the proposed request to amend the Conditional Use Permit and the Conceptual Master Development Plan does not change or increase the amount of permitted development nor does it modify any of the applicable development standards regarding height, setbacks, or use. As such no new traffic impacts are anticipated beyond those identified in the traffic impact report dated April 12, 2013. Therefore the conditions included under Section 6(T) of the attached Amended and Restated CUP shall apply.

5. The proposed use is compatible with the nature, condition and development of adjacent uses, buildings and structures and will not adversely affect the adjacent uses, buildings or structures.

The proposed amendments do~~es~~ not include a change to the previously approved uses. Staff believes the proposed mixed use development is a suitable complement to the adjacent recreational uses with regional centers at neighboring FIU Biscayne Bay Campus, Kovens Center and Oleta State Park.

6. The parcel proposed for development is adequate in size and shape to accommodate all development features;

The proposed amendments to Conditional Use Permit and Conceptual Master Development Plan do~~es~~ not seek to alter the size of the development or location. At 184 acres and situated on two major corridors, staff believes the subject parcel is suitable in size and shape to accommodate the proposed mixed use development.

7. The proposed use will not have an adverse impact on use, livability, value and development of adjacent properties;

Again, the proposed amendment does not change or increase the amount of permitted development nor does it modify any of the applicable development standards regarding height, setbacks, or uses. Since the previously approved uses remain unchanged the proposed amendment is not anticipated to have adverse impacts on the use, livability, value and development of adjacent properties.

With the majority of the City's housing stock being over 40 years old, the proposed development will make way for the first major mixed use redevelopment project to occur along the Biscayne Boulevard corridor in many years. As proposed, the redevelopment of the currently vacant site is anticipated to generate major fiscal and economic benefits to the adjacent properties as well as the City and the Region.

8. The nature of the proposed development is not detrimental to the public health, safety and general welfare of the community;

Staff does not believe the proposed amendment will cause detrimental impacts to the public health, safety and general welfare of the community. In fact, based on the findings of the Economic Impact Report referenced in the previously approved CUP, the future development is anticipated to create approximately $1,353 million and 8,370 full-time equivalent jobs as non-recurring economic benefits; and approximately $440 million and 2,850 on-site permanent jobs as recurring economic benefits to the City and the Region.

To that end, staff believes the proposed development not only provides economic but also environmental benefits as it represents a great example of how an environmentally challenged site can be remediated and transformed into an economically viable new development.

9. The design of the use creates a form and function which enhances the community character of the immediate vicinity of the parcel proposed for development; and

As proposed, staff believes the revised Conceptual Master Plan is suitable blueprint to guide the future redevelopment of the site. The applicant is required to submit a precise plan with greater details and specifications as each subsequent phase of the development moves forward. Also, it is important to note that Per Section 5-805 of the City's LDR all new construction is required to incorporate LEED standards or an alternate City approved green standards as part of its new development in order to support the City's environmental initiatives. The applicant proposes to construct a LEED or similar designation mixed use project with energy saving fixtures to sustainably reduce the water and energy consumption of the future development.

10. Flexibility in regard to development standards is justified by the benefits to community character and the immediate vicinity of the parcel proposed for development.

By virtue of the current PD zoning, the project is entitled to greater flexibility in the development standards than all other zoning districts. As such, applicant's request to clarify the conditions of the existing conditional use permit will alleviate any ambiguities in future development review processes and ensure the successful advancement of the Biscayne Landing project. As is evident from the economic impact report associated with the project, the anticipated benefits are substantial for the community at large. Staff believes the aforementioned clarification is necessary for the successful development of the site.

CONCLUSION

Based on our analysis, staff is of the opinion that the proposed amendment to the Conditional use Permit and Conceptual Master Development Plan is consistent with the requirements of Section 3-405 of the City's Land Development Regulations and is compatible with the future land use goals, objectives and policies identified in the City's adopted Comprehensive Plan. Therefore the Community Planning and Development Department requests that the Planning Commission recommend approval of the attached resolution, subject to the following conditions:

1. Applicant shall comply with all conditions listed in the Amended and Restated Conditional Use Permit.

2. Coordinate with City of North Miami Beach regarding gaining access via the proposed extension of NE 146 Street to Biscayne Boulevard since that portion lies inside the jurisdiction of the City of North Miami Beach.

3. Comply with utility recommendations of the City Engineer based on comments provided in the DRC report dated January 8, 2013 to ensure water and sewer lines are appropriately sized.

4. Prior to the issuance of a building permit for any Improvement, as defined in the Amended and Restated CUP, 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.

5. Each Sub-Developer will pay applicable impact fees to the City prior to the issuance of building permits for each Development Plan as defined in the Amended and Restated CUP.

6. Applicant acknowledges School Concurrency has been met in the adjacent school service area. As such seats have been reserved until April 2015. The applicant will need to request for extension to maintain School Concurrency reservation for 1 additional year until 2016. Prior to the development of any residential phase of the development the applicant agrees to submit the applicable residential unit data to MDCPS staff for School Concurrency review and propose mitigation strategies as necessary.

7. Comply with all requirements stipulated in City's executed lease agreement, and all amendments thereto.

BP/tws

Attachments:
1. Proposed Resolution
2. Amended and Restated Conditional Use Permit (Exhibit B)
3. Proposed Conceptual Master Development Plan (Exhibit C)
4. Proposed Conceptual Master Development Plan- Land Use
5. Letter of intent

RESOLUTION NO. _____

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 between the City and Oleta Partners, LLC ("Developer") (the "Lease"), 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 annexed 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, reviewed the reports and recommendations of City staff, heard public testimony, and found the proposed amendment to the CUP to be in harmony with the goals, objectives and policies of the Comprehensive Plan; and thereby, recommended approval to the Mayor and City Council; 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") annexed 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, approve and 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 _____ vote of the Mayor and City Council of the City of North Miami, Florida, this _____ day of _____, 2014.

_____
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: _____

Seconded by: _____

Vote:

Mayor Dr. Smith Joseph	_____ (Yes)_____ (No)
Vice Mayor Philippe Bien-Aime	_____ (Yes)_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)_____ (No)
Councilperson Scott Galvin	_____ (Yes)_____ (No)

EXHIBIT B

AMENDED AND RESTATED CONDITIONAL USE PERMIT FOR ~~THE~~ BISCAYNE 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 ~~Lauding"~~ 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 tile~~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 _____,2104, the Acting Mayor and City Council passed and adopted Resolution R-2014- ____ approving 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~~_____, 2014, after reviewing the proposed request, public testimony, reports and the recommendation of approval by City staff voted _____; and

WHEREAS, the Acting Mayor and City Council ~~of the City of North Miami~~ have determined that ~~the proposed requests~~ 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 ~~the Conditional Use Permit in conjunction with the Conceptual Master Development Plan~~ this Restated CUP and the Amended CMDP.

NOW, THEREFORE, the Mayor and City Council hereby approve this ~~Conditional Use Permit~~ 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. ~~Submit an amended conditional use permit application and precise plan for each phase of the development in accordance with the City's zoning regulations.~~ 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) 1,172,256 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~~

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. ~~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~~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 ~~LDR.~~ 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.

~~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 ~~placing~~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, ~~wayfinding~~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~~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 Department 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 submittals~~ 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 ~~Area~~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~~It is the intention to create only pockets of formal planting at the main entrance and focal points throughout the ~~project~~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.

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 ~~Ile 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.

~~U. Demand Management Program (DMP) The applicant~~4. The Developer shall submit a Transportation Demand Management ~~(TDM)~~ Program (**"TDMP"**) to the City, for each ~~"vertical construction" phase of development~~Development Plan substantially 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~~LDRs. The TMDP shall propose multi modal transportation alternatives such as connected sidewalks, bicycle parking, transit facilities for bus/shuttle stops and carpooling to ~~alleviate~~partially mitigate the added traffic anticipated from the ~~site~~Development Plan 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.~~ 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.

~~W. Within 45 days of Council adoption,~~ U. The Developer and the City agree to work ~~with City staff~~ to identify any available federal, state or local programs that may be able to provide ~~passible tax credit opportunities~~possible tax credits or

incentives or other funding available to the Project as part of the Community Redevelopment Area designation.

~~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, and if there is a conflict between these provisions and those in Sections 3-410 (A) and (B) the provisions of this paragraph 7 shall control.

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.

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 7 (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 I CONDOMINUMS" 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 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 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 Northeasterly 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 108.81 feet to a point of curvature with a circular curve concave to the east; thence Northeasterly 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 Northeasterly 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 ½ the Northeast ¼ 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.

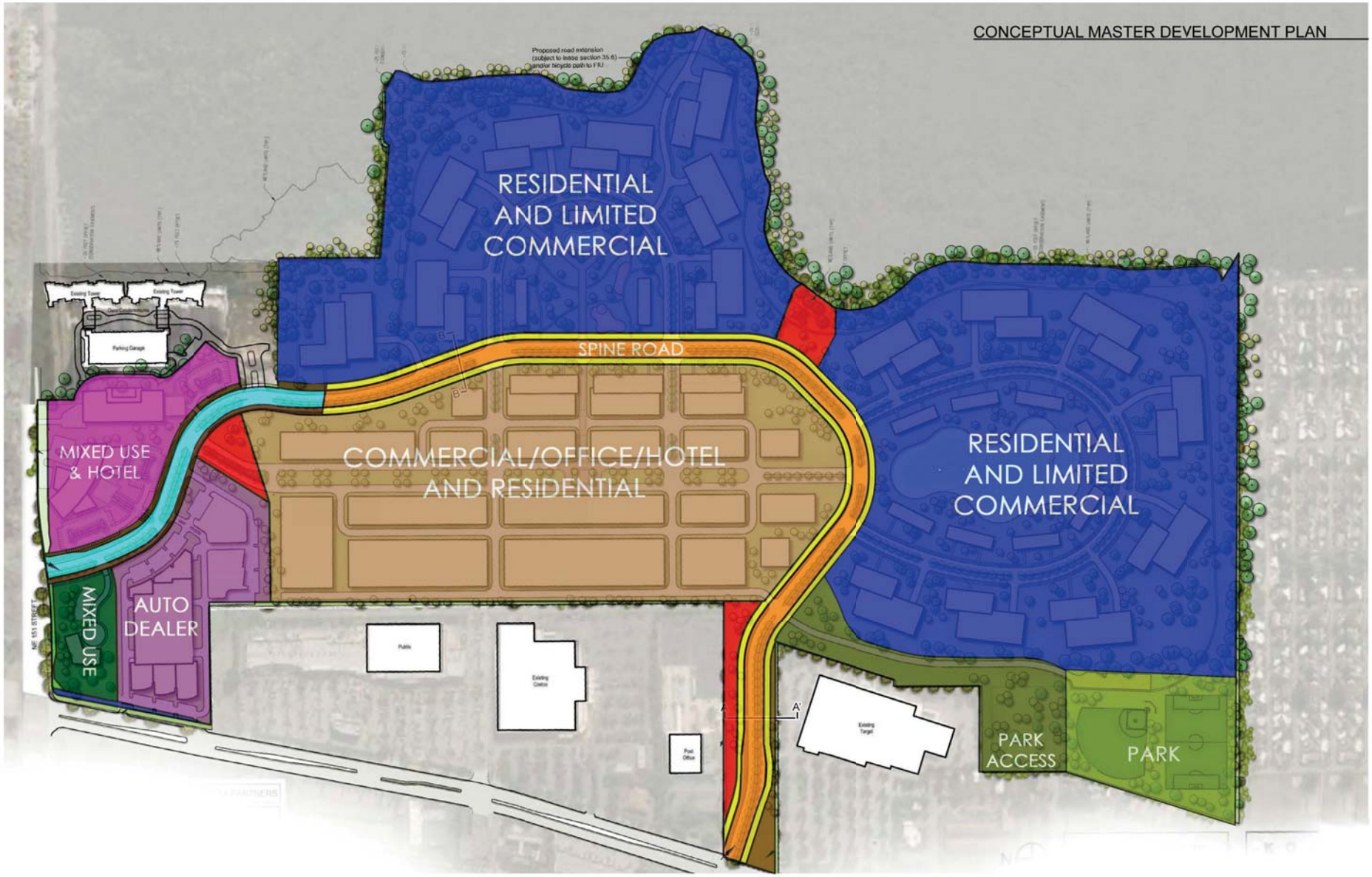
AND

LESS OUTPARCEL "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 rightof-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 00°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 69°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.



This drawing is part of the Conceptual Master Development Plan for Biscayne Landing. It is conceptual only and is part of, and subject to change in accordance with the Conditional Use Permit for Biscayne Landing, as it may be amended from time to time; and, where applicable, in accordance with the Lease between the City of North Miami and Oleta Partners, LLC, dated May 29, 2012, as amended from time to time.

N

CONCEPTUAL MASTER DEVELOPMENT PLAN

BISCAYNE LANDING

NORTH MIAMI, FL

OLETA PARTNERS, LLC

Bilzin Sumberg
ATTORNEYS AT LAW

Carter N. McDowell
Tel 305-350-2355
Fax 305-351-2239
cmcdowell@bilzin.com

November 5, 2014

Tanya Wilson-Sejour, AICP
Planning Manager, Community Planning & Development Department
City of North Miami
12400 NE 8th Avenue
North Miami, FL 33161

Re: Letter of Intent for Conditional Use Permit Amendment
Biscayne Landing Development (the "Project")
Folio: 06-2221-034-0010
Property Located at 15055 Biscayne Boulevard, North Miami, FL (the "Property")

Dear Ms. Wilson-Sejour:

This firm represents Oleta Partners LLC, a Delaware limited liability company (the "Applicant"), the lessee of the Property. Please consider this our formal letter of intent in connection with the attached Application for a Conditional Use Permit Amendment. The Applicant is seeking an amendment to the existing Conditional Use Permit for the Property pursuant to the requirements of Article 3, Division 4 of the City Land Development Regulations. As part of the Conditional Use Permit Amendment, the Applicant is also requesting a modification of the Conceptual Master Development Plan as it relates to development of the Project.

The Property is located south of N.E. 151st Street and consists of approximately 183± acres. The Property was platted as Tract A of the Biscayne Landing plat recorded in Plat Book 161 at Page 72 of the Public Records of Miami-Dade County, Florida. The Property is currently vacant with the exception of a structure in which the temporary construction office is located. On June 25, 2013 the Applicant obtained approval for the master development of the Project, which will include a mixture of residential, commercial and retail uses, as well as parks and open space, and the Applicant was issued a Conditional Use Permit, which was amended on August 27, 2013.

The purpose of the requested amendment to the Conditional Use Permit for the Property is to clarify and streamline the development process for this critically important project and amend and restate the Conditional Use Permit, as amended, including the amended Conceptual Master Development Plan to be attached thereto. The requested modifications do

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not increase the amount of permitted development nor do they modify any of the applicable development standards regarding height, setbacks, open space or parks.

Accordingly, the amendment seeks to clarify the conditions of the Conditional Use Permit by reorganizing them and collecting similar conditions, such as the traffic conditions, under a single heading within the Conditional Use Permit, and to clarify and establish the process for future approvals and modifications of the Conceptual Master Development Plan that is a part of the Conditional Use Permit. Likewise, the proposed amendments clarify and define what types of changes are considered substantial changes and what types of changes are considered minor changes. In accordance with the City Code, substantial modifications to the Project will require future public hearings and approvals in conformity with the same procedures required for this approval.

The intensity and density of the Project will remain the same, thus impact will not change, and therefore, the prior impact reports submitted with the prior Conditional Use Permit application are still applicable. This is reflected in the amended Conceptual Master Development Plan, which contains conceptual changes that comply with the requirements of the Conditional Use Permit.

Based on the foregoing, we respectfully ask for your favorable review of this application. Thank you for your review and consideration of this application. Should you have any questions or wish to discuss the above, please do not hesitate to contact me at 305-350-2355.

Sincerely,

Carter N. McDowell

CNM
Attachments

MIAMI 4404239.2 80052/44188

SHEET INDEX

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2 LEGAL DESCRIPTION
3 REGIONAL CONTEXT
4 CONCEPTUAL MASTER DEVELOPMENT PLAN
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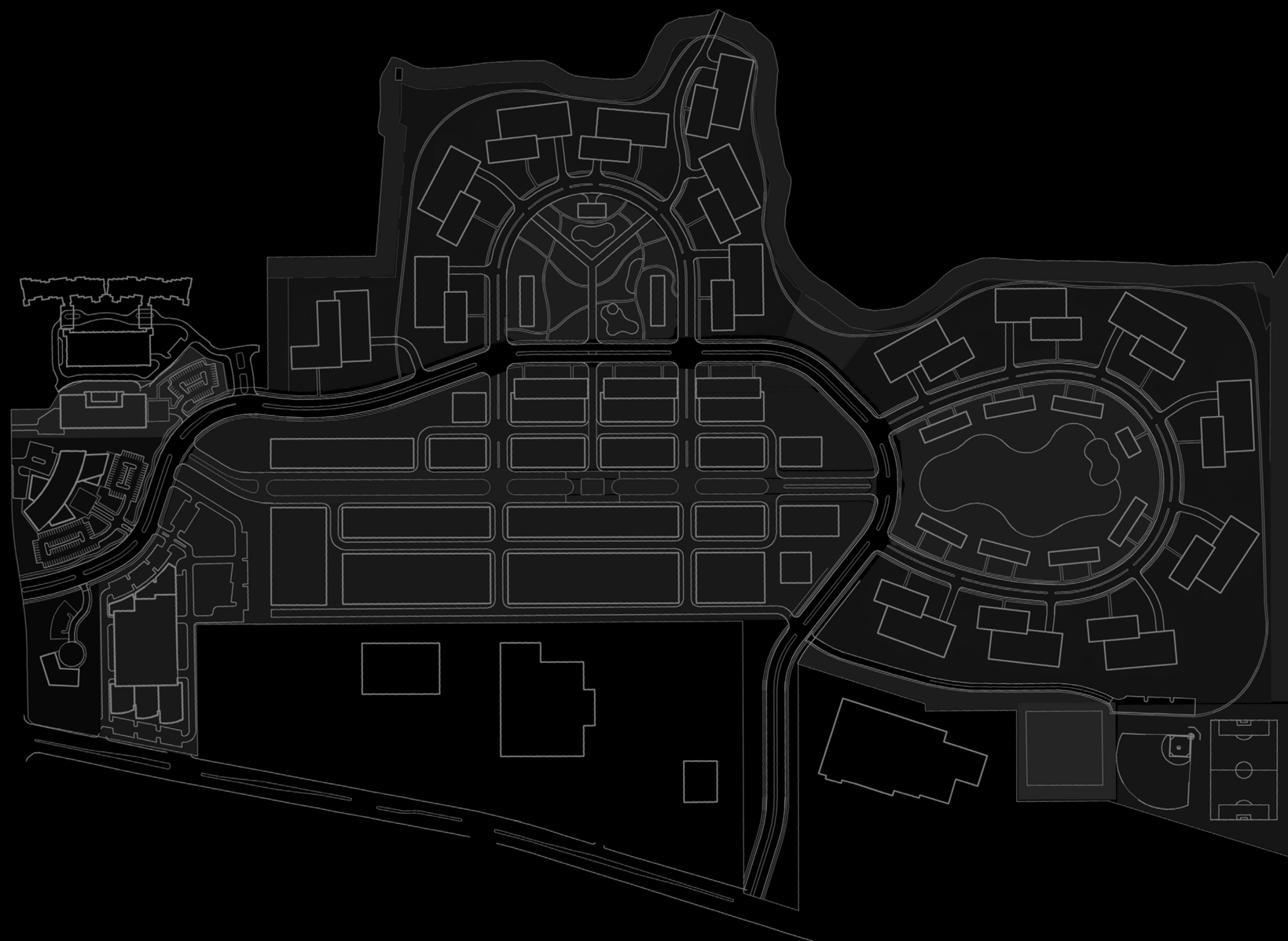

CONCEPTUAL MASTER DEVELOPMENT PLAN

BISCAYNE LANDING

NORTH MIAMI, FL - NOVEMBER 7, 2014

This drawing is part of the Conceptual Master Development Plan for Biscayne Landing . It is conceptual only and is part of, and subject to change in accordance with the Conditional Use Permit for Biscayne Landing, as it may be amended from time to time; and, where applicable, in accordance with the Lease between the City of North Miami and Oleta Partners, LLC, dated May 29, 2012, as amended from time to time.

OLETA PARTNERS, LLC

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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 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 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 Northeasterly 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 108.81 feet to a point of curvature with a circular curve concave to the east; thence Northeasterly 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 Northeasterly 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 ½ the Northeast ¼ 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 OUTPARCEL "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 rightof-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 00°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 69°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.

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CONCEPTUAL MASTER DEVELOPMENT PLAN

BISCAYNE LANDING

NORTH MIAMI, FL

OLETA PARTNERS, LLC

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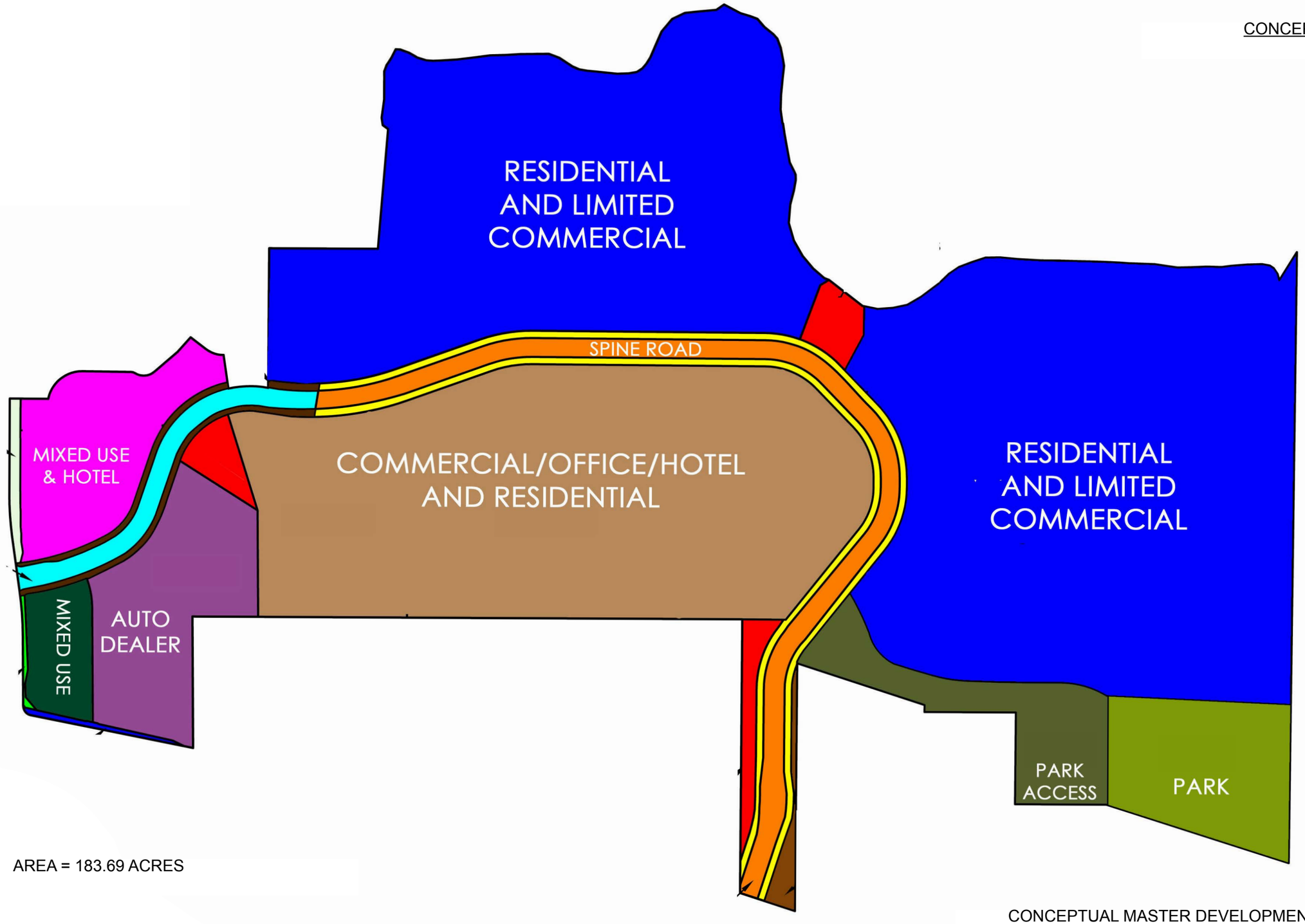
CONCEPTUAL MASTER DEVELOPMENT PLAN

BISCAYNE LANDING

NORTH MIAMI, FL

OLETA PARTNERS, LLC

CONCEPTUAL LAND USE PLAN



AREA = 183.69 ACRES

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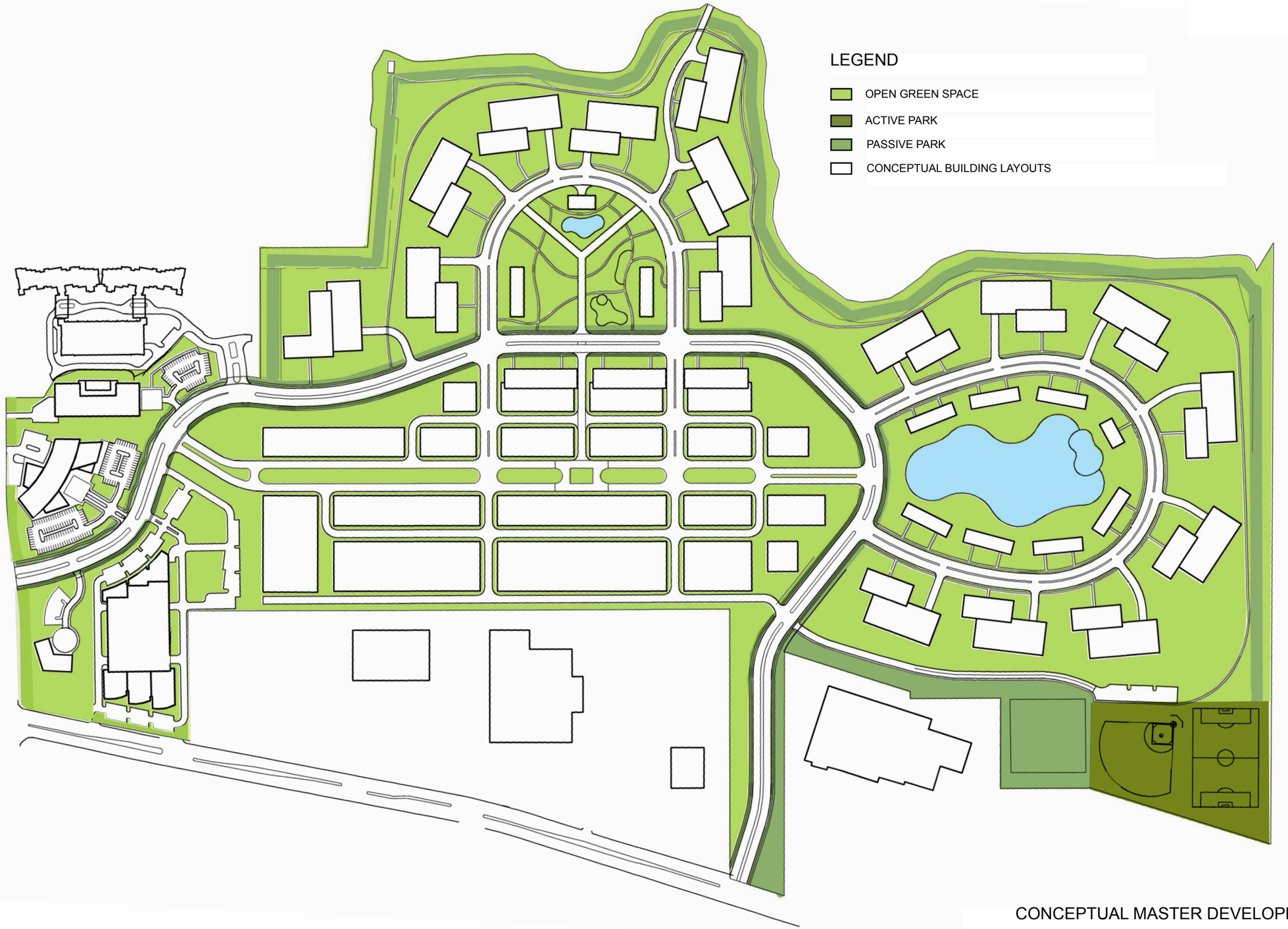
BISCAYNE LANDING

NORTH MIAMI, FL

OLETA PARTNERS, LLC



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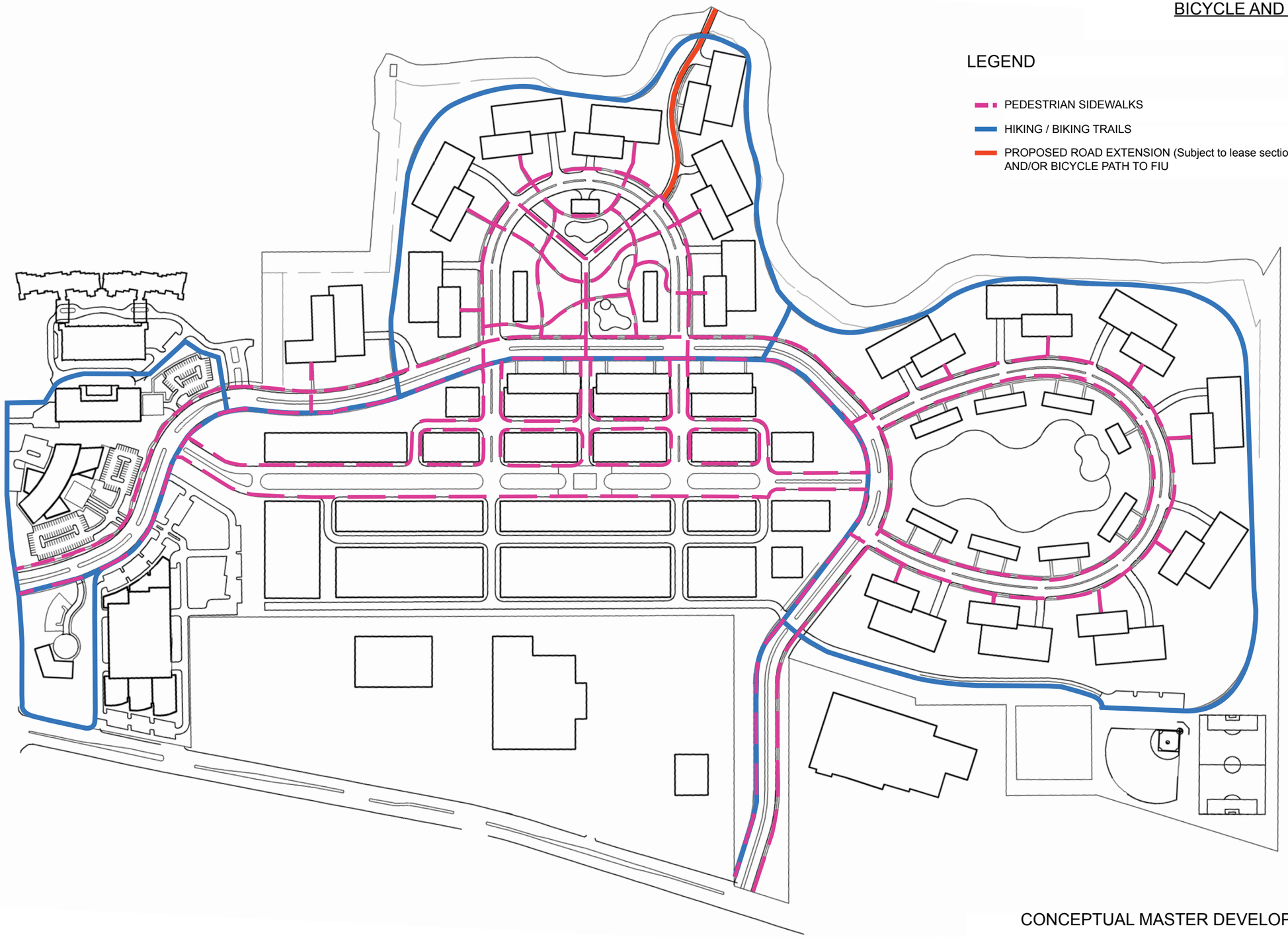
BISCAYNE LANDING

NORTH MIAMI, FL

OLETA PARTNERS, LLC

BICYCLE AND PEDESTRIAN CIRCULATION



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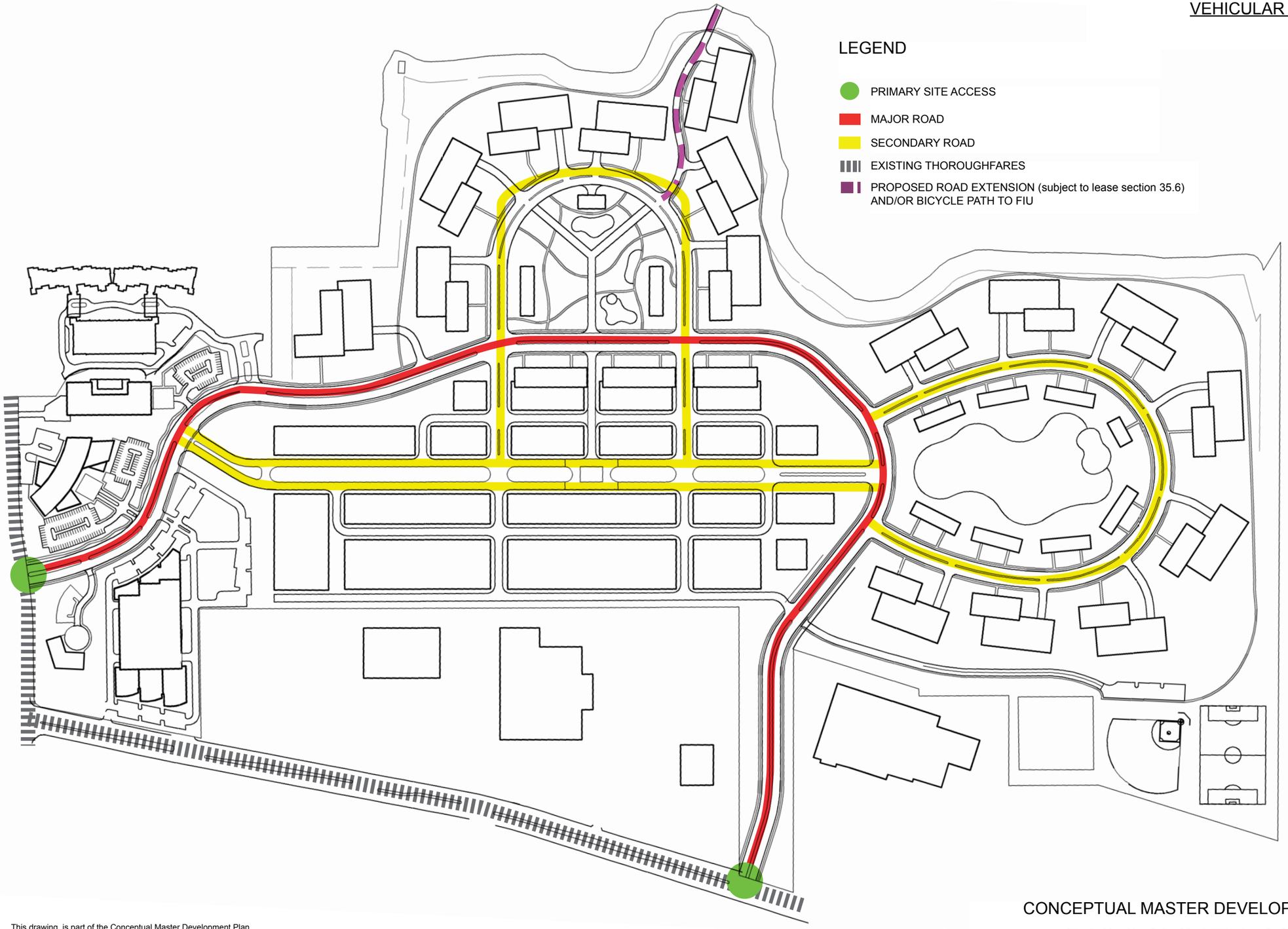
BISCAYNE LANDING

NORTH MIAMI, FL

OLETA PARTNERS, LLC

VEHICULAR ACCESS AND CIRCULATION



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CONCEPTUAL MASTER DEVELOPMENT PLAN

BISCAYNE LANDING

NORTH MIAMI, FL

OLETA PARTNERS, LLC

Phase	Development	Category	Parcel Area (acre)	Total Area by Phase (acre)
1	Spine Road	Site primary access road (4,595 linear feet)	8.81	
1	Spine Road	Stormwater retention for spine road	3.16	11.97
2	Auto Dealer	Dealerships	8.52	8.52
3	Commerical/Office/Hotel and Limited Residential	First phase retail shopping center	20.80	20.80
4	Residential and Limited Commercial	First phase east neighborhood	13.05	13.05
5	Commerical/Office/Hotel and Limited Residential	Second phase retail shopping center	20.80	
5	Park Active	Baseball/Football field area	7.20	28.00
6	Residential and Limited Commercial	Second phase east neighborhood	13.04	13.04
7	Residential and Limited Commercial	Third phase east neighborhood	13.05	
7	Park Passive	First phase trail system and access to Active Park	7.01	20.06
8	Mixed Use & Hotel	Hotel, commercial sites	10.35	10.35
9	Residential and Limited Commercial	First phase south neighborhood	25.46	25.46
10	Residential and Limited Commercial	Second phase south neighborhood	25.46	
10	Park Passive	Second phase trail system	7.01	32.47
		TOTAL		
			183.69 acres	

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CONCEPTUAL MASTER DEVELOPMENT PLAN

BISCAYNE LANDING

NORTH MIAMI, FL

OLETA PARTNERS, LLC

Description	RAC Approved Areas	Current RAC Consumption	Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Phase 6	Phase 7	Phase 8	Phase 9	Phase 10	Biscayne Landing Subtotal	RAC TOTAL	Remaining	Comments
Land Uses																
Residential	5,000	610				600		700	600		900	955	3,755	4,365	0	4,390 Total BL Residential Units, including Hotel (at 50% of 150 rooms) and Assisted Living - no change to prior approval
Hotel										75			75	75	0	
Assisted Living Facility/Independent Living Facility										560			560	560	0	
Office	1,050,000														1,050,000	no change to prior approval
Commercial/retail/mixed-use/Auto dealership	1,500,000	44,316		175,000	400,000		200,000			397,256			1,172,256	1,216,572	283,428	no change to prior approval
Industrial	1,500,000	1,377,756											0	1,377,756	122,244	none proposed
Total Proposed of Commercial/Industrial Area	4,050,000	1,422,072		175,000	400,000		200,000			397,256			1,172,256	2,594,328		
Total Proposed Residential Units																
Primary Site Access			4,695 LF													phase 1 includes primary spine road only - no change to prior approval
Phasing implementation			2014	2015	2016	2016	2019	2019	2022	2022	2025	2028				
Phasing completion			2015	2017	2019	2019	2022	2022	2025	2025	2028	2031				

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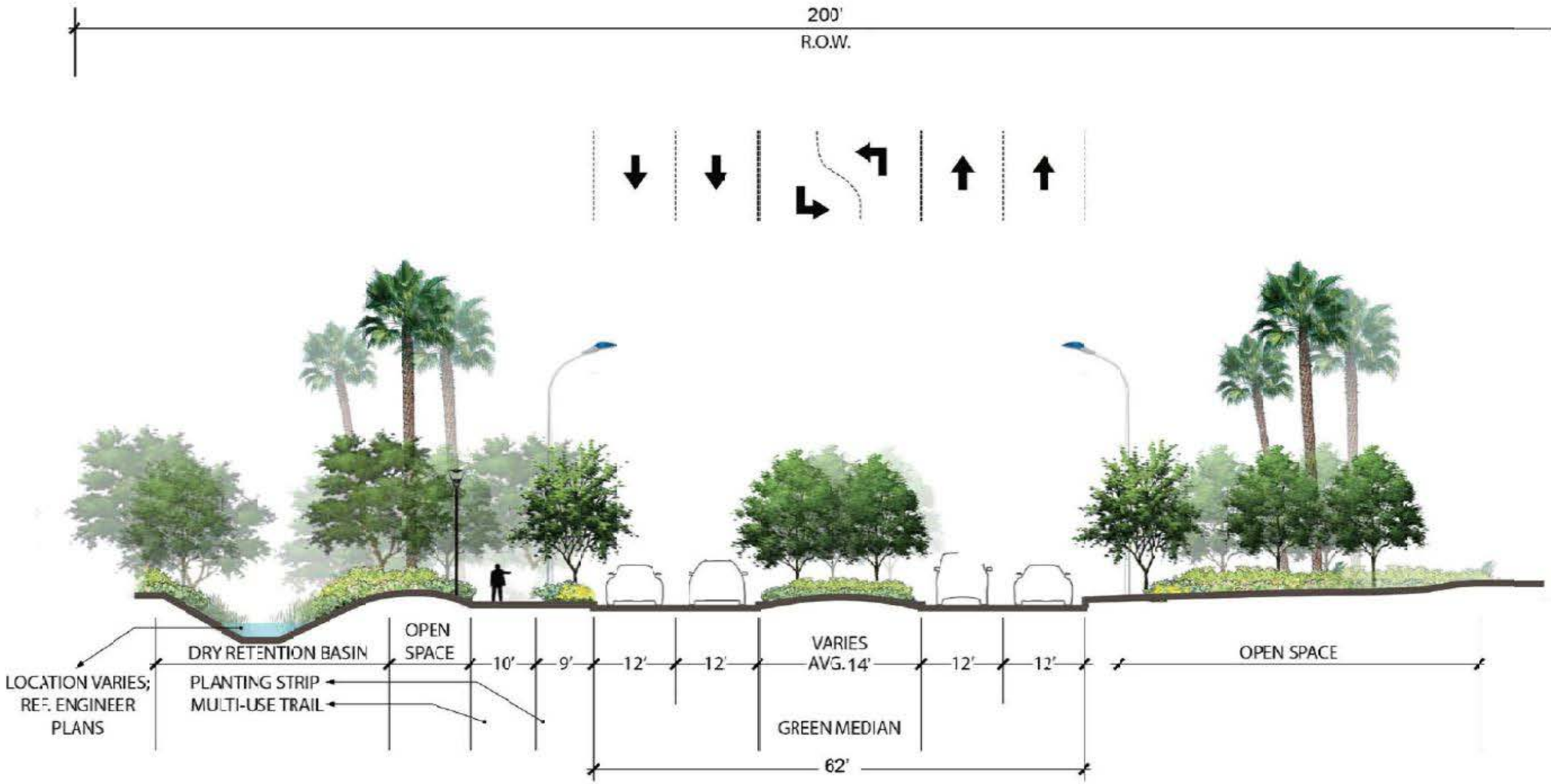

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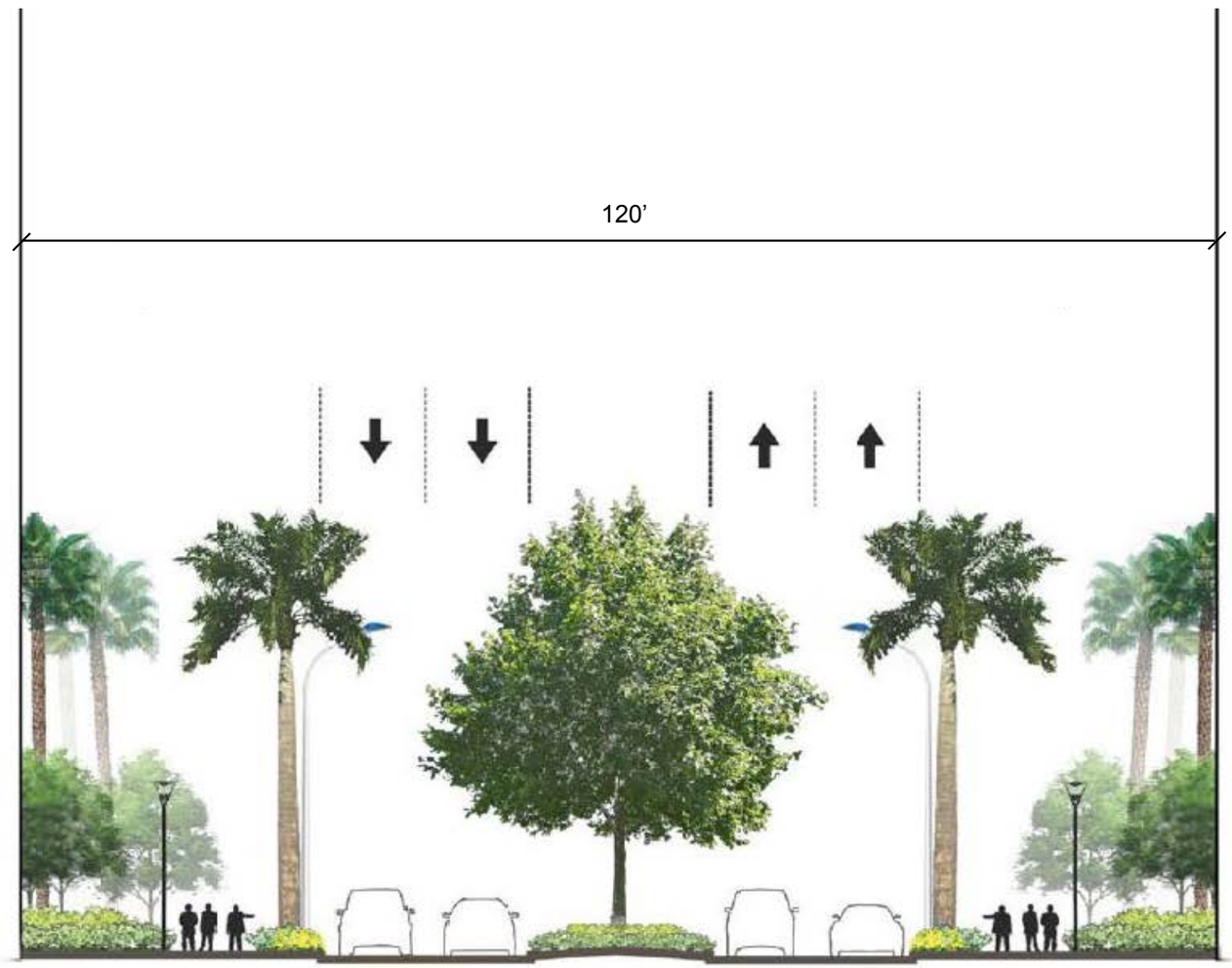
CONCEPTUAL MASTER DEVELOPMENT PLAN

BISCAYNE LANDING

NORTH MIAMI, FL

OLETA PARTNERS, LLC



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CONCEPTUAL MASTER DEVELOPMENT PLAN

BISCAYNE LANDING

NORTH MIAMI, FL

OLETA PARTNERS, LLC

NORTH MIAMI
FLORIDA
776 N.E. 125 Street, North Miami, Florida 33161

Staff Report

To: The Planning Commission

From: Bhairvi Pandya, AICP, City Planner, Community Planning and Development Department

Date: December 2, 2014

Re: Amendments to Section 3-409 and Section 3-410 of the City's LDRs.

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 3, DIVISION 4, ENTITLED "CONDITIONAL USES", AT SECTION 3-409, ENTITLED "APPEALS" AND SECTION 3-410, ENTITLED "CHANGES TO CONDITIONAL USE APPROVALS", TO FURTHER CLARIFY CONDITIONAL USE REQUIREMENTS FOR MASTER PLANNED DEVELOPMENTS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

RECOMMENDATION

That the Planning Commission recommends approval of the proposed ordinance to amend Article 3, Division 4, Entitled "Conditional Uses", at Section 3-409, entitled "Appeals" and Section 3-410, entitled "Changes to Conditional Use Approvals" of the City's Land Development Regulations (LDRs) to further clarify conditional use requirements for master planned developments and forward said changes to the City Council for final consideration.

PURPOSE & INTENT

The applicant Oleta Partners LLC has requested an amendment to Article 3, Section 3-409 and Section 3-410 of the City's LDR in an effort to obtain further clarity regarding the City's Conditional Use Permit amendment provision as well as the current appeal process.

BACKGROUND INFORMATION

Section 3-1001 of the City's LDR allows for applicant initiated text amendments, provided such requests satisfy the established criteria as outlined in Section 3-1004 of said regulations. As such, on November 7, 2014, Oleta Partners, LLC filed an application with the Community Planning & Development Department requesting an amendment to Chapter 29, Article 3, Section 3-409 and Section 3-410 of the City's LDRs. The proposed amendment under Section 3-410 seeks to

clarify and differentiate what constitutes a minor versus substantial revision to a previously approved conditional use permit in order to expedite the review process and minimize any ambiguity that would cause unnecessary delays. It also cross references the current appeal process under Section 3-702 of the LDR which allows an applicant who disagrees with the decision of the Development Review Committee, to file an appeal with the Board of Adjustment. Additionally, the proposed text amendment also seeks to add language to Section 3-409 to make reference to the current appeal process which allows for an appeal of a final decision of the City Council to the appellate division of the circuit court. Below is a summary of the proposed text amendments:

- Section 3-409 allows an aggrieved party to appeal City Council decision (within 30 days) with the appellate division of Circuit Court.
- Section 3-410 A (2) Minor Revisions - proposes to amend the relocation of a major roadway from 5 feet to 10 feet.
- Section 3-410 A (7) Minor Revisions- proposes to permit the relocation of a structure within a previously approved use through Development Review Committee process or a previously issued Conditional Use permit.
- Section 3-410 A (10) Minor Revisions- proposes to include modifications only to that which was approved in a previously issued and approved Conditional Use permit.
- Section 3-410 C Applicability- identifies and states the requirement to define what constitutes a substantial revision and what constitutes a minor revision pursuant to subsection A Minor Revisions.
- Section 3-410 D Appeal – allows an aggrieved party to appeal an administrative decision by the Community Planning and Development Manager and/or Development Review Committee to the Board of Adjustment (BOA).

ANALYSIS

Section 3-1004 of the City's Land Development Regulations requires that all text amendments to the LDR must meet the following minimum criteria:

1. Promotes the public health, safety and welfare;

The proposed text amendments promotes the public health, safety and welfare by ensuring that an aggrieved party is made aware of their right to appeal a City Council decision (within 30 days) with the appellate division of Circuit Court; Additionally Section 3-410 clarifies and defines what types of changes are considered substantial versus minor changes. Such clarification is necessary in order to streamline and expedite the development review process

which helps to support developments that indirectly enhance the public health, safety and welfare.

2. Does not permit uses the Comprehensive Land Use Plan prohibits in the area affected by the zoning map change or text amendment

The proposed text amendment does not alter or affect any uses but merely clarifies the provisions outlined in Sections 3-409 and 3-410 of the LDRs.

3. Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property;

The proposed text amendment does not include recommendations for any increase in density or intensity

4. Will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the Comprehensive Land Use Plan;

Again, as stated earlier, the proposed request to amend Sections 3-409 and 3-410 does not change or increase the amount of permitted development nor does it seek to modify any of the applicable development standards. Furthermore all future developments are subject to the requirements of Policy 11.2.7 of the City's Comprehensive Plan which stipulates that all decisions regarding land use planning and the issuance of development orders and permits shall consider the availability of public facilities and services necessary to support such development at the adopted LOS standards concurrent with the associated impacts. As such all future uses associated with the proposed text amendment shall comply with all concurrency requirements. If it is determined that any proposed development may potentially cause adverse impacts on the City's current or future infrastructure, the applicant will be required to mitigate the impacts that exceed the established level of service..

5. Does not directly conflict with any goal, objective or policy of the Comprehensive Land Use Plan; and

The proposed text amendment does not conflict with any goals objective policy of the Comprehensive Plan. In fact the proposed amendment is in harmony with the spirit and intent of the City's Comprehensive Plan. Particularly Policy 1.3.1 which states that the Land Development Regulations shall allow for a clear and easy-to-follow development review process. Additionally, Policy 3.B.1.1 requires that "the City should work closely with the development

community so it may proceed through administrative requirements in a timely fashion." Given the foregoing staff believes the proposed text amendment further advances the vision of the Comprehensive Plan.

6. The proposed amendment furthers the orderly development of the City of North Miami.

The Proposed text amendment seeks to clarify the current regulations and in turn strengthens the development review process. As such, the approval of the proposed ordinance furthers the orderly development of the City, encourages future economic growth and does not directly conflict with any goal, objective or policy of the City's Comprehensive Plan.

CONCLUSION

Based on our analysis staff is of the opinion that the proposed amendment to Section 3-409 and 3-410 of the Land Development Regulations satisfies the criteria outlined in Section 3-1004 of the City's Land Development Regulations and is compatible with the future land use goals, objectives and policies identified in the City's adopted Comprehensive Plan, specifically Policy 1.3.1 which states that "the Land Development Regulations shall allow for a clear and easy-to-follow development review process." As such, staff requests that the Planning Commission recommends adoption of the proposed ordinance.

TWS/bp

Attachments

1. Ordinance
2. Letter of intent

ORDINANCE NO: _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT REGULATIONS", BY AMENDING ARTICLE 3, DIVISION 4, ENTITLED "CONDITIONAL USES", AT SECTION 3-409, ENTITLED "APPEALS" AND SECTION 3-410, ENTITLED "CHANGES TO CONDITIONAL USE APPROVALS", TO FURTHER CLARIFY CONDITIONAL USE REQUIREMENTS FOR MASTER PLANNED DEVELOPMENTS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, on April 28, 2009, the Mayor and City Council of the City of North Miami ("City"), passed and adopted the City's Land Development Regulations codified under Chapter 29, City Code of Ordinances ("LDRs"); and

WHEREAS, the City is desirous of amending Section 3-410 of the LDRs to allow for a more expeditious development review process for developments requiring conditional use permits; and

WHEREAS, Policy 9.4.6 of the City's Comprehensive Plan ("Comprehensive Plan") requires that the City "create land use designations and zoning regulations that encourage the retention, attraction and expansion of business and industry"; and

WHEREAS, the proposed amendment is consistent with the Comprehensive Plan and promotes the public health, safety and welfare of the City; and

WHEREAS, the proposed amendment furthers the orderly development of the City, encourages future economic growth and does not directly conflict with any goal, objective or policy of the Comprehensive Plan; and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on December 2, 2014, reviewed the proposed amendment and found it in harmony with the goals, objectives and policies of the Comprehensive Plan, and recommended approval to the Mayor and City Council; and

WHEREAS, the Mayor and City Council, find that the proposed amendment to the Land Development Regulations is consistent with the Comprehensive Plan, and is in the best interest of the City.

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

Section 1. **Amendment to Chapter 29 Code of Ordinances.** The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations", by amending Article 3, Division 4, entitled "Conditional Uses", at Section 3-409, entitled "Appeals" and Section 3-410, entitled "Changes to Conditional Use Approvals", to read as follows:

CHAPTER 29. LAND DEVELOPMENT REGULATIONS

****

ARTICLE 3. Development Review

DIVISION 4. Conditional Uses.

Sec. 3-409. - Appeals.

An appeal from a decision of the city council regarding a conditional use may be taken ~~in accordance with the provisions of section 3-704~~ by filing a petition for writ of certiorari with the appellate division of the circuit court in accordance with the Florida Rules of Appellate Procedure within thirty (30) days of rendering of the decision.

Section 3-410. Changes to conditional use approvals.

A. *Minor revisions.* The ~~director~~ manager of community planning and development is authorized to allow minor revisions to an approved conditional use permit after receipt of comments from the development review committee. A minor revision is one which:

1. Does not affect the conditional use criteria applicable to the conditional use.
2. Does not alter the location of any major road or walkway by more than ~~five (5)~~ ten (10) feet.
3. Does not change the use.
4. Does not change a condition of approval.
5. Does not increase the density or intensity of the development.
6. Does not result in a reduction of setback or previously required landscaping.
7. Does not result in a substantial change to the location of a structure within a previously approved use by the development review committee or by a previously issued and approved conditional use permit.
8. Does not add property to the parcel proposed for development.
9. Does not increase the height of the buildings.
10. Does not include any modifications not reflected in a previously approved conditional use permit.

B. *Substantial revisions.* Any proposed change that does not meet the above criteria is not minor and must be reviewed in accordance with the procedures for an original approval, including new application materials and payment of fees**.**

C. *Applicability.* A previously approved and issued conditional use permit shall clearly define within its terms what constitutes a minor or substantial revision under subsection A.

D. *Appeal.* An appeal from any decision of the manager of community planning and development or the development review committee, shall be taken by an aggrieved party to the board of adjustment as provided for in section 3-702 of these LDRs.

****

Section 1. **Conflicts**. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 2. **Severability**. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining

sections, sentences, clauses, and phrases of this Ordinance which shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. **Codification**. The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The Sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions and the word "ordinance" may be changed to "section", "article" or any other appropriate word as may be required.

Section 4. **Effective Date**. This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a ___vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this ___day of_____, 2014.

PASSED AND ADOPTED by a ___vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this ___ day of_____, 2014.

_____
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: _____

Seconded by: _____

Vote:

Mayor Dr. Smith Joseph	_____ (Yes)_____ (No)
Vice Mayor Philippe Bien-Aime	_____ (Yes)_____ (No)
Councilperson Scott Galvin	_____ (Yes)_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.

Bilzin Sumberg
ATTORNEYS AT LAW

Carter N. McDowell
Tel 305-350-2355
Fax 305-351-2239
cmcdowell@bilzin.com

November 5, 2014

Tanya Wilson-Sejour, AICP
Planning Manager, Community Planning & Development Department
City of North Miami
12400 NE 8th Avenue
North Miami, FL 33161

Re: Letter of Intent for Conditional Use Permit Amendment
Biscayne Landing Development (the "Project")
Folio: 06-2221-034-0010
Property Located at 15055 Biscayne Boulevard, North Miami, FL (the "Property")

Dear Ms. Wilson-Sejour:

This firm represents Oleta Partners LLC, a Delaware limited liability company (the "Applicant"), the lessee of the Property. Please consider this our formal letter of intent in connection with the attached Application for a Conditional Use Permit Amendment. The Applicant is seeking an amendment to the existing Conditional Use Permit for the Property pursuant to the requirements of Article 3, Division 4 of the City Land Development Regulations. As part of the Conditional Use Permit Amendment, the Applicant is also requesting a modification of the Conceptual Master Development Plan as it relates to development of the Project.

The Property is located south of N.E. 151st Street and consists of approximately 183± acres. The Property was platted as Tract A of the Biscayne Landing plat recorded in Plat Book 161 at Page 72 of the Public Records of Miami-Dade County, Florida. The Property is currently vacant with the exception of a structure in which the temporary construction office is located. On June 25, 2013 the Applicant obtained approval for the master development of the Project, which will include a mixture of residential, commercial and retail uses, as well as parks and open space, and the Applicant was issued a Conditional Use Permit, which was amended on August 27, 2013.

The purpose of the requested amendment to the Conditional Use Permit for the Property is to clarify and streamline the development process for this critically important project and amend and restate the Conditional Use Permit, as amended, including the amended Conceptual Master Development Plan to be attached thereto. The requested modifications do

BILZIN SUMBERG BAENA PRICE & AXELROD LLP
1450 Brickell Avenue, 23rd Floor, Miami, FL 33131-3456 Tel 305.374.7580 Fax 305.374.7593 www.bilzin.com

not increase the amount of permitted development nor do they modify any of the applicable development standards regarding height, setbacks, open space or parks.

Accordingly, the amendment seeks to clarify the conditions of the Conditional Use Permit by reorganizing them and collecting similar conditions, such as the traffic conditions, under a single heading within the Conditional Use Permit, and to clarify and establish the process for future approvals and modifications of the Conceptual Master Development Plan that is a part of the Conditional Use Permit. Likewise, the proposed amendments clarify and define what types of changes are considered substantial changes and what types of changes are considered minor changes. In accordance with the City Code, substantial modifications to the Project will require future public hearings and approvals in conformity with the same procedures required for this approval.

The intensity and density of the Project will remain the same, thus impact will not change, and therefore, the prior impact reports submitted with the prior Conditional Use Permit application are still applicable. This is reflected in the amended Conceptual Master Development Plan, which contains conceptual changes that comply with the requirements of the Conditional Use Permit.

Based on the foregoing, we respectfully ask for your favorable review of this application. Thank you for your review and consideration of this application. Should you have any questions or wish to discuss the above, please do not hesitate to contact me at 305-350-2355.

Sincerely,

Carter N. McDowell

CNM
Attachments

MIAMI 4404239.2 80052/44188