RESOLUTION No. 2008-63-750-Z-78

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA; APPROVING THE APPLICATION SUBMITTED BY THE CITY OF NORTH MIAMI BEACH FOR PROPERTY GENERALLY LOCATED AT 19150 NORTHWEST 8TH AVENUE, DESCRIBED ON EXHIBIT "A" ATTACHED HERETO; TERMINATING A PREVIOUSLY APPROVED DECLARATION OF RESTRICTIVE COVENANTS RECORDED JANUARY 30, 2002 IN OFFICIAL RECORDS BOOK 20170, AT PAGE 4728 IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; APPROVING A NON-USE VARIANCE OF SECTION 33-11(H) OF THE ZONING CODE TO ALLOW AN EIGHT (8) FOOT HIGH WALL WHERE A SIX (6) FOOT MAXIMUM HEIGHT IS PERMITTED; APPROVING A NON-USE VARIANCE OF SECTION 33-52 TO ALLOW A BUILDING HEIGHT OF FORTY-SIX AND HALF (46.5) FEET WHERE A MAXIMUM HEIGHT OF THIRTY FIVE (35) FEET IS PERMITTED; PROVIDING FOR ACCEPTANCE OF DECLARATIONS OF RESTRICTIVE COVENANTS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of North Miami Beach ("Applicant") owns certain property located at 19150 Northwest 8th Avenue, more particularly described on Exhibit "A" attached hereto, and

WHEREAS, the Applicant seeks the following approvals:

(a) The termination of a previously approved Declaration of Restrictive Covenants recorded January 30, 2002 in Official Records Book 20170, at Page 4728, in the Public Records of Miami-Dade County, Florida;

(b) A non-use variance of Section 33-11(H) of the Zoning Code to allow an eight (8) foot high wall where a six (6) foot maximum height is permitted;

(c) A non-use variance of Section 33-52 to allow a building height of forty-six and a half (46.5) feet where a maximum height of thirty-five (35) feet is permitted;

WHEREAS, the City's Planning and Zoning staff has recommended approval of the Resolution subject to certain conditions, and,

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

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

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

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

Section 2. APPROVAL: The City Council of the City of Miami Gardens hereby approves the Application submitted by the Applicant, as follows:

> (a) The termination of a previously approved Declaration of Restrictive Covenants recorded January 30, 2002 in Official Records Book 20170, at Page 4728, in the Public Records of Miami-Dade County, Florida;
>
> (b) A non-use variance of Section 33-11(H) of the Zoning Code to allow an eight (8) foot high wall where a six (6) foot maximum height is permitted;
>
> (c) A non-use variance of Section 33-52 to allow a building height of forty-six and a half (46.5) feet where a maximum height of thirty-five (35) feet is permitted;

Section 3. ACCEPTANCE OF DECLARATION OF RESTRICTIVE COVENANTS: The City Council of the City of Miami Gardens, Florida hereby accepts the Declaration of Restrictive Covenants, attached hereto as Exhibit "C."

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

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS ZONING MEETING HELD ON APRIL 2, 2008.

SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Bratton
SECONDED BY: Councilman Gilbert

VOTE: 5-0

Mayor Shirley Gibson	x (Yes)	___(No)
Vice Mayor Barbara Watson	___(Yes)	___(No) Out of town
Councilman Melvin L. Bratton	x (Yes)	___(No)
Councilman Aaron Campbell	x (Yes)	___(No)
Councilwoman Sharon Pritchett	___(Yes)	___(No) Not present
Councilman André Williams	x (Yes)	___(No)
Councilman Oliver Gilbert III	x (Yes)	___(No)

SKD/bfc
8063535_1.DOC

City of Miami Gardens

1515 NW 167th Street
Miami Gardens, Florida 33169

Mayor Shirley Gibson
Vice-Mayor Barbara Watson
Councilman Oliver Gilbert III
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilwoman Sharon Pritchett
Councilman André Williams

Agenda Cover Page – Saint Monica Gardens Elderly Housing Development
PH-2007-000024

Date: April 2, 2008
Fiscal Impact: No x Yes □ Public hearing x Quasi-Judicial x
(If yes, explain in Staff Summary) Ordinance □ Resolution x
Funding Source: 1st Reading □ 2nd Reading □
Contract/P.O. Requirement: Yes □ No x Advertising requirement: Yes x No □
Sponsor Name/Department: City Manager via Planning and Zoning

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RESOLUTION No. 2008-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY THE ARCHDIOCESE OF MIAMI, FOR PROPERTY GENERALLY LOCATED AT 3490 NORTHWEST 191ST STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FOR A NON-USE VARIANCE OF SECTION 33-284.27(N) OF THE CODE TO ALLOW A MINIMUM UNIT SIZE OF 525 SQUARE FEET WHERE A MINIMUM UNIT SIZE OF 550 SQUARE FEET IS REQUIRED; APPROVING A MODIFICATION OF CONDITION 2 OF RESOLUTION NO. CZAB4-12-01; PROVIDING FOR A DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

This Resolution was deferred on March 5, 2008 by a vote of 6-0 to allow it to be heard appropriately at same time of the Second Reading of the Ordinance for the district boundary change to PAD.

There were discussions by the Council and the applicant on the project, and the applicant was requested to meet with staff to resolve the Council's concerns. The applicant met staff on Tuesday March 11, 2008 to discuss the conditions of the Declaration of Restrictive Covenants.

The following amendments to the Declaration of Restrictive Covenants were agreed to by staff. (Note: underlines are additions, strike-through are deletions):

3. **Development Tracts**. The development of the property shall occur on three Tracts. Tract 1 shall be the elderly housing building and related and required improvements. Tract 2 shall be

the proposed church facility and rectory building. Tract 3 shall be existing school and modification of the existing church to the multi-purpose building.

11. **Driveway**. The westerly most driveway accessing Northwest 191st Street shall be improved for two way traffic prior to issuance of C.O. of improvements of Tract 2; and all landscape improvements depicted on the plan adjacent to the west of the driveway shall be installed prior to the C.O. of the elderly building. The applicant shall submit and obtain the approval of the Public Works Department for the improvements.

12. **Fence**. A five (5) foot high ~~wrought iron~~ metal picket fence shall be installed along the perimeter or the property abutting Northwest 189th Street and Northwest 34th Court prior to issuance of C.O. of the elderly housing building.

15. **Hard Surface Play Areas**. The existing basketball courts and hard surface play areas for the existing school and church shall be relocated to an open area of the property prior to issuance of ~~building permit~~ C.O. for the elderly housing building. The relocation shall be considered substantially in compliance with the approved plans.

Attachments:

Resolution
Exhibit "A" Legal Description
Exhibit "C" Declaration of Restrictions
Exhibit "B" Staff Recommendation

Exhibit "A" Legal Description

Tract 78 less the east 25 feet, the south 25 feet, and the north 20 feet for street and tract 79 less south 25 feet and less the north 20 feet for street of Miami Gardens subdivision according to the plat thereof as recorded in plat book 2 at page 96 of the public records of Miami-Dade county, Florida.

Return to: (enclose self-addressed stamped envelope)

Name: Ronetta Taylor, City Clerk

Address:

City of Miami Gardens
1515-200 N.W. 167th Street
Miami Gardens, Florida 33169

This Instrument Prepared by:
Sonja K. Dickens, Esquire
Arnstein & Lehr, LLP
200 East Las Olas Blvd., Suite 1700
Fort Lauderdale, Florida 33301

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

DECLARATION OF RESTRICTIONS

WHEREAS, The Archdiocese of Miami ("Applicant") owns certain property located at 3490 Northwest 191st Street ("Property"), more particularly described on Exhibit "A," attached hereto, and

WHEREAS, the Applicant filed an Application with the City of Miami Gardens for:

1. A District boundary change from AU, Agricultural District and GU, Interim District to PAD, Planned Area Development District.

2. A non-use variance of zoning regulations of Section 33-284.27(N) of the Code to allow a minimum unit size of 525 square feet where a minimum unit size of 550 square feet is required.

3. A modification of Condition 2 of Resolution No. CZAB4-12-01 from "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled 'St. Monica Catholic School' as prepared by F.P. Dino & Associates, Intl., and dated received 1/5/01" to "That in the approval of the plan, the same be substantially in accordance with that submitted for hearing entitled 'St. Monica Parish Complex Master Plan' as prepared by Chisholm Architects-Planners-Interior Designers, consisting of 15 sheets, dated Revised February 6, 2008, as modified by the elevations and plans prepared by Chisholm Architects-Planners-Interior Designers dated February 2, 2008 and submitted at the City of Miami gardens Zoning meeting of April 3, 2008."

IN ORDER TO ASSURE the City of Miami Gardens that the representations made

by the Applicant will be abided by, the Applicant, subject only to conditions contained herein, freely, voluntarily and without duress, makes the following Declaration of Restrictions covering and running with the Property:

1. **Submitted Plans**. That in the approval of the plans submitted for building permit, the same be substantially in accordance with that submitted for hearing entitled "St. Monica parish Complex Master Plan" as prepared by Chisholm Architects-Planners-Interior Designers, consisting of 15 sheets, dated Nov. 9, 2007.

2. **Density**. That the development of the property shall be limited to 86 residential units at a density not to exceed ten (10) units per acre.

3. **Development Tracts**. The development of the property shall occur on three Tracts. Tract 1 shall be the elderly housing building and related and required improvements. Tract 2 shall be the proposed church facility. Tract 3 shall be existing school and modification of the existing church to the multi-purpose building.

4. **Development Schedule**. Tract 1 shall be developed and C.O. issued prior to April 2, 2011. Tract 2 shall be developed and C.O. issued prior to April 2, 2017. Tract 3 shall be developed and C.O. issued prior to April 2, 2020.

5. **Unity of Title**. The Applicant shall file a Unity of Title in the Public Records of Miami-Dade County, meeting the approval of the City Attorney, and prior to issuance of building permits on the elderly building. Such Unity of Title shall continue on record unless a Final Plat is recorded for the development of which individual platted tracts may be released from the Unity of Title. Platted tracts may be released only when determined by the Planning and Zoning Department that the tract is in compliance with applicable zoning regulations at the time. Request for release shall be made in writing to the Planning and Zoning Department and may be released administratively by the Director of Planning and Zoning.

6. **Maintenance**. That the Applicant shall be responsible for the maintenance and upkeep of the entire property. Maintenance obligations shall not be conveyed. All buildings shall be freshly painted every five (5) years or less.

7. **Residents**. That the use of the multi-family residential building be limited to residents qualified under HUD Section 202 Housing regulations.

8. **Resident Preference**. The Applicant shall impose preferences for City of Miami Gardens residents and/or workers within the City of Miami Gardens as may be

allowed and approved by HUD Section 202, 4350.3 Rev-1, 4-6 (C)(D).

9. **Sidewalk**. That a five (5) foot wide sidewalk be constructed and installed along the perimeter of the property abutting Northwest 189th Street meeting the approval of the Public Works Department prior to issuance of C.O. of the elderly building. The Applicant shall submit and obtain all necessary approvals, and shall bond for such improvements in accordance to established City procedures.

10. **Dedication and Sidewalk**. That a dedication of property abutting Northwest 34th Court shall be made to the City allowing the design, construction and installation of a five (5) foot wide sidewalk, meeting the approval of the Public Works Department. Modifications of the approved plans to accommodate the dedication shall be considered substantially in compliance with the approved plans. The Applicant shall submit and obtain all necessary approvals from the City and other agencies having authority, and shall construct, install, and bond for such improvements in accordance to established City procedures prior to issuance of C.O. of the elderly building.

11. **Driveway**. The westerly most driveway accessing Northwest 191st Street shall be improved for two way traffic; and all landscape improvements depicted on the plan adjacent to the driveway shall be installed prior to the C.O. of the elderly building. The applicant shall submit and obtain the approval of he Public Works Department for the improvements.

12. **Fence**. A five (5) foot high wrought iron fence shall be installed along the perimeter or the property abutting Northwest 189th Street and Northwest 34th Court prior to issuance of C.O. of the elderly housing building.

13. **Commitment to Local Contractors**. Applicant agrees to host informational meetings and to permit local contractors the opportunity to participate in bidding on the construction of the project.

14. **Construction**. All construction activities shall be in accordance to City regulations and in compliance with all applicable codes.

15. **Hard Surface Play Areas**. The existing basketball courts and hard surface play areas for the existing school and church shall be relocated to an open area of the property prior to issuance of building permit for the elderly housing building. The relocation shall be considered substantially in compliance with the approved plans.

16. **Architectural Design**. Architectural features, paint color schemes, types and placement of windows, shall be incorporated in the final design of the building. Such design shall meet the approval of the Director of Development Services prior to issuance of building permit. Approved revisions to the design of building

shall be considered substantially in compliance with the approved plans.

17. **Windows**. All interior window treatment shall be consistent in type and color.

18. **DRC Comments**. All City DRC comments shall be addressed or abated prior to issuance of building permit for the elderly building.

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

20. **Covenant Running With The Land**. This Declaration on the part of the Applicant shall constitute a covenant running with the land and shall remain in full force and effect and be binding upon the Applicant, and his heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

21. **Term**. This Declaration is to run with the land and shall be binding on all parties and all persons claiming from the date this Declaration is recorded. This Declaration shall be in effect for a period of thirty (30) years from the date of recordation in the public records of Miami-Dade County, Florida, after which time it shall be automatically extended for periods of ten (10) years. This Declaration may be modified, amended or released as to the Property or any portion thereof by a written instrument executed by the then Applicant(s) of the Property, and applicable mortgagees, if any, provided that same is approved by the City Council after public hearing. In such event, the Mayor or City Manager shall execute a written instrument suitable for recordation acknowledging such modification, amendment or release.

22. **Modification, Amendment, Release**. This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the City, or other procedure permitted under the City's Code, whichever by law has jurisdiction over such matters, after public hearing.

23. **Enforcement**. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the

Court may judge to be reasonable for attorney fees. This enforcement provision shall be in addition to any other remedies available at law or in equity. Jurisdiction shall be proper in Miami-Dade County.

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

25. **Executed Copy to be provided to the City. Executed Copy to be provided to the City Clerk**. The Applicant shall be fully responsible for providing to the City Clerk an original and fully executed copy of the Declaration of Restrictions within thirty (30) days of the approval of this request by the City Council, unless an appeal is filed or otherwise the Director, for good cause shown, grants a time extension. If this is not accomplished, the approval shall become null and void. If circumstances prevent the Applicant from complying with this timeframe condition, the Applicant may request, in writing, an extension of said thirty-day timeframe in writing to the Development Services Director, who is authorized to take such action upon the request to approve, disapprove or approve with conditions such request.

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

27. **Recording**. The City, at Applicant's expense following the approval of the same by the City of Miami Gardens, shall file this Declaration of record in the Public Records of Miami-Dade County, Florida.

28. **Acceptance of Declaration**. Applicant acknowledges that acceptance of this Declaration does not obligate the City in any manner, nor does it entitle Applicant to a favorable recommendation or approval of any application, zoning or otherwise, and the City Council retains its full power and authority to deny each such application in whole or in part, and to decline to accept any conveyance.

29. **Applicant**. The term Applicant shall include the Applicant, and its heirs, successors and assigns.

30. **Waiver**. Each and every covenant and agreement contained herein shall be for any and all purposes hereof construed as separate and independent and the breach of any covenant by any party shall not release or discharge such party from its obligations hereunder. No delay or omission by any party to exercise its rights accruing upon any noncompliance or failure of performance by any party shall impair any such right or be construed to be a waiver thereof. A waiver by

any party hereto of any of the covenants, conditions or agreements to be performed by any other party shall not be construed to be a waiver of any succeeding breach or of any other covenants, conditions or agreements contained herein.

31. **Severability**. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any then applicable law and shall be limited to the extent necessary to render the real covenants herein valid and enforceable. If any term, provision, covenant or agreement contained herein or the application thereof to any person, entity or circumstance shall be held to be invalid, illegal or unenforceable, the validity of the remaining terms, provisions, covenants or agreements or the application of such term, provision, covenant or agreement to persons, entities or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

32. **Entire Agreement**. This Agreement and the exhibits attached hereto contain the entire agreement between the parties hereto with respect to the subject matter hereof. This Agreement and exhibits supersede any prior correspondence, memoranda or agreements in total hereto.

33. **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, Applicant has executed this Declaration.

_____
Print Name:_____

_____
Print Name:_____

_____
Print Name:_____

_____
Print Name: _____

_____

BY ITS:
PRESIDENT

_____
Signature

_____
Print Name

_____
Date

ACCEPTANCE

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

CITY OF MIAMI GARDENS, FLORIDA

Attest:

_____
City Clerk

By:_____
Mayor Shirley S. Gibson

Date:_____

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STAFF RECOMMENDATION
PH-2007-000024 Public Hearing for Saint Monica Gardens Elderly Housing Development

Applicant:	The Most Reverend John C. Favalora, as Archbishop of the Archdiocese of Miami
Project Name:	Saint Monica Gardens Elderly Housing Development
Site Location:	3490 N.W. 191st Street
Property Size:	± 9.00 Acres
Future Land Use:	Neighborhood
Existing Zoning:	AU, Agricultural District (East) and GU, Interim District (West)
Requested Action:	

1. DISTRICT BOUNDARY CHANGE from AU, Agricultural District and GU, Interim District to PAD, Planned Area Development District.
2. Non-use variance of Section 33-284.27(N) of the Code to allow a minimum unit size of 525 square feet where a minimum unit size of 550 square feet is required.
3. Modification of Condition 2 of Resolution No. CZAB4-12-01 from:

   "That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "St. Monica Catholic School" as prepared by F.P. Dino & Associates, Intl., and dated received 1/5/01"

   To:

   "That in the approval of the plan, the same be substantially in accordance with that submitted for hearing entitled "St. Monica Parish Complex Master Plan" as prepared by Chisholm Architects-Planners-Interior Designers, consisting of 15 sheets, dated Revised 2.6.08."

Recommendation

Recommend approval of the Resolution, acceptance of Declaration of Restrictive Covenants with the following conditions:

1. Submitted Plans. That in the approval of the plans submitted for building permit, the same be substantially in accordance with that submitted for hearing entitled "St. Monica Parish Complex Master Plan" as prepared by Chisholm Architects-Planners-Interior Designers, consisting of 15 sheets, dated Nov. 9, 2007."

2. Density. That the development of the property shall be limited to 86 residential units at a density to not to exceed ten (10) units per acre.

3. Development Tracts. The development of the property shall occur on three Tracts. Tract 1 shall be the elderly housing building and related and required improvements. Tract 2 shall be the proposed church facility. Tract 3 shall be existing school and modification of the existing church to the multi-purpose building.

4. Development Schedule. Tract 1 shall be developed and C.O. issued prior to April 2, 2011. Tract 2 shall be developed and C.O. issued prior to year April 2, 2017. Tract 3 shall be developed and C.O. issued prior to April 2, 2020.

5. Unity of Title. The applicant shall file a Unity of Title in the Public Records of Miami-Dade County, meeting the approval of the City Attorney, and prior to issuance of building permit on the elderly building. Such Unity of Title shall continue on record unless a Final Plat is recorded for the development of which individual platted tracts may be released from the unity of title. Platted tracts may be released only when determined by the Planning and Zoning Department that the tract is in compliance with applicable zoning regulations at the time. Request for release shall be made in writing to the Planning and Zoning Department and may be released administratively by the Director of Planning and Zoning.

6. Maintenance. That the applicant shall be responsible for the maintenance and upkeep of the entire property. Maintenance obligations shall not be conveyed. All buildings shall be freshly painted every five (5) years or less.

7. Residents. That the use of the multi-family residential building be limited to residents qualified under HUD Section 202 Housing regulations.

8. Resident Preference. The applicant shall impose preferences for City of Miami Gardens residents and/or workers within the City of Miami Gardens as may be allowed and approved by HUD Section 202, 4350.3 Rev-1, 4-6 (C)(D).

9. Sidewalk. That a five (5) foot wide sidewalk be constructed and installed along the perimeter of the property abutting N.W. 189 Street meeting the approval of the Public Works Department prior to issuance of C.O. of the elderly building. The applicant shall submit and obtain all necessary approvals, and shall bond for such improvements in accordance to established City procedures.

10. Dedication and Sidewalk. That a dedication of property abutting N.W. 34th Court be shall be made to the City allowing the design, construction and installation of a five (5) foot wide sidewalk, meeting the approval of the Public Works Department. Modifications of the approved plans to accommodate the dedication shall be considered substantially in compliance with the approved plans. The applicant shall submit and obtain all necessary approvals from the City and other agencies having authority, and shall construct, install, and bond for such improvements in accordance to established City procedures prior to issuance of C.O. of the elderly building.

11. Driveway. The westerly most driveway accessing N.W. 191st Street shall be improved for two way traffic; and all landscape improvements depicted on the plan adjacent to the driveway shall be installed prior to the C.O. of the elderly building. The applicant shall submit and obtain the approval of the Public Works Department for the improvements.

12. Fence. A five (5) foot high wrought iron fence shall be installed along the perimeter of the property abutting N.W. 189 Street and N.W. 34 Court prior to issuance of C.O. of the elderly housing building.

13. Pedestrian Access. Provide safe and function pedestrian access walkway with passive recreation areas around perimeter of elderly building and throughout property from elderly building to N.W. 191 Street.

14. Lighting Plan. Lighting of the parking areas and walk areas of the elderly housing and new church development shall be low mounted, bollard type lighting meeting the approval of the Planning and Zoning Department. The applicant shall submit and obtain approval of the lighting plan and fixtures prior to issuance of building permit.

15. Construction. All construction activities shall be in accordance to City regulations and in compliance with all applicable codes.

16. Hard Surface Play Areas. The existing basketball courts and hard surface play areas for the existing school and church shall be relocated to an open area of the property prior to issuance of building permit for the elderly housing building. The relocation shall be considered substantially in compliance with the approved plans.

17. Architectural Design. Architectural features, paint color schemes, types and placement of windows, shall be incorporated in the final design of the building. Such design shall meet the approval of the Director or Development Services prior to issuance of building permit. Approved revisions to the design of building shall be considered substantially in compliance with the approved plans.

18. Windows. All interior window treatment shall be consistent in type and color.

19. DRC Comments. All City DRC comments shall be addressed or abated prior to issuance of building permit for the elderly building.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Zoning District	Existing Use	Future Land Use Map
Site	GU, Interim (West) & AU, Agricultural (East)	Church/ School / Rectory	Neighborhood
North	RU-2, Two-Family Residential	Two-Family Dwellings	Neighborhood

South	RU-TH, Townhouse (West) & AU (East)	Townhouses	Neighborhood
East	AU, Agricultural District	Religious Facility	Neighborhood
West	RU-2 (South) & BU-1 (North)	Residential and Retail Uses	Neighborhood

The subject property is an 8.7 acre parcel located on the southeast corner of N.W. 191st Street and N.W. 34th Court, less than 500 feet east of N.W. 37th Avenue. The property is zoned AU, Agricultural District, and GU, Interim District, and is currently developed with a 400-seat church, school and rectory. The properties to the north and south are developed with duplexes. The parcel east of the site has been developed with a religious facility and the westerly lots feature a mixture of residential and some light retail uses.

Zoning History

Pursuant to Resolution 4886, the Board of County Commissioners (BCC) granted a Special Permit for a church, parochial school, Rectory, Convent and cafeteria to operate on the site. On July 30, 2001, the Miami-Dade County Zoning Appeals Board (MDCZAB) passed and adopted Resolution No. CZAB4-12-01, approving an application for a Modification of Condition # 2 of the aforementioned BCC resolution, an Unusual Use to permit a day care center on the site, as well as a Special Exception of spacing requirements as applied to schools.

Project Background/Information

The applicant, and owner of the lands, The Most Reverend John C. Favalora, Archbishop of the Archdiocese of Miami is proposing an HUD Section 202, Housing for the Elderly, four (4) story, 84 unit elderly housing residential building; and a new 1,200 seat church facilty. The elderly housing building will be located at the south east portion of the property; and the new church will be located at the north east portion of the property. The existing school will remain at the south west portion of the property and the existing church will be converted to a multi-purpose building.

The applicant will not operate the elderly housing. Saint Monica Gardens, Inc., a Florida not-for-profit entity has been created for the specific purpose of operating the elderly housing development and subject to an 85-year Ground Lease agreement. A Covenant Related to Elderly Housing limiting occupancy to residents who qualify under HUD Section 202 (62 years of age or older) and for exemption of certain impact fees imposed by Miami-Dade County is also being filed by the applicant with HUD.

The proposed residential density for the property will be ten (10) units per acre. The master plan submitted calls for 67% (5.8 acres) of the property to remain as common open space. The property will be developed in three phases, first the elderly housing building, followed by the new church by 2017, and then the conversion of the existing church to the multi-purpose building.

The applicant has proffered a Declaration or Restrictive Covenants restricting the development to the approved plans; restricting the use of the property; as well as imposing preferences as

may be allowed by HUD for City of Miami Gardens residents. The applicant has also proffered to provide sidewalk improvements and other site improvements, along with obligations to maintain the property, among other development restrictions called out in the Proffered Declaration of Restrictive Covenants.
The application has been reviewed by the City's Development Review Committee (DRC), including the Community Development Department, and comments have been issued to the applicant. The following are the comments of the DRC:

1. Remove chain link fence and replace with picket type fence or similar type of fence around entire property.
2. Provide internal pedestrian circulation on property.
3. Provide pedestrian access from property to NW 191st Street.
4. Provide pedestrian connectivity throughout the site and from main building to the two outdoor patio areas.
5. Provide shaded outdoor areas and public amenities such as benches.
6. Provide a walking trail around the main building that connects to pedestrian circulation on property.
7. Provide right-of-way dedication along NW 34th Court to allow for construction of 5.0' wide sidewalk.
8. Address drainage per Public Works Department comments and requirements.
9. Relocation of hard surface recreation areas such as basketball court shall be addressed per Master Plan approval.
10. Phase II of Master Plan development must proceed with Site Plan Approval from the Department of Planning and Zoning.
11. Additional architectural features desired (color variations, different window types, etc.). The City is looking for any features that will make the structure look less "institutional" and more of an asset to the community.
12. Require exterior repainting every 5 years (minimum).
13. Require landscaping to be maintained at original levels reflected on plans.
14. Require consistent interior window treatment for all residents.

Comprehensive Development Master Plan (CDMP

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

Policy 1.2 The "Neighborhood" Land Use Designation states:

> *"The Neighborhood land use designation applies to areas intended for low and medium density residential development with supporting commercial and office uses. The designation of Neighborhood is specifically intended to protect single family homes from encroachment or intrusion from incompatible uses."*

And:

Policy 1.2.1 states:

> *"Uses consistent with the Neighborhood land use designation shall primarily include low and low medium density residential uses. Medium and medium high densities, suburban commercial and office, and mixed-use planned uses may be permitted subject to the performance criteria set forth in this Plan."*

Policy 2.1.2 (c) Medium Density Residential states the performance criteria as follows:

- *"Medium Density Residential uses may occur in both Neighborhood and Commerce land use designations."*

The subject property is designated Neighborhood.

- *"Medium density developments shall have direct access to at least one major roadway classified as a Collector or higher."*

The subject property has direct access to N.W. 191 Street designated as a Collector roadway.

- *"Medium Density Residential densities shall range from 16 to 25 dwelling units per gross acre."*

The proposed density is ten (10) dwelling units per acre, not exceeding the maximum 25 dwelling units per acre.

- *"The housing types included in this category shall range from townhouses to low to medium rise apartments with surrounding open space."*

The proposed housing type is a medium rise apartment building.

- *"Medium Density Residential development often serves as a transitional land use between Low Density Residential and other more intensive uses."*

The medium density residential is transitional to the single family and the school and existing church.

- *"Medium Density Residential should generally be limited up to an average height of three (3) stories in the Neighborhood areas and up to an average height of four (4) stories in the Commerce Areas."*

The proposed building is four (4) stories in height, but averaged over the existing one and two stories on the property the average height is three (3) stories.

- *"Adequate separation and buffer treatment shall be provided to protect adjacent single family residential uses."*

The master plan calls for 67% of open space and heavy landscaping to provide adequate separation and buffer treatment from adjacent single family residential uses.

The proposed church and multi-purpose building uses are considered Public and Semi-Public uses in the CDMP.

Objective 2.2 Performance Criteria for Public and Semi-Public Uses states:

> *The Land Development Regulations/Zoning Code shall include performance criteria to ensure that public and semi-public uses, such as utilities, schools, parks, and other*

similar uses, occur in a manner that benefit the City residents and minimizes impacts on adjacent properties.

Moreover, Policy 2.2.1 *Public and Semi-Public Uses, In General* states:

"Public and semi-public uses and facilities include a range of unusual and special activities that shall be specifically identified and regulated through the City's land development regulations.

- *Public/Semi-public uses are allowed in any of the future land use categories, subject to intensity, buffering, and location standards.*
- *The development intensity of public/semi-public uses shall not exceed a maximum of 0.5 floor area ratio.*
- *Public and semi-public uses include facilities such as elementary, middle, high schools, parks, houses of worship, hospitals, and utilities."*

Conclusion:

The proposed development of elderly housing, church facility, and multi-purpose building are consistent uses with the Objectives and Policies of the CDMP in the Neighborhood designation. Hence, the proposed district boundary change from AU and GU to PAD is consistent with Goals, Objectives, and Policies of the CDMP.

Analysis and Zoning Criteria:

Section 33-311(A)(8) of the Zoning Code states that the City Council has the authority to:

"Hear and grant or deny applications for district boundary changes on individual pieces of property or on a neighborhood or area-wide basis except where the Board of County Commissioners has direct jurisdiction."

Section 33-311 (F) adds that, in evaluating an application for a district boundary changes, the Council shall take into consideration, among other factors:

"Detriments or benefits shall not be denied consideration on the grounds that they are indirect, intangible or not readily quantifiable. In evaluating the application, among other factors related to the general welfare, whether, and the extent to which:
(1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;
(2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Miami-Dade County, including consideration of the means and estimated cost necessary to minimize the adverse

impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;
(3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Miami-Dade County, Florida;
(4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;
(5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways."

Pursuant to Section 33-311(A)(4)(b) Non-Use Variance Criteria, states:

> *"The City Council, upon appeal or direct application in specific cases, shall hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing that the request maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, will be otherwise compatible with the surrounding land uses, and would not be detrimental to the community. No showing of necessary hardship to the land is required."*

The request for variance to allow dwelling unit size of 525 square feet is necessary for the development to be in compliance with HUD Section 202 4571.3 Rev-1 B.4 (see attachments) which limits the maximum size of one bedroom units to 540 square feet. The City Code requires a minimum size of 550 square feet which cannot comply with the HUD requirements for elderly housing.

Conclusion:

In reviewing the proposed development plans and Declaration of Restrictive Covenants accompanying the district boundary change the proposed density and FAR of the development are less than would be permitted with the adopted CDMP. Therefore, the proposed district boundary change and associated variances will not place any undue burden on or have any adverse impacts on public infrastructures, including roads and streets. The proposed development is not detrimental to the area and does not negatively impact any environmental or natural resources of the City. The master site plan and the accompanying Declaration of Restrictive Covenants meet the criteria set forth for approving the district boundary change and for granting of the variances.

Anticipated Facilities Impact

General: Concurrency determinations are not finalized during the zoning approval process.