

ORDINANCE No. 2007-11-117

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY SAMKLE AUTOMOTIVE, INC., FOR A PLANNED AREA DEVELOPMENT DISTRICT (PAD); FOR THE REZONING OF PROPERTY LOCATED AT 20700 NORTHWEST 2ND AVENUE, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO FROM BU-1A - LIMITED BUSINESS DISTRICT, BU-1 - NEIGHBORHOOD BUSINESS DISTRICT & BU-2 - SPECIAL BUSINESS DISTRICT, TO A PAD DISTRICT; PROVIDING FOR A NON-USE VARIANCE OF ZONING REGULATIONS TO PERMIT A PLANNED AREA DEVELOPMENT DISTRICT WITH THE SIZE OF 4.31 GROSS ACRES; PROVIDING FOR A NON-USE VARIANCE OF ZONING REGULATIONS TO ALLOW 41,276 SQ. FT. OF CONVENIENCE RETAIL SERVICE IN THE PROPOSED MIXED-USE DEVELOPMENT INSTEAD OF THE 1,020 SQ. FT. OF RETAIL SPACE REQUIRED FOR THE PROPOSED NUMBER OF RESIDENTIAL UNITS; PROVIDING FOR A NON-USE VARIANCE OF ZONING REGULATIONS TO ALLOW THE PROPOSED MIXED-USE DEVELOPMENT TO BE VISIBLE FROM PUBLIC ROADS, NAMELY NORTHWEST 2ND AVENUE AND NORTHWEST 207TH STREET; PROVIDING FOR RESCISSION AND REVOCATION OF THE DECLARATION OF RESTRICTIVE COVENANTS RECORDED IN OFFICIAL RECORDS BOOK 14044, PAGES 508 AND 509, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR RESCISSION AND REVOCATION OF THE DECLARATION OF RESTRICTIVE COVENANTS RECORDED IN OFFICIAL RECORDS BOOK 11388, PAGES 485 THROUGH 489, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY FLORIDA; PROVIDING FOR A DECLARATION OF RESTRICTIVE COVENANT; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Samkle Automotive, Inc. ("Applicant"), has filed an application with the City of Miami Gardens to approve a rezoning from BU-1, BU-1A and BU-2 to a Planned Area Development District (PAD) for property located at 20700 Northwest 2nd Avenue, more particularly described on Exhibit "A" attached hereto ("Property"), and

WHEREAS, the Applicant has made a request for the approval of certain variances as follows:

Ordinance No. 2007-11-117

- a. Non-Use Variance of Zoning Regulations to permit a Planned Area Development District with a size of 4.31 gross acres (minimum 5 acres required).
- b. Non-Use Variance of Zoning Regulations to allow 41,276 sq. ft. of convenience retail service in the proposed mixed-use development instead of the 1,020 sq. ft. of retail space required for the proposed number of residential units (3 sq. ft. times 340 units).
- c. Non-Use Variance of Zoning Regulations to allow the proposed mixed-use development to be visible from public roads, namely Northwest 2nd Avenue and Northwest 207th Street, and

WHEREAS, Applicant has requested that the City rescind and revoke the Declarations of Restrictive Covenants record in Official Records Book 14044, Pages 508 and 509, and Official Records Book 11138, Pages 485 through 489 of the Public Records of Miami-Dade County, and

WHEREAS, public hearings have been held on this matter on April 4, 2007, and on May 2, 2007, and

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

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

WHEREAS, the City staff recommends approval of the Application, and

WHEREAS, the City Council has reviewed the Application and approves the same, subject to the recording of a Declaration of Restrictive Covenants, and

WHEREAS, the City staff has determined that rezoning is consistent with the City's Comprehensive Development Master Plan,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

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

SECTION 2. APPROVAL: The City Council of the City of Miami Gardens hereby approves the Application submitted by Samkle Automotive, Inc., for a rezoning from BU-1A – Limited Business District, BU-1 – Neighborhood Business District and BU-2 – Special Business District to Planned Area Development District on the Property.

Section 3. APPROVAL: The City Council of the City of Miami Gardens hereby approves the following variances for the Property:

- a. Non-Use Variance of Zoning Regulations to permit a Planned Area Development District with a size of 4.31 gross acres (minimum 5 acres required).
- b. Non-Use Variance of Zoning Regulations to allow 41,276 sq. ft. of convenience retail service in the proposed mixed-use development instead of the 1,020 sq. ft. of retail space required for the proposed number of residential units (3 sq. ft. times 340 units).
- c. Non-Use Variance of Zoning Regulations to allow the proposed mixed-use development to be visible from public roads, namely Northwest 2nd Avenue and Northwest 207th Street.

Section 4. RESCISSION AND REVOCATION OF DECLARATION OF RESTRICTIVE COVENANTS: The City Council of the City of Miami Gardens, Florida,

hereby rescinds and revokes the Declarations of Restrictive Covenants recorded in Official Records Book 14044, Pages 508 and 509 and Official Records Book 11388, Pages 485 through 489, of the Public Records of Miami-Dade County, Florida, respectively.

Section 5. APPROVAL OF DECLARATION OF RESTRICTIVE COVENANTS:
The City Council of the City of Miami Gardens, Florida, hereby approves the Declaration of Restrictive Covenants attached hereto as Exhibit "C."

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

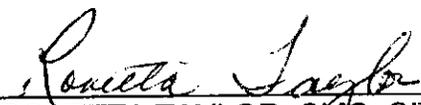
SECTION 7. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not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

SECTION 8. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 4TH DAY OF APRIL, 2007.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS ZONING MEETING HELD ON THE 2ND DAY OF MAY, 2007.

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK


SHIRLEY GIBSON, MAYOR

Ordinance No. 2007-11-117

Prepared by SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilwoman Watson
SECONDED BY: Councilman Bratton

VOTE: 4-1

Mayor Shirley Gibson	<u> </u> (Yes)	<u> </u> (No)	Out of town
Vice Mayor Oscar Braynon, II	<u> x </u> (Yes)	<u> </u> (No)	
Councilman Melvin L. Bratton	<u> x </u> (Yes)	<u> </u> (No)	
Councilman Aaron Campbell	<u> x </u> (Yes)	<u> </u> (No)	
Councilman André Williams	<u> </u> (Yes)	<u> </u> (No)	Out of room
Councilwoman Sharon Pritchett	<u> </u> (Yes)	<u> x </u> (No)	
Councilwoman Barbara Watson	<u> x </u> (Yes)	<u> </u> (No)	

SKD/teh

128754_1 DOC



CFN 20070996270
 OR Bk 25984 Pgs 4729 - 4738; (10pgs)
 RECORDED 10/12/2007 11:28:30
 HARVEY RUVIN, CLERK OF COURT
 MIAMI-DADE COUNTY, FLORIDA

Return to: (enclose self-addressed stamped envelope)

Name: Ronetta Taylor, City Clerk

Address:

City of Miami Gardens
 1515-200 Northwest 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, Samkle Automotive, Inc. ("Applicant"), owns certain property located at 20700 Northwest 2nd Avenue, more particularly described on Exhibit "A," attached hereto ("Property"), and

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

- a. Rezoning from BU-1A – Limited Business District, BU-1 – Neighborhood Business District and BU-2 – Special Business District to Planned Area Development District.
- b. Non-Use Variance of Zoning Regulations to permit a Planned Area Development District with a size of 4 31 gross acres (minimum 5 acres required).
- c. Non-Use Variance of Zoning Regulations to allow 41,276 sq. ft. of convenience retail service in the proposed mixed-use development instead of the 1,020 sq. ft. of retail space required for the proposed number of residential units (3 sq. ft. times 340 units).
- d. Non-Use Variance of Zoning Regulations to allow the proposed mixed-use development to be visible from public roads, namely Northwest 2nd Avenue and Northwest 207th Street.
- e. Rescission and Revocation of the Declarations of Restrictive Covenants recorded in Official Records Book 14044, pages 508 and 509 and Official Records Book 11388, Pages 485 through 489, of the Public Records of Miami-Dade County, Florida.

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. **Site Plan.** That the property be developed in substantial accordance with the plans submitted for the public hearing, entitled "Andover Park Village: A new residential and commercial center for the City of Miami Gardens," prepared by R.J. Heisenbottle Architects, P.A., and consisting of the following sheets: (1) Cover Page – Entering from the East – Rendering; (2) View of Courtyard – Rendering; (3) Site Plan; (4) Ground Level Plan; (5) Second Level Plan; (6) Garage Levels 3-4; (7) Garage Level 5, (8) Pool Deck Level 6; (9) Typical Residential Levels 7-13; (10) Typical Unit Types; (11) Courtyard Elevation Looking West; (12) Street Elevation Looking South; (13) Building "C" East Elevation; (14) Buildings "B" & "C" South Elevation; (15) Andover Park Village (photographs); all sheets dated 4/4/2007.
2. **Submission.** The site plan be submitted to and meet with the approval of the City upon the submittal of an application for a building permit and/or Certificate of Use and Occupancy; said plan to include among other things, location of structure(s), the type(s), size(s) and location of sign(s), lighting standards, off-street parking areas, exit and entrance drive(s), perimeter walls or fences and the landscaping details.
3. **Workforce Housing.** Provide that thirty-four (34) housing units or ten percent (10%), whichever is less, of the residential units developed on the Property be sold to households determined by the City of Miami Garden's Community Development Department to be within the income range of 65% to 140% of the area median income for households in Miami-Dade County as published annually by the U.S. Department of Housing and Urban Development. These units shall be referred to as targeted units.
 - a. Provide the sales price of targeted units to be marketed and sold to households within the income range set forth herein to the City. The City's Community Development Department shall make a determination that the sales price of targeted units is reasonable for the targeted households/potential buyers. The Applicant shall also provide the proposed price points for the remaining units to insure a reasonable relationship between the targeted units and other units.
 - b. Submit buyer information to City to review and approve prior to closing in order to verify income eligibility for targeted households.

- c. Include a restrictive covenant in the Development Documents that restricts the resale or transfer of targeted units for a minimum of 10 years. Such targeted units may be resold to targeted households per City approval.
- d. In the event that the Applicant cannot reasonably meet the targeted unit requirements set forth herein and above, the Applicant may, upon agreement with the City, contribute funds or other substantial consideration to the City for the purpose of providing workforce housing within Miami Gardens. Such agreement must be approved by the City Council.

4. **State Road 7 Landscape and Pedestrian Amenities and Treatments** The following shall be provided:

- a. **Minimum Ten Foot (10') Sidewalk Requirement.** Existing sidewalks shall be rebuilt and replaced with a minimum 10-foot wide sidewalk. It is recognized that a portion of the proposed 10' wide sidewalk will be located on the Property. A sidewalk easement shall be provided to the Florida Department of Transportation or other agency as may be necessary and appropriate, per City approval;
- b. **Additional streetscape, landscape and storefront requirements:** In addition to the required 10 foot wide sidewalk, the entire remaining setback area between the sidewalk and the building shall be provided with streetscape and pedestrian-oriented amenities and improvements including but not limited to pavers, landscape, benches, decorative fountains, street lights, and other similar amenities. Ground floor commercial uses shall provide storefront access adjacent to State Road 7 and the unnamed street within the development. The main landscape motif adjacent to State Road 7 shall be royal palms planted with sizes and specifications to be approved by the City.
- c. **Transit Amenities:** In coordination with Miami Dade Transit, Broward Transit and the Florida Department of Transportation, the City shall have the authority to require that the Applicant to construct a bus stop, bus shelter, or similar amenity as part of the development project.

5. **Intersection Improvements:** Per the David Plummer & Associates traffic analysis, intersection improvements at SR-7 and NW 207th Street shall provide for the following:

- e. Reconfigure westbound approach to provide one exclusive left turn lane and a shared right and through lane.

- f. Improve the eastbound approach to provide one exclusive left turn lane, one exclusive through lane, and one exclusive right turn lane.
 - g. Modify the signal phasing and timing plan to improve operations
 - h. Modify the signal to allow the provision of a green light for the eastbound right turn during the protected northbound approach.
6. **NW 207th Street:** On the north side of NW 207th Street, the street shall include a curb and gutter section. In addition, a full median shall be constructed in the middle of NW 207th Street in a manner that prevents westbound traffic to make a dangerous left turn into commercial development located on the south side of NW 207th Street.
 7. **SR-7 Median Landscape:** Landscape the median in front of the project to include irrigation, plantings, and pavers to City requirements similar to quality of other City beautification on SR-7. The City shall share fifty percent (50%) of the costs of the construction of these improvements and shall undertake maintenance responsibility after one year upon completion of said construction. In lieu of construction of said improvements, the Applicant may proffer payment subject to approval of the amount of payment by the City.
 8. **Cross Access:** In order to provide for future redevelopment and related traffic circulation between parcels, a cross-access agreement to provide access to the property to the north of the Property shall be provided in a manner approved by the City. The cross-access easement is intended to provide access to the property to the north of the Property when that property redevelops at an undetermined time in the future. The intent of this requirement is to establish a cross access easement on this property so that the City of Miami Gardens can activate the easement at such time as that may be appropriate. It is recognized that the cross access easement will not be activated until such time as the City deems appropriate and necessary. This requirement may be accomplished during the site plan or plat approval processes.
 9. **Signage:** Freestanding signage is prohibited; signage shall be located on buildings.
 10. **Owner's Association:** An owners' association governing the development shall be created prior to the issuance of the certificate of occupancy for the first residential unit on the Property,
 11. **Tenants:** All tenants, as well as any other visitor(s) who remain in a unit longer than thirty (30) days, shall be required to first obtain the written approval of the Homeowners' Association or management company of the Property.

12. **Paint Exterior:** The exterior of all buildings, walls, and similar improvements will be painted no less than once every five (5) years commencing ten (10) years after the completion of construction.
13. **Irrigate Landscape:** All landscaped areas shall be provided with an in-ground irrigation system that shall be installed, maintained, and operated to service the Property.
14. **Maintain Amenities and Landscape:** The owners' association shall fund the perpetual maintenance of common amenities and landscaped areas on the Property
15. **Parking:** The parking of vehicles on any landscaped or streetscaped areas not designed for vehicular parking shall be prohibited.
16. **Graffiti.** Graffiti shall be removed within fourteen (14) days subject to written notification by the City.
17. **Potholes** Potholes shall be repaired within fourteen (14) days subject to written notification by the City.
18. **Residential Buyer Disclosure** Residential buyers shall be required to sign a disclosure agreement that acknowledges that the property is located in a commercial area that is subject to noise from auto-oriented uses and that these noises may be more intense than those normally associated with a residential neighborhood. The City shall review and approve such disclosure statement prior to sale of residential condominiums at the proposed Andover Park Village development.
19. **Duration of Approval** Building permits and substantial construction, consistent with this approval, are required within five (5) years of this approval. If such permits and construction have not occurred within five (5) years of approval, this approval shall become null and void, provided however, that the owner may request an extension of this approval from the City Council at a public meeting. If substantial changes to the approved plans, stipulations and conditions are requested, a public hearing shall be required.
20. **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.
21. **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.

22. **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.
23. **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 jointers 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.
24. **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.
25. **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.
26. **Executed Copy to be provided to the City.** The Applicant shall be fully responsible for providing to the City an original and fully executed copy of the Proffered 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 either approve, disapprove or approve with conditions such request

27. **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.
28. **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.
29. **Acceptance of Declaration.** The Owner acknowledge that acceptance of this Declaration does not obligate the City in any manner, nor does it entitle the Owner 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.
30. **Owner.** The term Owner shall include the Owner, and its heirs, successors and assigns.
31. **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.
32. **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.

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

IN WITNESS WHEREOF, Applicant has executed this Dedication.


 Print Name: Keila Gonzalez

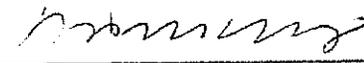

 Print Name: OSCAR GUIDO

Print Name: _____

Print Name: _____

SAMKLE AUTOMTOIVE, INC.

BY ITS: _____


 Signature _____
 Print Name: HELIO OSTROVSKY
PRESIDENT

STATE OF FLORIDA)
)SS
 COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledge before me this 23rd day of April, 2007, by Helio Ostrovsky, as president of Samkle Automotive, Incorporated, f/ka/ Samkle Properties, Incorporate, who is personally known to me or has produced _____ as identification, and acknowledge that he did execute this instrument freely and voluntarily for the purposes stated herein.



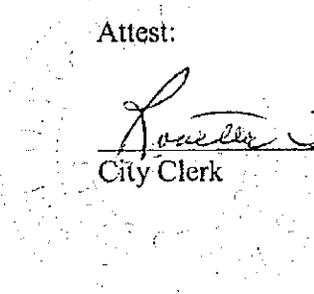

 NOTARY PUBLIC, STATE OF FLORIDA
 Print Name: Barbara Hernandez
 Commission Expires: March 2, 2010
 Commission No.: DD 524707

ACCEPTANCE

The City of Miami Gardens hereby accepts this Declaration of Restrictions hereby made
by SANKLE Automotive, Inc.

CITY OF MIAMI GARDENS, FLORIDA

Attest:


Rosemary Taylor
City Clerk

By: Shirley S. Gibson
Mayor Shirley S. Gibson

Date: 06/19/2007

Exhibit "A"

Legal Description

APPLICANT: SAMKLE AUTOMOTIVE, INC. (MARLIN MAZDA)

LEGAL DESCRIPTION: A Portion of Tract "B" Of "Zinnland Addition One",
According to the Plat Thereof, As Recorded In Plat Book 136 At Page 4 Of The
Public Records of Miami-Dade County, Florida.



City of Miami Gardens

1515 NW 167th Street, Bldg. 5, Suite 200
Miami Gardens, Florida 33169

Mayor Shirley Gibson
Vice Mayor Oscar Braynon II
Councilman Melvin L. Bratton
Councilman Aaron Campbell
Councilwoman Sharon Pritchett
Councilwoman Barbara Watson
Councilman André Williams

MEMORANDUM

To: The Honorable Mayor and City Council
From: Jay Marder, AICP, Development Services Director
Thru: Dr. Danny O. Crew, City Manager
Date: April 4, 2007
Re: PH-2007- 000008 Public Hearing for Andover Village regarding a Rezoning (First Reading)

Summary

Applicant: Samkle Automotive, Inc.
Agent: Gilberto Pastoriza, Esq.
Location: 20700 N.W. 2nd Avenue
Land Area: ± 3.50 net acres (± 4.31 gross acres)
Future Land Use: Commerce
Existing Zoning: BU-1A, Limited Business District, BU-1, Neighborhood Business District & BU-2, Special Business District

Requested Action(s):

1. Rezoning of the subject property from BU-1, BU-1A and BU-2 to PAD, Planned Area Development District;
2. Non-Use Variance of Zoning Regulations to permit a Planned Area Development District with a size of 4.31 gross acres (minimum 5 acres required).
3. Non-Use Variance of Zoning Regulations to allow 41,276 sq. ft. of convenience retail service in the proposed mixed-use development instead of the 1,020 sq. ft. of retail space required for the proposed number of residential units (3 sq. ft. times 340 units).
4. Non-Use Variance of Zoning Regulations to allow the proposed mixed-use development to be visible from public roads, namely N.W. 2nd Avenue and N.W. 207th Street;
5. Rescission and Revocation of the Declaration of Restrictive Covenants recorded in Official Records Book 14044, Pages 508 and 509, of the Public Records of Miami-Dade County, Florida.
6. Rescission and Revocation of the Declaration of Restrictive Covenants recorded in Official Records Book 11388, Pages 485 through 489, of the Public Records of Miami-Dade County, Florida.

Special Planned Area Development (PAD) Rezoning

Planned Area Development (PAD) district boundary changes are, by design, intended to be approved with special conditions, including but not limited to, site plans, dimensional requirements and other stipulations. Therefore, all requests may be acted upon as a single ordinance with conditions and stipulations.

Recommendation

Adopt an ordinance granting the rezoning of the above-described parcel from BU-1, BU-1A and BU-2 to PAD with the following stipulations and conditions:

1. That the development be substantially in accordance with the plans submitted for the hearing entitled "Andover Park Village: A new residential and commercial center for the City of Miami Gardens," prepared by R.J. Heisenbottle Architects, P.A., and consisting of the following sheets: (1) Cover Page – Entering from the East - Rendering; (2) View of Courtyard - Rendering; (3) Site Plan; (4) Ground Level Plan; (5) Second Level Plan; (6) Garage Levels 3-4; (7) Garage Level 5; (8) Pool Deck Level 6; (9) Typical Residential Levels 7-13; (10) Typical Unit Types; (11) Courtyard Elevation Looking West; (12) Street Elevation Looking South; (13) Building "C" East Elevation; (14) Buildings "B" & "C" South Elevation; (15) Andover Park Village (photographs) All sheets dated 4/4/2007.
2. That a site plan be submitted to and meet with the approval of the City upon the submittal of an application for a building permit and/or Certificate of Use and Occupancy; said plan to include among other things, the location of structure(s), the type(s), size(s) and location of sign(s), lighting standards, off-street parking areas, exit and entrance drive(s), perimeter walls or fences and the landscaping details.
3. Approve the requested Non-Use Variance of Zoning Regulations to permit a Planned Area Development District with a size of 4.31 gross acres (minimum 5 acres required).
4. Approve the requested Non-Use Variance of Zoning Regulations to allow 41,276 sq. ft. of convenience retail service in the proposed mixed-use development instead of the 1,020 sq. ft. of retail space required for the proposed number of residential units (3 sq. ft. times 340 units).
5. Approve the Non-Use Variance of Zoning Regulations to allow the proposed mixed-use development to be visible from public roads, namely N.W. 2nd Avenue and N.W. 207th Street.
6. Approve the Rescission and Revocation of the Declaration of Restrictive Covenants recorded in Official Records Book 14044, Pages 508 and 509, of the Public Records of Miami-Dade County, Florida.

7. Approve the Rescission and Revocation of the Declaration of Restrictive Covenants recorded in Official Records Book 11388, Pages 485 through 489, of the Public Records of Miami-Dade County, Florida.
8. Workforce Housing. Provide that thirty-four (34) housing units or ten percent (10%), whichever is less, of the residential units developed on the Property be sold to households determined by the City of Miami Garden's Community Development Department to be within the income range of 65% to 140% of the area median income for households in Miami-Dade County as published annually by the U.S. Department of Housing and Urban Development. These units shall be referred to as targeted units.
 - a. Provide the sales price of targeted units to be marketed and sold to households within the income range set forth herein to the City. The City's Community Development Department shall make a determination that the sales price of targeted units is reasonable for the targeted households/potential buyers. The developer shall also provide the proposed price points for the remaining units to insure a reasonable relationship between the targeted units and other units.
 - b. Submit buyer information to City to review and approve prior to closing in order to verify income eligibility for targeted households.
 - c. Include a restrictive covenant that restricts the resale or transfer of targeted units for a minimum of 10 years. Such targeted units may be resold to targeted households per City approval.
 - d. In the event that the developer cannot reasonably meet the targeted unit requirements set forth herein and above, the developer may, with agreement with the City, contribute funds or other substantial consideration to the City for the purpose of providing workforce housing within Miami Gardens. Such agreement must be approved by the City Council.
9. State Road 7 Landscape and Pedestrian Amenities and Treatments. The following shall be provided:
 - a. Minimum Ten Foot (10') Sidewalk Requirement: Existing sidewalks shall be rebuilt and replaced with a minimum 10 foot wide sidewalk. It is recognized that a portion of the proposed 10' wide sidewalk will be located on the Property. A sidewalk easement shall be provided to the Florida Department of Transportation or other agency as may be necessary and appropriate per approval by the City;
 - b. Additional streetscape, landscape and storefront requirements: In addition to the required 10 foot wide sidewalk, the entire remaining setback area between the sidewalk and the building shall be provided with streetscape and pedestrian-oriented amenities and improvements including but not limited to pavers, landscape, benches, decorative fountains, street lights, and other similar amenities. Ground floor commercial uses shall provide storefront access adjacent to State Road 7 and the unnamed street within the development. The main landscape motif adjacent to State Road 7 shall be royal palms planted with sizes and specifications to be approved by the City.

- c. **Transit Amenities:** In coordination with Miami Dade Transit, Broward Transit and the Florida Department of Transportation, the City shall have the authority to require that the developer to construct a bus stop, bus shelter, or similar amenity as part of the development project.
10. **Intersection Improvements:** Per the David Plummer & Associates analysis, intersection improvements at SR-7 and NW 207th Street shall provide for the following:
 - a. Reconfigure westbound approach to provide one exclusive left turn lane and a shared right and through lane.
 - b. Improve the eastbound approach to provide one exclusive left turn lane, one exclusive through lane, and one exclusive right turn lane.
 - c. Modify the signal phasing and timing plan to improve operations.
 - d. Modify the signal to allow the provision of a green light for the eastbound right turn during the protected northbound approach.
 11. **NW 207th Street:** On the north side of NW 207th Street, the street shall be a curb and gutter section. In addition, a full median shall be constructed in the middle of NW 207th Street in a manner that prevents westbound traffic to make a dangerous left turn into commercial development located on the south side of NW 207th Street.
 12. **SR-7 Median Landscape:** Landscape the median in front of the project to include irrigation, plantings, and pavers to City requirements similar to quality of other City beautification on SR-7. The City shall share fifty percent (50%) of the costs of the construction of these improvements and shall undertake maintenance responsibility after one year upon completion of said construction. In lieu of construction of said improvements, the developer may proffer payment subject to approval of the amount of payment by the City.
 13. **Cross Access:** In order to provide for future redevelopment and related traffic circulation between parcels, a cross-access agreement to provide access to the property to the north of the site shall be provided in a manner approved by the City. The cross-access easement is intended to provide access to the property to the north of the site when that property redevelops at an undetermined time in the future. The intent of this requirement is to establish a cross access easement on this property so that the easement can be activated by the City of Miami Gardens at such time as that may be appropriate. It is recognized that the cross access easement will not be activated until such time as the City deems appropriate and necessary. This requirement may be accomplished during the site plan or plat approval processes.
 14. **Automobile-Related Noise Disclosure Requirement:** Residential buyers shall be required to sign a disclosure agreement that acknowledges that the property is located in a commercial area that is subject to noise from auto-oriented uses and that these noises may be more intense than those normally associated with a residential neighborhood. The City shall review and approve such disclosure statement prior to sale of residential condominiums at the proposed Andover Park Village development.

15. Signage: Free-standing signage is prohibited; signage shall be located on buildings.
16. Owner's Association: An owners' association governing the development shall be created prior to the issuance of the certificate of use for the first residential unit on the Property;
17. Tenants: All tenants, as well as any other visitor(s) who remain in a unit longer than thirty (30) days, shall be required to first obtain the written approval of the Homeowners' Association or management company for the Property.
18. Paint Exterior: The exterior of all buildings, walls, and similar improvements will be painted no less than once every five (5) years commencing ten (10) years after the completion of construction.
19. Irrigate Landscape: All landscaped areas shall be provided with an in-ground irrigation system which shall be installed, maintained, and operated to service the Property.
20. Maintain Amenities and Landscape: The owners' association shall fund the perpetual maintenance of common amenities and landscaped areas on the Property.
21. The parking of vehicles on any landscaped or streetscaped areas not designed for vehicular parking shall be prohibited.
22. Graffiti shall be removed within fourteen (14) days subject to written notification by the City.
23. Potholes shall be repaired within fourteen (14) days subject to written notification by the City.
24. Duration of Approval. Building permits and substantial construction, consistent with this approval, are required within five (5) years of this approval. If such permits and construction have not occurred within five (5) years of approval, this approval shall become null and void, provided however, that the owner may request an extension of this approval from the City Council at a public meeting. If substantial changes to the approved plans, stipulations and conditions are requested, a public hearing shall be required.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Zoning	Existing Use	Future Land Use Map
Site	BU-1 (Southwest); BU-1A (East) & BU-2 (West)	Automobile Dealership	Commerce
North	BU-1A (East) & BU-2 (West)	Automobile Dealership	Commerce
South	BU-1A (East) & RU-1, (West)	Retail (East) & Single-Family Homes (West)	Commerce
East	BU-1A, Limited Business	Retail (441 Plaza)	Commerce
West	BU-3M, Apartment House	Office & Radio Towers	Neighborhood

The subject parcel is located on the northwest corner of State Road 7 (N.W. 2nd Avenue) and N.W. 207th Street. The site covers approximately four and one half (4½) gross acres, and is presently developed with an automotive dealership. The property immediately north of the site, along State Road 7, is commercially zoned and accommodates an automobile dealership. The area to the south across from N.W. 207th Street is characterized by a mixture of retail commercial uses, including a fast food restaurant, a billboard, and an adult video store. Single-family homes are located south and southwest of the site. A strip shopping center is located directly east of site on State Road 7. A 22-acre parcel immediately west of the subject property comprises various telecommunication towers and small office and utility buildings associated with the towers. (See Aerial, attached).

Consistency with Comprehensive Development Master Plan

The 3.50-acre site is designated Commerce on the City's **proposed** Future Land Use Plan Map 2016 of the Future Land Use Element of the Comprehensive Development Master Plan (CDMP). The Commerce designation covers the City's major transportation corridors of which State Road 7/US Highway 441/NW 2nd Avenue is included. Commerce policies generally encourage specific uses that exhibit intensive development and redevelopment within these corridors, subject to certain density and intensity standards as well as specific locational and design criteria and standards.

It is noted that the applicant's letter of intent addresses the Miami Dade County Comprehensive Plan's Future Land Use Plan Map which required a comprehensive plan amendment. The applicant agreed to accomplish the rezoning as part of the City's new Comprehensive Development Master Plan which does not require a separate plan amendment for rezoning applications such as that proposed.

The applicant proposes to establish a mixed-use development, featuring 41,276 square feet of specialty retail and three hundred forty (340) residential condominiums accounting for a density of approximately seventy-six (76) dwelling units per gross acre. This proposal falls with the Urban Core land use standards which are set forth as follows with analysis of the subject property underlined after the applicable standard:

Urban Core

1. Purpose. The Urban Core is designed to provide for a mixed-use downtown type of development, at or in close proximity to major intersections along the State Road 7 and the Palmetto Expressway corridors, within the Commerce area. Urban Core development must include a combination of residential, commercial and office uses within at least some of the same building(s).

Subject complies: Mixed Use located in Commerce area

2. Density. Minimum of fifty-one (51) to a maximum of one hundred (100) dwelling units per gross acre.

Subject complies: 76 DU/A

3. Floor Area Ratio (Intensity). Minimum of one (1.0) up to a maximum of three (3.0).

- Subject complies:

Total Site Area = 152,461 SF.:

Total FAR Area = 411,698 SF.:

$411,698 \div 152,451 = 2.70 < 3.00$

4. Land Use Mix. Residential shall be a minimum of 40% of total floor area. Commercial and office shall be a minimum of 10% of total floor area. A minimum of 5% of the total floor area shall be ground floor retail sales and services.

Subject complies:

- RESIDENTIAL

<u>Total FAR Area</u>	<u>Minimum 40%</u>	<u>Actual Residential</u>
411,698 SF.	164,679 SF.	< 370,401 SF.

- COMMERCIAL / RETAIL

<u>Total FAR Area</u>	<u>Minimum 10%</u>	<u>Actual Retail</u>
411,698 SF.	41,170 SF.	< 41,276 SF.)

5. Building Height. Up to an average height of ten (10) stories; Building height measured in stories. Calculate the number of stories as an average; add up the number of stories of each building and divide by the number of buildings.

Subject complies

- Average Height – 4 Buildings - 3 @ 13 stories, 1 @ 1 story.
 - $(13 + 13 + 13 + 1) \div 4 = 10$ stories.
6. Access. Shall be located on a public street within ½ mile of an Arterial intersection along State Road 7/U.S. Highway 441 or the Palmetto Expressway.

Subject complies: Located within ½ mile of either of 2 intersections with State Road 7 designated as Minor Arterials, NW 215th or 199th Streets.

Therefore, the requested district boundary change PAD in order to build the proposed mixed-use development will be consistent with Urban Core development standards and criteria set forth in the Comprehensive Development Master Plan.

Zoning History

On October 17, 1968 the Metropolitan Dade County Board of County Commissioners adopted Resolution No. Z-264-68 granting a request from 441 Associates for a district boundary change on the western tract of the property from RU-1 (Single Family District) to BU-2 (Special Business-District) on the northern portion of the westerly tract and RU-3M (Minimum

Apartment House) on the southerly portion of the westerly tract. Thereafter on March 4, 1982 the Metropolitan Dade County Board of County Commissioners adopted Resolution No. Z-68-82 granting 441 Associates a district boundary change on the southerly portion of the westerly tract previously zoned under Z-264-68 from RU-3M (Minimum Apartment House) to BU-1 (Neighborhood Business District). Resolutions attached.

State Road 7 Livability Study

At the date of this writing, the City of Miami Gardens is conducting a Livable Communities Study (Study) for the State Road 7 Corridor from NW 215th Street/County Line Road to the Golden Glades Interchange. Two Public Workshops resulted in defining three design alternatives for the corridor. Alternative-1 proposes improvements within the existing right-of-way with a smaller center landscape median; Alternative-2 proposes improvements to expand into adjacent private property within already-established buffer/utility easements; Alternative -3 proposes pedestrian improvements in the rear of commercial properties between residential properties. Each alternative could be applied on a site specific basis; no one alternative would be "perfect" for the entire corridor. For example, several segments of the corridor include frontage roads which may be more applicable to a modified version of Alternative-2. See attached drawing for details. At the date of this writing, the Study is scheduled to be presented to the City Council in April 2007. It is anticipated that the Study Report's recommendations and implementation strategies will be adopted.

Alternative-2 improvements most appropriately apply to the segment of State Road 7 between NW 215th Street and NW 207th Street which includes the site.

Most of the properties adjacent to State Road 7 have many easements, often overlapping, for various public utility purposes. These easements are generally located along property lines, mostly adjacent to State Road 7. For example, a survey of the site in question includes the following easements:

- 19 foot utility easement
- 10 foot utility easement
- Platted signal utility easement

Alternative-2 will expand the existing sidewalk from a current 5-6 feet to a minimum of ten foot bicycle/pedestrian path, meeting the minimum requirement of 10 feet per Florida Department of Transportation (FDOT) standards. This is proposed to be accomplished through generally extending the current sidewalk into the property upon areas that appear to be already covered by existing utility easements. Subject to permitting with the Florida Department of Transportation and interface with applicable utility companies, a sidewalk easement may be necessary to accomplish the expanded pedestrian facility.

The State Road 7 Livability Study will include specific design criteria and standards to implement the plan. While that Study is not yet complete, the basic provisions of the plan are reflected in the design alternatives provided herein. The City should take every opportunity to implement the basic provisions of the Livability Study rather than waiting for the study to be formally completed and incorporated into the Zoning Code. As such, the following general design criteria, standards and

guidelines are intended to provide an interim basis to implement the State Road 7 Livable Community Study on a project by project basis.

1. Minimum Ten Foot (10') Sidewalk Requirement: Existing sidewalks shall be rebuilt and replaced with a minimum 10 foot wide sidewalk. It is recognized that a portion of the proposed 10' wide sidewalk will be located on private property. A sidewalk easement shall be provided to the Florida Department of Transportation or other agency or utility company as may be necessary and appropriate per approval by the City.
2. Additional Landscape Buffer: In addition to the minimum 10 foot wide sidewalk requirement, a minimum 5 foot wide landscape area shall be provided. The main landscape motif shall be royal palm trees planted with a minimum twenty (20) feet of gray-wood and maximum spacing of twenty-five (25) feet. Additional shrubbery and plantings shall also be provided per City requirements. All landscape shall include in-ground, permanent irrigation.
3. Additional stem wall requirements to diminish visual impact of automobiles: If parking or vehicles are to be located, parked, and/or displayed adjacent to the right-of-way, an attractive system of stem walls shall be provided, varying in height of from 2-4 feet in height.
4. Additional streetscape and storefront requirements: The City shall require the provision of streetscape amenities including but not limited to pavers, landscape, benches, decorative fountains, street lights, and other amenities between the right-of-way and proposed buildings. Such requirements shall be based primarily upon the need to activate storefronts and businesses with pedestrian and related street activity. The City may require retail uses to provide storefronts with access to the street.
5. Transit Amenities: Bus stops, bus shelters, and similar amenities shall be required based on property location and need. The City shall specify the provision of such amenities based on coordination with Miami Dade Transit, Broward Transit and the Florida Department of Transportation.
6. Signage: Free-standing signage is discouraged; signage is encouraged to be located on buildings; For suburban type development projects, monument type signs shall be tolerated for automobile-oriented uses and commercial shopping or strip center development projects; pole signs are prohibited as are digital signs, automated copy signs and movable, changeable copy signs.

To a great extent the guidelines noted above are similar to and consistent with the Applicant's plans for Andover Park Village.

Workforce Housing

The South Florida workforce housing issue is recognized by the City of Miami Gardens in its new Comprehensive Development Master Plan as well as in previous approvals for residential development. Recently, the City approved the Emerald Place multiple family housing development of over 600 dwelling units with a stipulation that the developer insure that ten percent (10%) of the dwelling units be sold to households that meet an accepted criteria for affordability. That criteria includes households with an income range of 65% to 140% of the area median income for households in Miami-Dade County as published annually by the U.S. Department of Housing and Urban Development. A similar ten percent (10%) "set-aside" for targeted households is

recommended for the Andover Park Village development. The City's Consolidate Housing Plan being implemented by the City's Community Development Department provides further rationale for these conditions based on the overall intent to address affordable housing needs within our Consolidated Plan. The City's Community Development Department has further reiterated that the City must include language in residential development agreements that will truly provide affordable/workforce housing units. Without this language, the City won't really be making a concerted effort to ensure that a percentage of the new or redeveloped units will be made available to low to moderate income households.

Analysis and Criteria

Zoning. The subject property comprises 4.31 gross acres and is located on the northwest corner of N.W. 2nd Avenue and N.W. 207th Street. The applicant, Samkle Automotive, Inc., propose to demolish the existing structure on the property and is seeking a rezoning of same from BU-1, BU-1A and BU-2 to PAD in order to establish a thirteen-story mixed-use development, featuring ground floor retail, 340 condominiums and associated ground and structured parking. PAD permits all residential types subject to conformance with the CDMP. Convenience retail service facilities as permitted in the BU-1 Neighborhood Business District are also permitted in the PAD on the basis of the following standards:

1. Three (3) square feet of interior convenience retail floor area per dwelling unit shall be permitted;
2. Such services shall be designed as an integral part of the total development and conveniently located for the use of the residents of the proposed development;
3. Such facilities shall not be constructed prior to initiation of construction of the residential units which justify the need for such retail facilities; and
4. Such services are not visible from public roads, detached signs and signs visible from public roads are not permitted (Section 33-284-27(F)).

Companion requests seek: (1) a non-use variance of zoning regulations to permit a Planned Area Development District with a size of 4.31 gross acres (minimum 5 acres required); (2) a non-use variance of zoning regulations to allow more convenience retail service in the proposed mixed-use development than the 1,020 sq. ft. of retail space required for the proposed number of residential units (3 sq. ft. times 340 units); (3) a non-use variance of zoning regulations to allow the proposed mixed-use development to be visible from public roads, namely N.W. 2nd Avenue and N.W. 207th Street; (4) a rescission and revocation of the Declaration of Restrictive Covenants recorded in Official Records Book 14044, Page 508, of the Public Records of Miami-Dade County, Florida; and (5) a rescission and revocation of the Declaration of Restrictive Covenants recorded in Official Records Book 11388, Pages 485 through 489, of the Public Records of Miami-Dade County, Florida.

Criteria for Rezoning – Section 33-311(A)(8) of the Zoning Code provides authority to the City Council to hear and grant or deny applications for zoning district boundary changes. In evaluating an application for a district boundary change or rezoning, the Council shall take into consideration, among other factors, the extent to which:

- The development permitted by the application, if granted, (1) conforms to the CDMP, (2) is consistent with applicable area or neighborhood studies or plans, and (3) would serve a public benefit warranting the granting of the application at the time it is considered;
- The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education, and other necessary public facilities which have been constructed or planned and budgeted for construction;
- 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 constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways;
- The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of the City of Miami Gardens, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate impacts may have a substantial impact on the natural and human environments; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development.

Per plans submitted and attached hereto, the applicant proposes to construct a mixed-use development combining 41,276 square feet of retail and 340 residential condominiums accounting for a density of approximately seventy-six (76) dwelling units per gross acre. As noted above, the proposed development is consistent with policies of the Comprehensive Development Master Plan. In accordance with Section 33-311(A)(8) of the Code, this rezoning will therefore **conform** to the goals, objectives and policies of the CDMP.

Moreover, the site is already developed as an automobile sales facility so there are no detrimental impacts on natural resources. As set forth below, no undue burden on water, sewer, solid waste disposal, recreation, education, or other necessary public facilities, including mass transit, roads, streets and highways, will result from this rezoning and the proposed residential development. The approval of this application will not be contrary to the public interest, and will **not** have a **detrimental impact** on the adjoining developments.

Based upon these findings, the applicants' request (1) is in keeping with the spirit of the policies of the CDMP; (2) will maintain the basic intent and purpose of the Zoning Code and (3) will not impact negatively the stability and character of the area. Pursuant to Section 33-311(A)(8), **approval** is recommended for the requested zone change from BU-1, BU-1A & BU-2 to PAD.

Variations. The following non-use variations are requested:

- Non-Use Variance of Zoning Regulations to permit a Planned Area Development District with a size of 3.50 acres (minimum 5 acres required).
- Non-Use Variance of Zoning Regulations to allow 41,276 sq. ft. of convenience retail service in the proposed mixed-use development instead of the 1,020 sq. ft. of retail space required for the proposed number of residential units (3 sq. ft. times 340 units).

- Non-Use Variance of Zoning Regulations to allow the proposed mixed-use development to be visible from public roads, namely N.W. 2nd Avenue and N.W. 207th Street.

These variances are tied to the Planned Area Development zoning district which is the closest mixed use zoning district available in the Miami Dade County Zoning Code that would reasonably accommodate the proposed development. Even so, the PAD zoning district was designed in a suburban, low density context and, as such, must be varied to accommodate the more urban development form.

Review Criteria: The following 2 criteria were considered for review of the applicant's proposal under the Zoning Code:

- Section 33-311(A)(4)(b) Non-Use Variance
- Section 33-311(A)(4)(c) Unnecessary Hardship

The criteria of Section 33-311(A)(4)(b) are utilized for this review because these criteria are the most appropriate for the non-use variances under consideration. These requests represent a reasonable departure from the provisions of the Code in order to obtain the desired development form which is supported by the comprehensive plan. The requested non-use variances of minimum land area, residential/commercial land use mix ratio and visibility from the street will allow the Applicant to obtain an urban type of development in conformance with the Urban Core land use policies set form in the Comprehensive Development Master Plan. Therefore, these variances are consistent with the City's plans, including the State Road 7 Plan mentioned in this report. The proposal is compatible with the commercial uses already established in the immediate area. Additionally, the surrounding area features several platted parcels, vacant land to the immediate west, improved single-family residences on the south side of NW 207th Street with separation by a four-lane street, plus commercial uses located north, south and east. As such, the requested non-use variances will not detrimentally affect the stability and appearance of the community and will be otherwise compatible with the surrounding mixture of uses.

Based on these findings, the Applicants' proposal maintains the basic intent and purpose of the Zoning Code and is recommended for approval under Section 33-311(A)(4)(b), subject to the conditions recommended.

Rescissions and Revocations. The following rescissions and revocations are requested:

- Rescission and Revocation of the Declaration of Restrictive Covenants recorded in Official Records Book 14044, Page 508, of the Public Records of Miami-Dade County, Florida. This restriction references obsolete plans, restricts uses to BU-1, limits building to 9,000 square feet and one story, and is otherwise inconsistent with the proposed project.
- Rescission and Revocation of the Declaration of Restrictive Covenants recorded in Official Records Book 11388, Pages 485 through 489, of the Public Records of Miami-Dade County, Florida. This restriction prohibits driveways connections on the westerly 360 feet of NW 207th Street.

These restrictions are generally inconsistent with the proposed project and are recommended for rescission and revocation.

Economic Benefits Analysis

An economic benefits analysis for Andover Park Village was development by Miami Economic Associates and is attached. The project is anticipated to cost approximately \$65.5 million in construction costs and generate approximately \$89.2 million in sales.

Anticipated Facilities Impact

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

Water and Sewer: Central water and central sewer services are available to this site through the Miami-Dade County's Water and Sewer Department (WASD), and connection shall be required.

Drainage/Water Management: Per code requirements, all stormwater runoff must be retained on site utilizing properly designed infiltration or seepage type systems. Drainage must be provided for the 5-year storm event with full on-site retention of a 25-year/3-day storm. Pollution control devices shall be required at all drainage inlet structures. Site grading and development shall comply with the requirements of Chapter 11C of the Code of Miami-Dade County.

Traffic Circulation:

- **Cross Access Easement** - The property located immediately north of the site is currently an automobile dealership. A platted road with a cul-de-sac is adjacent to the site. The northerly property is currently utilized for automobile storage and display. Best practices for traffic circulation dictates that cross access easements be provided between properties along a given roadway. These easements provide alternative vehicular traffic circulation between properties and thereby decrease the need to utilize the main thoroughfare such as State Road 7 and also decrease the number of vehicle trips on the main road. Such a cross access easement is recommended as a condition of the development. The easement should be established in a manner that allows the City to activate it at such time as redevelopment of the northerly site takes place in a manner that warrants utilization of the cross access easement. When the northerly property redevelops, it will include a similar cross access easement that will allow circulation between the properties.
- **Traffic Analysis** - The attached Traffic Analysis by David Plummer & Associates recommends certain intersection improvements:
 - a. Reconfigure westbound approach to provide one exclusive left turn lane and a shared right and through lane.
 - b. Improve the eastbound approach to provide one exclusive left turn lane, one exclusive through lane, and one exclusive right turn lane.
 - c. Modify the signal phasing and timing plan to improve operations.
 - d. Modify the signal to allow the provision of a green light for the eastbound right turn during the protected northbound approach.

Recommendations a. and b. appear to be already basically in place although the turn lanes described by a. are not clearly defined on the ground and should be. The other recommendations should also be accomplished. All four recommendations are incorporated into the conditions of approval.

- **Transportation Concurrency Management** - The CDMP establishes 4 (four) Transportation Concurrency Management Areas (TCMA) within the City of Miami Gardens. Per the CDMP's Transportation Element Objective 1.9, the TCMA maintains requires maintenance of an area wide Level of Service for transportation. The project is located in TCMA #3 which includes both sides of the State Road 7/NW 2nd Avenue Area. The Level of Service (LOS) for all TCMA's, including TCMA#3, is LOS E. The 151 PM peak hour trips (the highest number during the day) that this project generates will be subtracted from the inventory of trips available for TCMA #3. Both AM and PM peak hour trips were incorporated into the traffic analysis (see above) with mitigation recommendations incorporated into the project's conditions of approval.

Education: As provided in the attached Miami Dade County Public School letter, the proposed development meets the review threshold for middle school capacity of 28 students (Norland Community Middle School) per the Percent Utilization FISH Design Capacity criteria. Capital costs are calculated to be \$461,580. The Applicant has signed an agreement to proffer this monetary donation for additional student stations. That agreement is subject to approval by the School Board at its meeting of April 18, 2007.

Public Notification/Comments

In accordance with the Zoning Code, notification of the applicant's requests was mailed to property owners within one half (1/2) of a mile of the subject site to provide them an opportunity to comment on the application. At the date of this writing there were no written comments from property owners near the site.

This recommendation to approve the applicants' requests and to accept their proffered declaration of restrictions does not constitute a final development order; one or more concurrency determinations will subsequently be required.

Attachments:

- Letter of Intent
- Public Hearing Checklist
- Hearing Map-Zoning
- Hearing Map-Aerial
- Mailed Notice Radius Map
- Plans
- David Plummer Intersection Analysis
- School District's Review Analysis
- Benefits Analysis - Miami Economic Associates
- Resolution No. Z-68-82
- Resolution No. Z-264-68
- Official Records Book 14044, Page 508 and 509
- Official Records Book 11388, Pages 485 through 489
- Miami Gardens Proposed Ordinance
- Proffered Declaration of Restrictions