CFN 2022R0428108
OR BK 33208 Pgs 656-750 (95Pgs)
RECORDED 05/25/2022 11:34:07
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

**CITY OF HOMESTEAD, FLORIDA**

**ORDINANCE NO. 2022-02-05**

AN ORDINANCE OF THE CITY OF HOMESTEAD, FLORIDA, **AMENDING THE MASTER DEVELOPMENT PLAN FOR THE HOMESTEAD PARK OF COMMERCE (HPOC), AS REQUESTED BY DOUG, LLC, TO PERMIT LIGHT ASSEMBLY, LIGHT MANUFACTURING, AND DISTRIBUTION USES ON A PORTION OF THE PROPERTY IDENTIFIED BY MIAMI-DADE COUNTY FOLIO NO. 10-7921-011-0025 LOCATED WITHIN THE LAKE DISTRICT;** PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS,** Doug, LLC, (the "Applicant") has applied to the City of Homestead, Florida (the "City"), for approval of an amendment to the Master Development Plan for the Homestead Park of Commerce (HPOC) located within the Villages of Homestead (VOH) Development of Regional Impact (DRI) to modify the permitted land uses to permit light assembly, light manufacturing, distribution, in addition to the uses enumerated in the HPOC Master Plan only on the portion of the parcel of land identified by Miami-Dade County Property Appraiser **Folio No: 10-7921-011-0025** that is located within the Lake District; and

**WHEREAS**, the Master Development Plan for the HPOC was originally approved by the City Commission on April 16, 2001, as the Rockefeller Group Foreign Trade Zone Master Development Plan (RGFTZ Master Development Plan), pursuant to Ordinance No. 2001-03-08; and

**WHEREAS**, the RGFTZ Master Development Plan established specific permitted uses, design standards and architectural control guidelines necessary to ensure a high quality of architecture and urban design on properties located within the HPOC; and

**WHEREAS**, pursuant to Ordinance No. 2001-03-08, the City Manager was authorized to administratively review and approve reasonable modifications and amendments to the RGFTZ Master Development Plan, which may be requested by the developer in the future; and

**WHEREAS**, the RGFTZ Master Development Plan was subsequently amended administratively by the City Manager in 2008; and

**WHEREAS**, on August 19, 2020 the City Council amended the RGFTZ Master Development Plan, pursuant to Ordinance No. 2020-08-03 at the request of Copart of Connecticut, Inc.; and

**WHEREAS**, on October 21, 2020 the City Council amended the RGFTZ Master Development Plan, pursuant to Ordinance No. 2020-10-10 at the request of Doug, LLC; and

**WHEREAS**, on July 21, 2021 the City Council amended the RGFTZ Master Development Plan, pursuant to Ordinance No. 2021-07-10 at the request of Pivotal Utility Holdings, Inc (FCG); and

**WHEREAS**, the Applicant has proffered a Declaration of Restrictions, attached as Exhibit "C," restricting the use on the Property, preventing incompatible uses, and ensuring compliance with the RGFTZ Master Development Plan and Comprehensive Airport Zoning Ordinance;

**WHEREAS**, staff recommended approval of this request in its report dated December 15, 2021; and

**WHEREAS,** the Planning and Zoning Board of the City, sitting as the Local Planning Agency, reviewed this request at its November 10, 2021 meeting, and voted to recommend denial; and

**WHEREAS,** the City Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and in the public interest of citizens of this community.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA:**

**Section 1**. **Findings**. The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

**Section 2**. **Adoption of the Amended Master Development Plan**. The City Council hereby adopts the Amended Master Development Plan for the HPOC attached to this Ordinance as Exhibit "A" as the development planning and design criteria, standards and guidelines for the Property legally described in Exhibit "B" pursuant to applicant's proffered Declaration of Restrictions as attached as Exhibit "C".

**Section 3**. **Modifications and Amendments**. The City Manager is hereby authorized to review and approve reasonable modifications and amendments to the Master Development Plan for the HPOC, which may be requested by the Developer in the future.

**Section 4**. **Conflicts**. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 5**. **Severability**. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6**. **Recording.** The City, or the Applicant if so requested by the City Clerk, shall record this Ordinance at the Applicant's sole expense in the Public Records of Miami-Dade County, Florida.

**Section 7**. **Effective Date**. This Ordinance shall become effective immediately upon adoption on second reading.

**PASSED** on first reading this 15th day of December, 2021.

**PASSED AND ADOPTED** on second reading this 16th day of February, 2022.

STEVEN D. LOSNER,
Mayor

ATTEST:

ELIZABETH SEWELL, MPA, MMC
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND BENEFIT OF THE CITY ONLY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
City Attorney

Motion to adopt by Vice Mayor Guzman, seconded by Councilwoman Fairclough-Staggers.

***FINAL VOTE AT ADOPTION***

| | |
|---|---|
| *Mayor Steven D. Losner* | *YES* |
| *Vice-Mayor Julio Guzman* | *YES* |
| *Councilwoman Erica G. Ávila* | *YES* |
| *Councilwoman Patricia D. Fairclough-Staggers* | *YES* |
| *Councilwoman Jenifer N. Bailey* | *ABSENT* |
| *Councilman Sean L. Fletcher* | *ABSENT* |
| *Councilman Larry Roth* | *YES* |

**EXHIBIT "A"**

**AMENDED GENERAL LAND USES FOR FOLIO NUMBER 10-7921-011-0080**

**MASTER DEVELOPMENT PLAN – HPOC**

**General Land Uses – Industrial/Office/Commerce Center**

* * * *

The required land uses reinforce the establishment of three districts within the site. The Lake District is seen as the commercial district, a place for office buildings, hotels, conference centers, convenience retail, and is the primary open space for repose and recreation within the site*. The majority of the land in both the East and West Ends is designated for light assembly, light manufacturing and distribution uses.

In addition to the uses enumerated above, other uses permitted within the development include the following: 1) industries; 2) manufacturing operations; 3)warehouses; 4) office buildings; 5) showrooms; 6) technology facilities, including telecommunications facilities and other facilities related to the technology industry including call centers, carrier hotels, data centers, points of presence facilities application service providers, network access points, server or satellite farms or storage facilities, or similar computer/internet facilities; 7) broadcast operations and facilities; 8) distribution centers; 9) foreign trade zone; 10) free trade zone; 11) merchandise marts; 12) public facilities, including those that provide a regulated utility service**; 13) educational facilities, biomedical research/medical technology; 14) commercial uses compatible with industrial/office/commerce uses; 15) hotels and motels; 16) the existing lake and other fill excavations; 17) vehicle storage (no sales)***; 18) uses permitted pursuant to the City Code; other uses approved by the City Manager; and such other uses determined by the Director of the Development Services or the appropriate division of the City's Department of Development Services to be a use similar to one of the above enumerated uses and that conforms with the intent of this Master Development Plan. Additionally, for the HPOC parcels further identified by Miami-Dade County Folio Nos. 10-7921-011-0060 and 10-7921-011-0070, gas stations with convenience stores, self-storage facilities, which shall not exceed ten (10) acres, and restaurant uses may be permitted as special exception uses pursuant to the process, procedures, standards and criteria established in the City Code pursuant to Section 30-45 "Special Exception Permits" as may be amended in the future.

* The parcel of land identified by folio no. 10-7921-011-0025 is exempt from this requirement and may be designated for light assembly, light manufacturing, and distribution, in addition to the uses enumerated and permitted above.

** Public facilities that provide a regulated utility service shall only be permitted on that certain +/-11.53 acres of land, identified by folio no. 10-7921-011-0080

(***) The "vehicle storage (no sales)" use is intended to permit outdoor vehicle storage only of used, damaged and undamaged, operable and inoperable automobiles, trucks, other vehicles, trailers, boats and construction/farm equipment and machinery, for online auction, with accessory office, temporary inventory storage, shipping/receiving and customer parking, and with no in-person vehicle sales transactions taking place on the subject Property (the "Intended Use"). The Intended Use is a separate and distinct use from "Junk yard" or "Recycling and transfer facility" as defined in Section 30-1 of the City Code. The Intended Use shall only be permitted on that certain +/- 98 acres of land identified by folio nos.: 10-7922-003-0130, 10-7922-003-0140, 10-7922-003-0150, 10-7922-003-0160, 10-7922-003-0240, 10-7922-003-0250, 10-7922-003-0260, 10-7922-003-0270, 10-7922-003-0360, 10-7922-003-0370, 10-7922-003-0380, 10-7922-003-0110, 10-7922-003-0120, 10-7922-003-0170, 10-7922-003-0180, 10-7922-003-0290, 10-7922-003-0300, 10-7922-003-0310, 10-7922-003-0320, 10-7922-003-0330, 10-7922-003-0340, 10-7922-003-0350, 10-7922-003-0390, 10-7922-003-0400, 10-7922-003-0410, 10-7922-003-0420, 10-7922-003-0430, 10-7922-003-0010, 10-7922-003-0020, 10-7922-003-0030, 10-7922-003-0040, 10-7922-003-0050, 10-7922-003-0060, 10-7922-003-0070, 10-7922-003-0080, 10-7922-003-0090, 10-7922-003-0100, 10-7922-003-0190, 10-7922-003-0200, 10-7922-003-0210, 10-7922-003-0220, 10-7922-003-0230, 10-7922-003-0435, 10-7921-011-0040 (the "Property").

CFN 2008R0745538
OR Bk 26564 Pgs 3345 - 3368; (24pgs)
RECORDED 08/11/2008 15:48:49
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:

A&H Commerce Park, LLC
for the City of Homestead
790 N. Homestead Boulevard
Homestead, FL 33030

# Master Development Plan for:

# Homestead Park of Commerce
# Homestead, Florida

Prepared by:
Kimley-Horn and Associates, Inc.
July 25, 2008

Prepared for:
A & H Commerce Park, LLC

*The original Master Development Plan for the Homestead Park of Commerce, dated March 7, 2001 (April 10, 2001 rev.) was prepared by Cooper, Robertson & Partners, and adopted by the City of Homestead on April 16, 2001, pursuant to Ordinance No. 2001-03-08. This Amendment to the Master Development Plan to the Homestead Park of Commerce, **formerly known as the Rockefeller Group Foreign Trade Zone,** was prepared by Kimley-Horn and Associates, Inc. for A&H Commerce Park, LLC, as required by the City of Homestead Request for Proposal #200701*



CAR 5171 - Exhibit 6

~~Rockefeller Group Foreign Trade Zone~~, Homestead Park of Commerce, Homestead Florida
Section 1.01

Amended Master Development Plan

Table of Contents


Introduction ..... ~~3~~3
Site Plan Principles ..... ~~5~~5
General Land Uses - Industrial/Office/Commerce Center ..... ~~7~~7
General Location of Roadways ..... ~~9~~9
The Lake ..... ~~12~~12
General Landscaping ..... ~~13~~13
General Architectural Controls ..... ~~17~~17
*Relationship to existing buildings* ..... 17
*Building Setbacks* ..... 18
*Building Facades and Materials* ..... 19
*Building Height and Massing* ..... 19
*Parking Areas and Private Drives* ..... 21
*Loading Docks and Trailer Storage* ..... 21





Book26564/Page3346 CFN#20080745538 Page 2 of 24
2022-02-05 9
CAR 5171 - Exhibit 6

## Introduction

The purpose of this amended master development plan is to describe the standard of high quality architecture and urban design within the ~~Rockefeller Group Foreign Trade Zone~~ Homestead Park of Commerce, Homestead ~~(RGFTZ)~~ (HPOC) and its relationship to the surrounding areas. The plan is meant to provide an overview of the future development and its impact on the community. By and large, the physical plan focuses on existing Commerce Drive (an internal street) and will have little visual impact on the surrounding environment. This is a key goal of the plan. The site is primarily envisioned as a light manufacturing, light assembly, office and distribution center with a small commercial component at the foot of the lake. The existing lake is the site's main open space resource and the plan is laid out to maximize accessibility to it. Because the plan is to be implemented over a period of time, there is less emphasis on individual building requirements, but more attention paid to the location and scale of building masses, their relationship to a coordinated landscape plan, and the creation of a friendly, high quality, marketable environment.

This plan shall guide new development within the ~~(RGFTZ)~~ HPOC. This plan, however, is a generalized conceptual document and is not intended to constitute a detailed description of the configurations, phasing, design and designations shown thereon. In addition, this plan is not intended to approve any specific design or layout of any improvements or structures on any particular parcel of property within the boundaries of the subject property. Final design, configurations, designations and siting and orientation details are intended to be addressed as part of the site plan approval process, under the provisions ~~Division 5 of~~ Art. II, Division 2 of Chapter 30 of the Homestead City Code. The standards and criteria set forth in ~~Division 7 16 of Chapter 30~~ the Homestead City Code shall, when not in conflict with this plan, be generally followed, consistent with the spirit and intent of this plan. Such standards and criteria, however, may be reduced, waived or eliminated as part of the site plan approval process, without the need for a variance, provided that the City Manager (or his or her designee) or the City Council, as appropriate, determines that the reduction, waiver or elimination of such standards and criteria is consistent or compatible with the intent of the plan and is appropriate and in the best interest of the public health, safety and general welfare.




**Existing Gate**



## Site Plan Principles

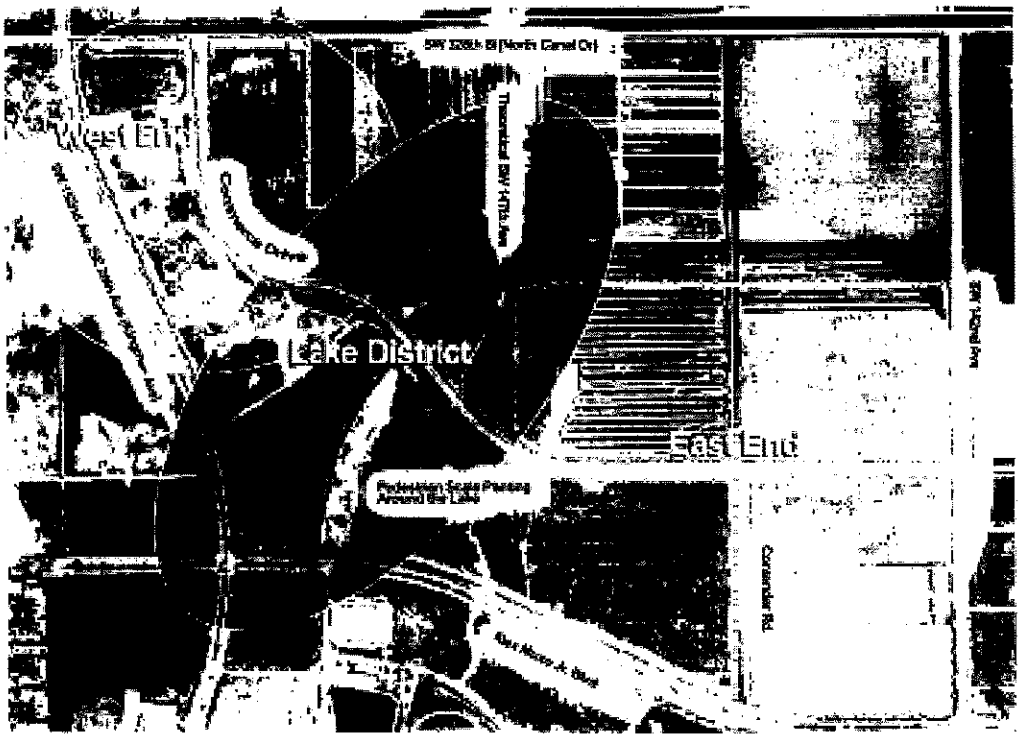
The key to the development plan relies on the existing shape of the parcel, the location of the lake within the parcel, and the existing alignment of Commerce Drive as it meanders through the site.

The site plan is principally organized around three distinctly different areas within the site: the Lake District, the East End, and the West End.

The lake, with its unique frontage, commercial potential, and association with the neighboring ballpark suggests a Lake District as the center of the site. The entire perimeter of the lake is designated for pedestrian paths and public access. The large, dense hedges along Alex Muxo Boulevard and Kingman Road should be cut back to allow visibility across the lake to the commercial center where Commerce Drive passes by the foot of the lake. A small group of open spaces on the lakefront are envisioned to provide front doors for the commercial buildings.

The East End of the site is composed of large uninterrupted parcels of land suitable for warehouse development and the operations needed for their success. Commerce Drive, a straight street through almost all of this district, is the key organizer for future development here. All new buildings in this area will be required to be orthogonal to Commerce Drive and generally aligned along a setback line to provide a unified street frontage. ~~Along SW 142 Avenue, the buildings will be required to generally align with the setback established by the existing buildings currently occupied by Contender Boats.~~ A gatehouse or landscaped portal will likely identify one of the project's front doors along North Canal Drive. While traveling westward on Commerce Drive, it is anticipated that the view corridor will be ended with careful consideration.

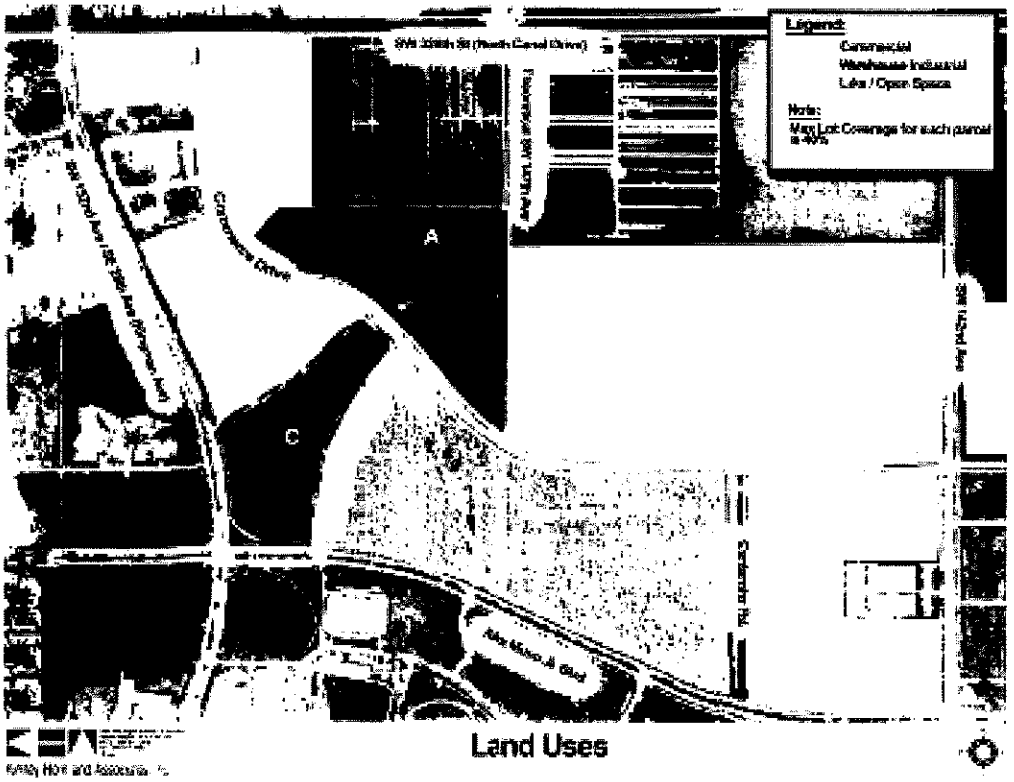
The remaining West End of the site will be composed of fewer and smaller warehouse buildings. Unlike the East End where Commerce Drive is long and straight, Commerce Drive in the West End is short and curvilinear. This results in a very different approach to the organization of building masses. The buildings will step back in groups responding to the curve of the street, and will splay away from the street in order to provide visibility to the lake from Commerce Drive.


Lake District
East End
Three Districts

## General Land Uses - Industrial/Office/Commerce Center

The required land uses reinforce the establishment of three districts within the site. The Lake District is seen as the commercial district, a place for office buildings, hotels, conference centers, convenience retail, and is the primary open space for repose and recreation within the site. The majority of the land in both the East and West Ends is designated for light assembly, light manufacturing and distribution uses.

In addition to the uses enumerated above, other uses permitted within the development include the following: industries; manufacturing operations; warehouses ~~and mini-warehouses;~~ office buildings; showrooms; technology facilities, including telecommunications facilities and other facilities related to the technology industry including call centers, carrier hotels, data centers, points of presence facilities application service providers, network access points, server or satellite farms or storage facilities, or similar computer/internet facilities; broadcast operations and facilities; distribution centers; foreign trade zone; free trade zone; merchandise marts; ~~pre-cast concrete facilities;~~ public facilities; educational facilities, biomedical research/medical technology, ~~hospitals,~~ medical buildings, and other health care facilities; commercial uses compatible with industrial/office/commerce uses; hotels and motels; the existing lake and other fill excavations; uses permitted pursuant to ~~Section 30-663 of~~ the City Code; other uses ~~permitted pursuant to Sections 30-659 through 30-662 of the City Code~~ approved by the City Manager; and such other uses determined by the Director of Development Services or the appropriate division of the City's Department of Development Services to be a use similar to one of the above enumerated uses and that conforms with the intent of this Master Development Plan.

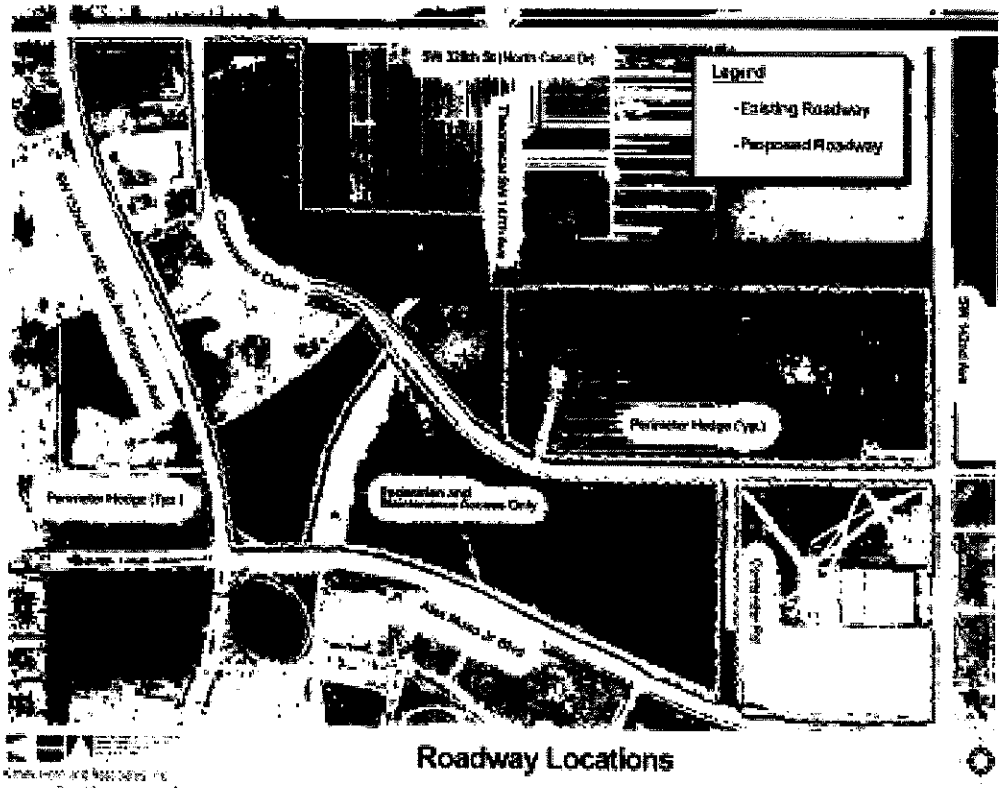

Legend:
Commercial
Warehouse Industrial
Lake / Open Space
Note:
Max Lot Coverage for such parcel is 40%
A
C
Land Uses

## General Location of Roadways

Clearly the most important street in the plan is Commerce Drive, which will remain in place without any alteration to the roadbed or traffic carrying capacity. Over time, as individual development projects come on-line, private drives for the sole use of individual business operations will be connected to Commerce Drive. These will be exclusively private driveways.

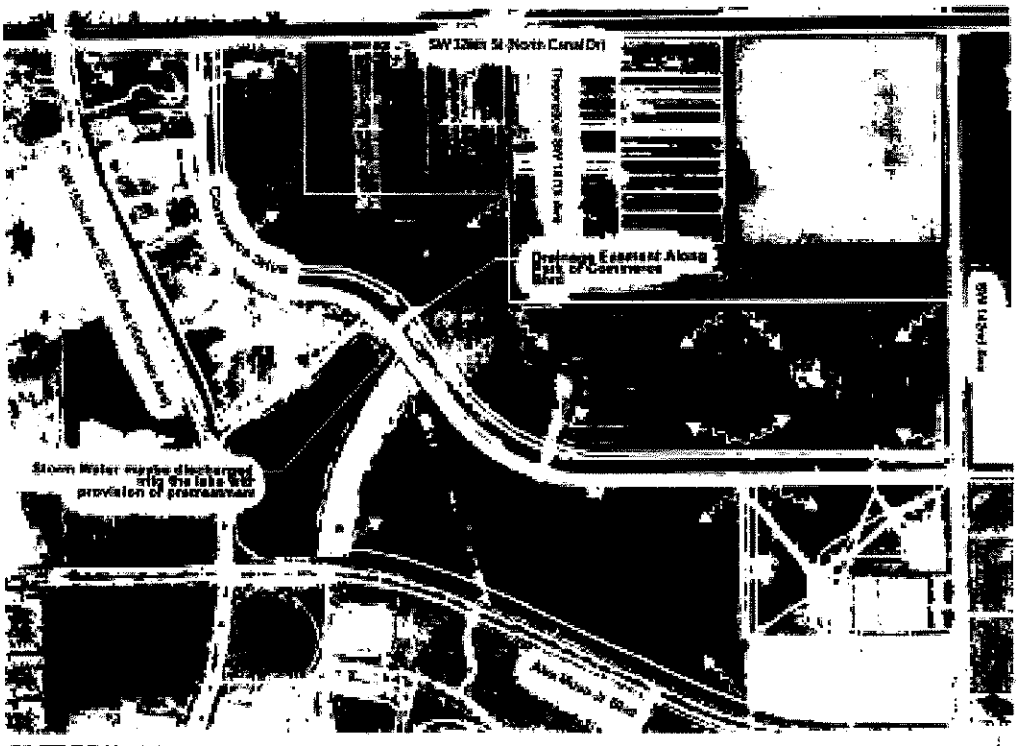
Ultimately, the street and block pattern that is envisioned will provide efficient truck and vehicular access to the warehouse facilities and reinforce a more intimate, pedestrian environment around the lake and the commercial center.






Roadway Locations

**NOTE:** The existing roadways are shown in gold and the future extension of Contender Road is shown in red. Future internal roadways will be designed and constructed as part of the site plan and subdivision approvals for future development.




Drainage Concept

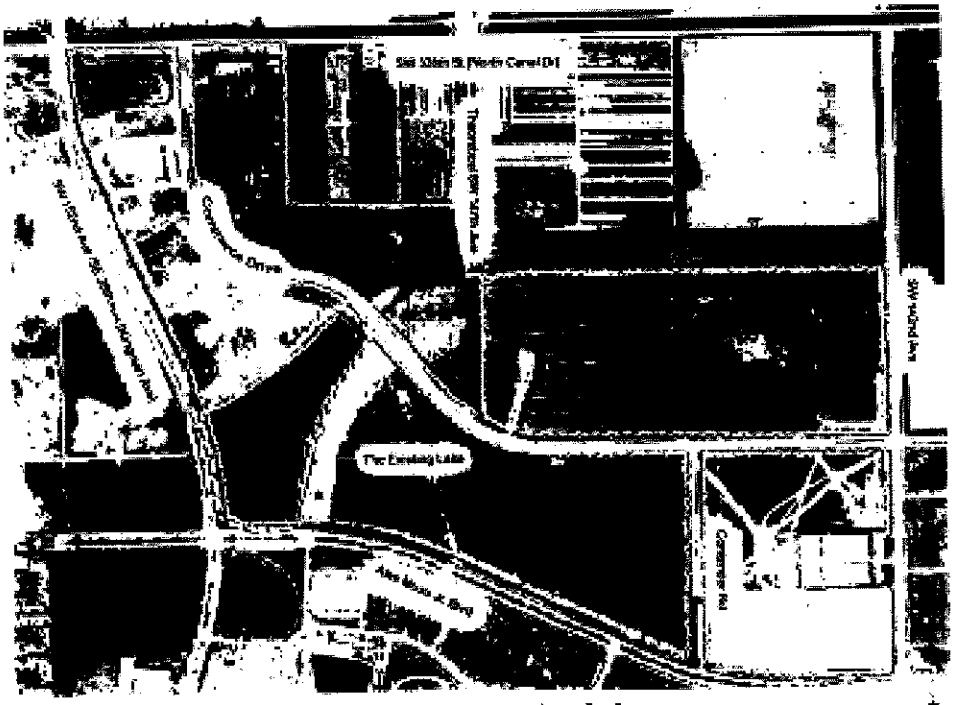
11

Amendment to
Rockefeller Foreign Trade Zone Homestead Park of Commerce
Homestead, Florida

## The Lake

There is but one lake on the site today and it will remain as the only lake in the future. From a design perspective, the uniqueness of the lake would be diminished by adding more bodies of water and, from a real estate perspective, the value of the land will not be increased by the addition of more water.

The lake is an important component in the drainage and water retention system for the project. The drawing ~~to the left~~ below outlines a shared drainage system, allowing development parcels to drain into a common easement along Commerce Drive and leading to the lake. Still, individual parcels will have to accommodate their own on-site water retention using seepage drains and/or swales. The general grading of the entire parcel is outlined to retain water in the landscape zone along Commerce Drive and to direct the flow of water toward the lake.




The Existing Lake

## General Landscaping

The general landscape plan consists mainly of three parts; first is the perimeter hedge which exists, second is the definition of Commerce Drive, and third is the area around the lake.

***The Perimeter Hedge.*** The dense, lush, opaque nature of the existing hedge should be continued as a screening motif on all street frontages except where the lake has frontage at the intersection of Kingman Road and Alex Muxo Boulevard. At this important corner, the hedge should be removed and replanted elsewhere to provide visibility into the site across the lake to the commercial center.

***Commerce Drive.*** Commerce Drive is primarily a functional street with a consistent approach to the landscape treatment. The role of the landscape along this street is to soften the overtly industrial image of warehouse architecture, to provide a continuous image along the street, and to provide a pedestrian amenity for tenants and the surrounding community.

Typically, the landscape along the street consists of equally spaced rows of trees with a double row on the north side of the street where the building setback is larger. The landscape plan changes when the street meets the lake and at the entrance gates. If there are entrance gates, they will have less landscape to allow clear visibility for trucks entering and exiting. The entrance area also provides the opportunity for seasonal plantings to provide some color and variety to the landscape.

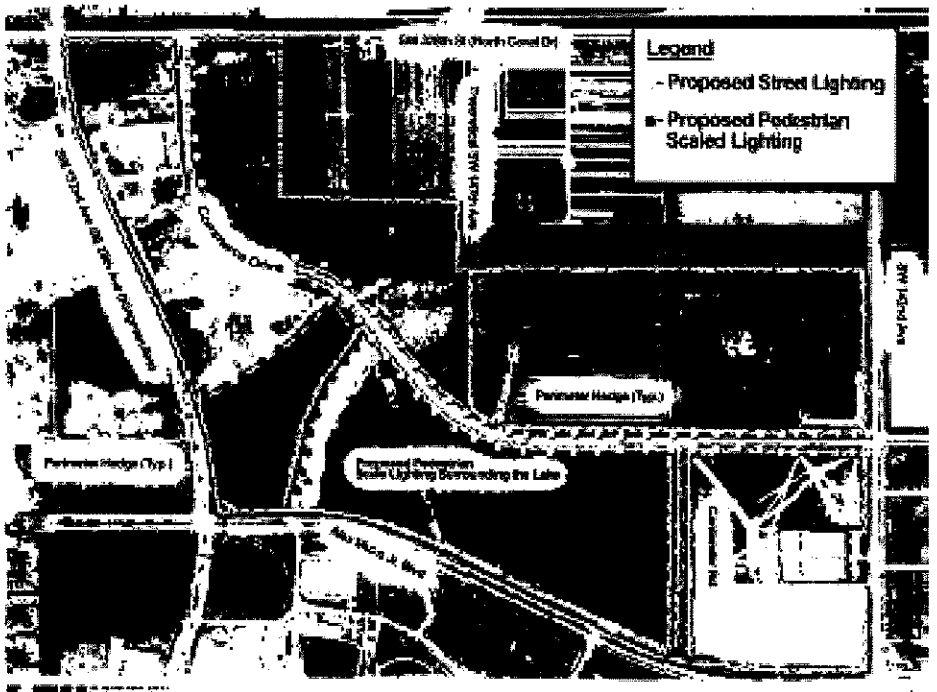
***Around the Lake.*** This area is the most pedestrian oriented and should be reinforced with smaller species trees and lower canopies, bushes and gardens (even community gardens maintained by employees of tenants here), and an occasional place to sit. This plan recommends, although doesn't require, a series of small park-like open spaces as front door addresses for the commercial buildings.



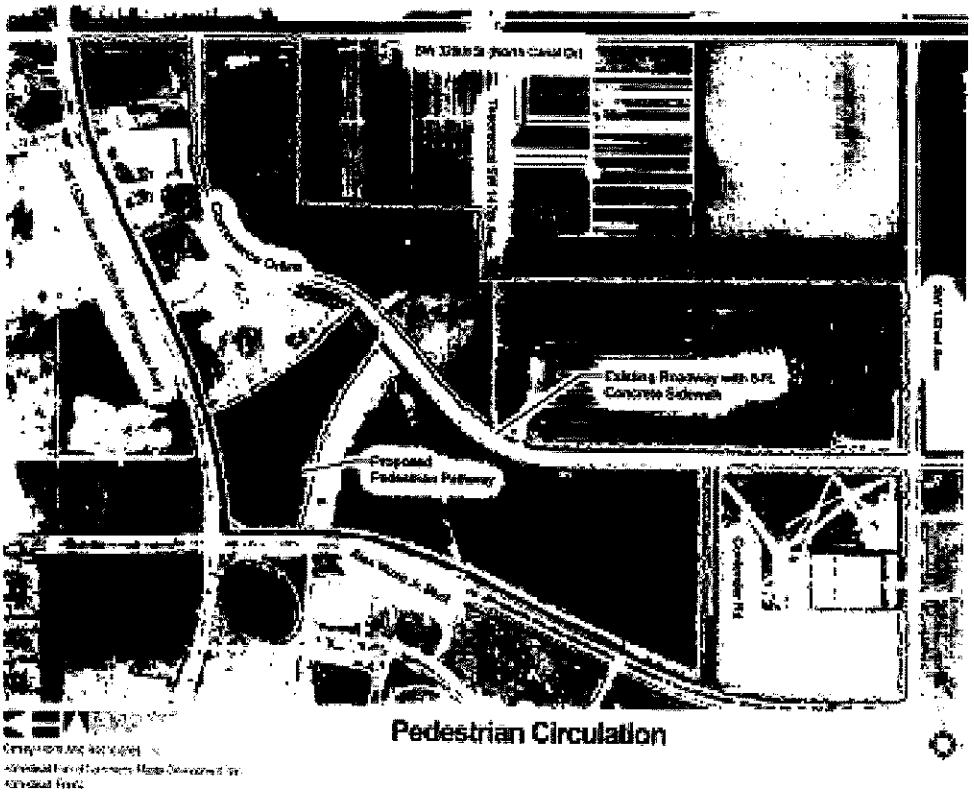

General Landscape Concept

***Pedestrian Circulation.*** The most pedestrian oriented area of the plan is around the lake where access to the entire frontage is planned. Pedestrian circulation is also permitted along Commerce Drive (as well as jogging, bicycling, and other light activities) but will not extend into other areas of the site.

***General Lighting Concept.*** The general plan for lighting follows closely the general landscape plan. The two are not linked by any phasing or timing requirements, and may occur separately and at different rates of time. Street lighting will be the primary type along Commerce Drive while around the lake the lighting will become more pedestrian scaled and more intimate. There is the possibility of special lighting at the entrance gates (if they are constructed) to illuminate the signs or gatehouses.




Lighting Concept

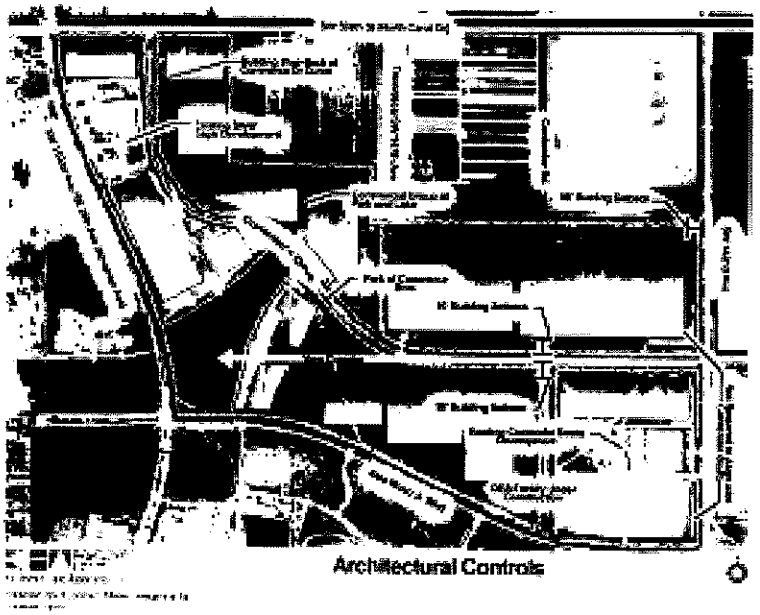



Pedestrian Circulation

## General Architectural Controls

The design of each individual building is of less importance than the control of the design for groups of buildings. Facade treatments are not strictly limited except that each can be generally light in color and simple in expression. More important is the relationship of the new buildings to Commerce Drive and to each other. The buildings along the East End should generally align along a building setback to create a unified street. The buildings in the Lake District should generally arrange around small open spaces that are oriented toward the lake. The buildings along the West End will generally "step back" in response to the curve of Commerce Drive.

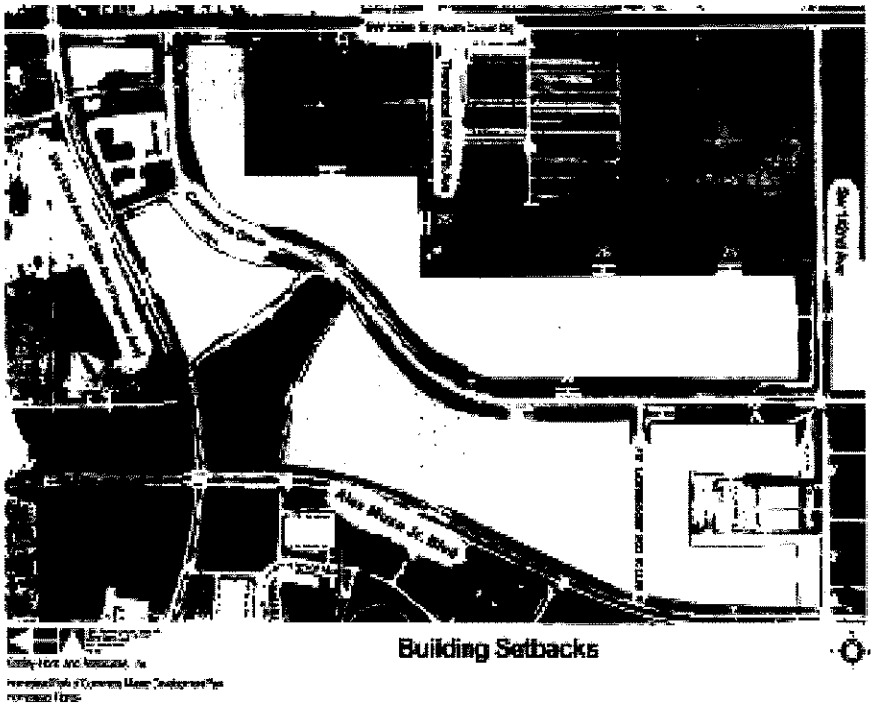
***Relationship to existing buildings***. There are three groups of existing buildings which are near enough to the site to influence the plan layout. ~~To the east, the existing Contender Boat buildings provide the basis for the primary building setback along SW 142 Avenue.~~ On the West End, the existing casual arrangement of buildings there establishes the basis for a group of buildings that responds to the curve of Commerce Drive. Finally the ballpark (across the street) influences the formation of the Lake District as a place for non-warehouse functions, and marks the most public corner of the project.




Architectural Controls

***Building Setbacks.*** The most important building setback lines occur along Commerce Drive. ~~At the east and west ends the buildings shall be set back 150 feet from the north R.O.W. of Commerce Drive and 80 feet from the south R.O.W. of Commerce Drive. In the Lake District~~ Buildings shall be setback 50 feet from either side of Commerce Drive R.O.W. Along Kingman Road and Alex Muxo Boulevard, the buildings shall be set back 50 feet from the street R.O.W. Along North Canal Drive and SW 142nd Avenue, the buildings shall be set back ~~100~~ 80 feet from the street R.O.W. to provide area for an appropriate entrance to the project. All buildings shall be setback at least 25 feet from any other property lines.

In the West End, the buildings should be grouped in order to preserve and frame a view to the lake while one is moving toward the east. In the Lake District, it is important that careful attention be paid to the group of buildings at the foot of the lake, especially building facades forming courtyards and any facades which end one's view across the lake while looking to the north.

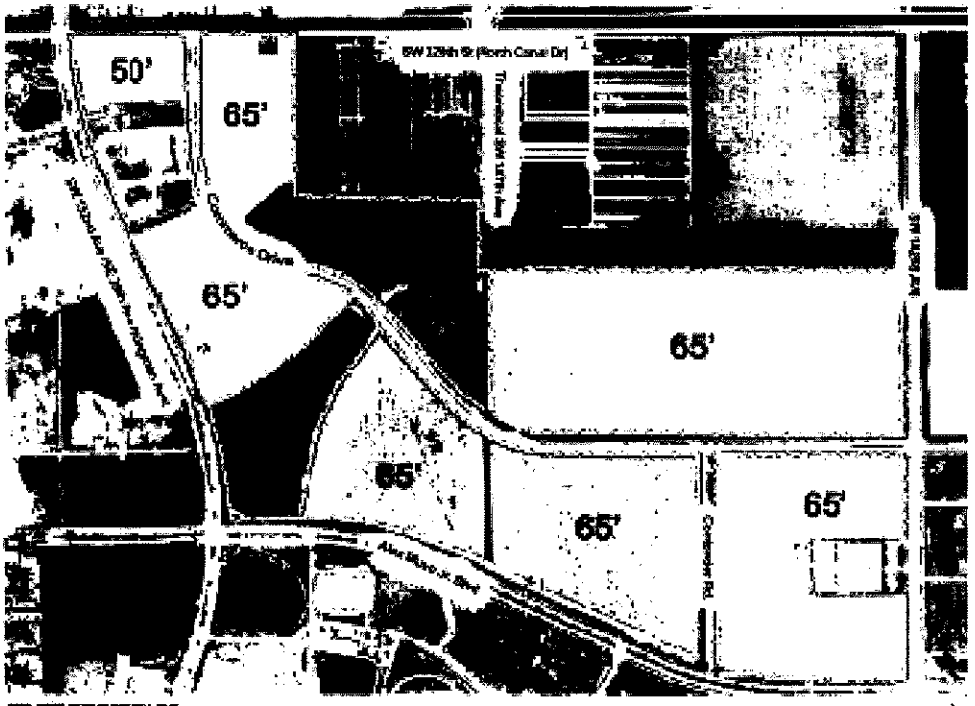



Building Setbacks

***Building Facades and Materials.*** The warehouse buildings must be durable, efficient, and cost effective. The most appropriate construction technique is tilt-up concrete panels. Once in place, the panels may be either sandblasted or painted a light color (as close to the color of the natural concrete as possible). The primary aim of this rule is to achieve as much uniformity as possible amongst the many warehouses foreseen in the plan. Any glass used may be tinted for sun protection, and should contrast the lighter color of the concrete. No metal buildings are permitted within the Park of Commerce.

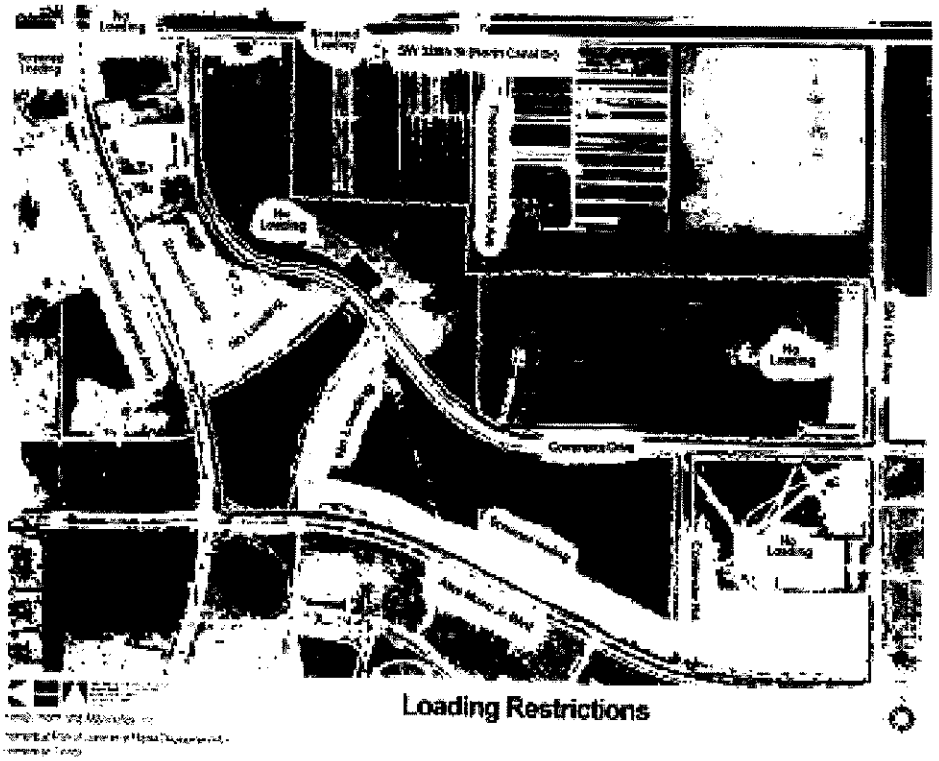
In the Lake District, there are likely to be office buildings and hotels. These buildings should be constructed using an exterior insulated facing system, pre-cast concrete or stone. As with the warehouses, the buildings should be light in color, as close to the color of the warehouses as possible. An exception would be any facade which fronts on the lake or defines courtyards on the lake. These may be more colorful in their design as long as they support the greenish-bluish aquatic nature of the lake, and are done in a cheerful manner.

***Building Height and Massing.*** The East and West Ends, primarily envisioned as warehouse type buildings, will be limited to 65 feet in height. The small parcel on the corner of North Canal Drive and Kingman Road will be limited to 50 feet in height. In the Lake District, where office buildings and hotels are primarily envisioned, the height will be limited to 120 feet. As stated earlier, individual buildings are less important than choreographed groups. Therefore, it is expected the warehouse buildings in the East End will organize around a grid pattern orthogonal to Commerce Drive and that the facades of buildings will generally align on the setback line. It is expected that either a building element or a landscaped element will be centered on the long view corridor of Commerce Drive as one looks to the west.


50'
65'
65'
65'
65'
65'
65'
Building Heights

***Parking Areas and Private Drives.*** Commerce Drive and the Lake are the only "common" elements in the plan. All other access drives, main driveways and parking lots are part of the private realm. Parking lots shall be landscaped with shade trees on a 60 foot grid with parking spaces and drive aisles in between. The private drives and parking areas will typically act as each building's front door. Each building will be limited to one sign along the private drive.

***Loading Docks and Trailer Storage.*** The primary conflict with warehouses is the need for trucking and loading docks and the visual impact on the surrounding area. Loading docks will be prohibited in the most sensitive areas, around the lake and along North Canal Drive and SW 142nd Avenue at the main entrances to the project. Any loading docks along Kingman Road and Alex Muxo Boulevard must be screened from view to pedestrians and motorists. ~~(A heavy and lush vegetated screen already exists along these streets but may need additional landscape in some specific locations.)~~ Within the remainder of the site loading docks and trailer storage are permitted with no restrictions.


No Loading
Loading Restrictions

**LEGAL DESCRIPTION**

(1) HOMESTEAD PARK OF COMMERCE, Plat Book 157, Page 38

and

(2) the property covered under tax folio number 10-7922-001-0173

The total size of the property is approximately 275 acres.

HOMESTEAD

Discover the Opportunities

City Council

Lynda Bell
Mayor

Jon Burgess
Vice-Mayor

Wendy Lobos
Councilwoman

Melvin McCormick
Councilman

Tim Nelson
Councilman

Nazy Sierra
Councilwoman

Judy Waldman
Councilwoman

Mike A. Shehadeh, P.E.
City Manager

City Hall

790 N. Homestead Blvd.
Homestead, FL 33030
305-224-4400
www.cityofhomestead.com

September 8, 2008

As the City Clerk of the City of Homestead, I hereby certify that the City Manager has made the reasonable modifications and amendments to the attached document in accordance with the authority granted to him by Ordinance 2001-03-08.

Sheila Shedd

SHEILA PAUL SHEDD, CMC
City Clerk
City of Homestead

(Seal)

**Exhibit "B"**

LEGAL DESCRIPTION

A portion of Tract "B" of HOMESTEAD PARK OF COMMERCE, according to the Plat thereof, as recorded in Plat Book 157, page 38, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Northwest corner of said Tract "B", being located at the point of intersection of the South line of S.W. 328 Street with the East right of way line of Park of Commerce Boulevard; thence run N89°31 '46"E along the North line of said Tract "B" for 414.22 feet; thence run S00°27'00"E along the tract line of said Tract "B" for 125.00 feet; thence run S00°27'00"E along the Southerly prolongation of the last described course for 769.13 feet; thence run S49°28'42"W, along the Northeasterly prolongation of and the Northwesterly line of an easement for an existing lift station as shown on said Tract "B", for 380.85 feet to a point of intersection with the Easterly right of way line of Park of Commerce Boulevard, said point also being on a circular curve whose radius point bears N51°49'23"E from said point of intersection; thence run Northwesterly along the arc of a circular curve to the right having for its elements a radius of 841.25 feet and a central angle of 36°05'24" for a distance of 529.89 feet to a point of tangency; thence run N02°05'13"W for 321.44 feet; thence run N00°28'11"W for 261.91 feet; thence run N43°07'09"E for 89.99 feet to a Point of Beginning (the last four courses being along the Easterly right of way line of Park of Commerce Boulevard also being the Westerly line of said Tract "B").

TOGETHER WITH:

A portion of Tract "B" of "HOMESTEAD PARK OF COMMERCE", according to the plat thereof, as recorded in Plat Book 157, page 38 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwest comer of said Tract "B", being located at the point of intersection of the South Right-of-way line of S.W. 328 Street with the East right of way line of Park of Commerce Boulevard; thence run N89°31'46"E along the North line of said Tract "B" for 414.13 feet; thence run S00°27'00"E along the tract line of said Tract "B" for 125.00 feet to the POINT OF BEGINNING of the hereinafter described parcel; thence continue S00°27'00"E along the Southerly prolongation of the last described course for 483.62 feet; thence run N89°31'46"E to its intersection with the Easterly line of said Tract "B" for 428.34 feet; the following six (6) courses being along the boundary lines of said Tract "B";

(1) thence run N00°29'00"W along said Easterly line for 408.62 feet;

(2) thence run S89°31'46"W for a distance of 278.07 feet;

(3) thence run N00°27'00"W for a distance of 200.00 feet;

(4) thence run S89°31'46"W for a distance of 50.04 feet;

(5) thence run S00°27'00"E for a distance of 125.00 feet;

(6) thence run S89°31'46"W for a distance of 100.00 feet to the POINT OF BEGINNING.

AND TOGETHER WITH:

A portion of Tract "B" of "HOMESTEAD PARK OF COMMERCE", according to the plat thereof, as recorded in Plat Book 157, page 38 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwest corner of said Tract "B", being located at the point of intersection of the South Right-of-way line of S.W. 328 Street with the East right of way line of Park of Commerce Boulevard; thence run N89°31'46"E along the North line of said Tract "B" for 414.13 feet; thence run S00°27'00"E along the tract line of said Tract "B" for 608.62 feet to the POINT OF BEGINNING of the hereinafter described parcel; thence run S00°27'00"E along the Southerly prolongation of the last described course for 285.51 feet; thence run S49°28'42" W, along the Northeasterly prolongation of the Northwesterly line of a lift station easement as shown on said Tract "B ", for 380.85 feet to a point of intersection with the Easterly right of way line of Park of Commerce Boulevard, said point also being on a circular curve whose radius point bears N51°49'23"E from said point of intersection; thence run Southeasterly along the arc of a circular curve to the left, having for its elements a radius of 841.25 feet and a central angle of 08°34'18" for an arc distance of 125.86 feet to a point of compound curvature with a circular curve to the left having for its elements a radius of 505.00 feet and a central angle of 42°55'25" for an arc distance of 378.32 feet to a point of reverse curvature with a circular curve to the right, having for its elements a radius of 670.00 feet and a central angle of 51°06'51" for an arc distance of 597.71 feet to a point of tangency; thence run S 38°33'31"E for a distance of 104.14 feet to its intersection with the approximately northwesterly limit of the flight path of Homestead Air Reserve Base; (the last four courses being along the Easterly right of way line of Park of Commerce Boulevard also being the Westerly Boundary line of said Tract "B"); thence run N49°03'26"E to its intersection with the Easterly line of said Tract "B", for 789.79 feet; the next three (3) courses being along the boundary lines of said Tract "B";

(1) thence N00°29'41"W, along said Easterly line for 331.45 feet;

(2) thence S89°31'57"W for 889.00 feet:

(3) thence N00°29'00"W for 258.47 feet; thence S89°31'46"W for 428.34 feet to the POINT OF BEGINNING.

ALL LESS AND EXCEPT THOSE LANDS CONVEYED TO CHARTER DC HOMESTEAD LLC described in Corrective Special Warranty Deed filed June 26, 2012 in Official Records Book 28163, page 3991, and more particularly described as:

A PORTION OF TRACT "B" "HOMESTEAD PARK OF COMMERCE" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 157, PAGE 38 OF THE PUBLIC RECORDS OF MIAMI-D ADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF SAID TRACT "B" BEING LOCATED AT THE POINT OF INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF S.W. 328TH STREET WITH THE EAST RIGHT-OF-WAY LINE OF PARK OF COMMERCE BOULEVARD THE FOLLOWING EIGHT (8) COURSES BEING ALONG THE BOUNDARY LINES OF SAID TRACT "B";

(1) THENCE RUN N89 DEGREES 31'46"E ALONG THE SAID SOUTHERLY RIGHT-AT-WAY LINE FOR 414.22 FEET;

(2) THENCE RUN S00 DEGREES 27'00" E FOR A DISTANCE OF 125.00 FEET;

(3) THENCE RUN N89 DEGREES 31'46" E FOR A DISTANCE OF 100.00 FEET;

(4) THENCE RUN N00 DEGREES 27'00" W FOR A DISTANCE OF 125.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF S.W. 328TH STREET;

(5) THENCE RUN N89 DEGREES 31'46" E ALONG THE LAST DESCRIBED LINE, FOR A DISTANCE OF 50.00 FEET;

(6) THENCE RUN S00 DEGREES 27'00" E FOR A DISTANCE OF 200.00 FEET TO THE SOUTHWEST CORNER OF TRACT "A" OF SAID "HOMESTEAD PARK OF COMMERCE";

(7) THENCE RUN N89 DEGREES 31'46" E, ALONG THE SOUTH LINE OF SAID TRACT A FOR A DISTANCE OF 278.07 FEET TO THE SOUTHEAST CORNER OF SAID TRACT "A";

(8) THENCE RUN S00 DEGREES 29'00" E ALONG THE EAST LINE OF SAID TRACT "B" FOR A DISTANCE OF 322.75 FEET; THENCE WEST FOR A DISTANCE OF 899.09 FEET TO A POINT ON THE WESTERLY LINE OF SAID TRACT "B" SAID LINE BEING COINCIDENT WITH THE EASTERLY RIGHT-OF-WAY LINE OF PARK OF COMMERCE BOULEVARD; THE FOLLOWING THREE (3) COURSES BEING ALONG SAID RIGHT-OF-WAY LINE; (1) THENCE RUN N02 DEGREES 05'13" W FOR A DISTANCE OF 188.36 FEET; (2) THENCE RUN N00 DEGREES 28' 11" W FOR A DISTANCE OF 261.91 FEET; (3) THENCE RUN N43 DEGREES 07'09" E FOR A DISTANCE OF 89.99 FEET TO THE POINT OF BEGINNING.

**Exhibit "C"**

This instrument was prepared by
or under the supervision of:

Name: Alejandro J. Arias, Esq.
Address: Holland & Knight LLP
701 Brickell Avenue, Suite 3000
Miami, Florida 33131

(Space reserved for Clerk of Court)

## DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS is made this 15 day of March, 2022, by Doug, LLC, a Florida limited liability company (the "Owner"), in favor of the City of Homestead, a Florida municipal corporation (the "City").

## WITNESSETH:

WHEREAS, the Owner holds the fee simple title to that certain property lying, being and situated in the City of Homestead, Florida, as legally described in **Exhibit "A"** attached hereto and hereinafter referred to as the "Property"; and

WHEREAS, the Property consists of an approximately 22 acre parcel on land lying south of SE 8th Street (North Canal Drive) and abutting Park of Commerce Boulevard to the east, as further identified by Miami-Dade County Property Folio No. 10-7921-011-0025; and

WHEREAS, the Property is located within the Homestead Park of Commerce (HPOC) Planned Unit Development (PUD), and likewise zoned Planned Unit Development (PUD); and

WHEREAS, the HPOC is regulated by the Homestead Park of Commerce Master Development Plan, as approved pursuant to Ordinance No. 2001-03-08, recorded at Official Records Book 19690, Page 3466 of the Public Records of Miami-Dade County, as amended and recorded at Official Records Book 26564, Pages 3345-3368 of the Public Records of Miami-Dade County, Florida; and most recently amended pursuant to Ordinance No. 2020-10-10, as approved by the City of Homestead Council (the "City Council") on October 23, 2020 (the "HPOC Master Plan"); and

WHEREAS, the HPOC Master Plan established the permitted uses allowed within the HPOC, which has been amended from time to time; and

WHEREAS, the Owner has applied for a modification of the HPOC Master Plan pursuant to Application No. (PH 2021-25) to expand the permitted uses allowed on the Property (the "Expanded Uses") (collectively, the "Master Plan Amendment"); and

WHEREAS, on September 22, 2010, the City adopted Ordinance No. 2010-09-25, the Homestead Comprehensive Airport Zoning Ordinance (the "Airport Zoning Ordinance"); and

WHEREAS, a portion of the Property is located within the Accident Potential Zone II

("APZ II"), as depicted and legally described in **Exhibit "B"** attached hereto and hereinafter referred to as (the "Impacted Property"); and

WHEREAS, the Airport Zoning Ordinance sets forth certain use restrictions, as well as land use compatibility standards and regulations for properties located within the APZ II; and

WHEREAS, the Owner hereby acknowledges and agrees that, as a material inducement to approval of the Master Plan Amendment, the Owner desires to restrict the future use of the Impacted Property in accordance with the terms and conditions set forth in this proffered Declaration of Restrictions; and

WHEREAS, a duly noticed public hearing for the first reading of the Master Plan Amendment was held before the City Council on December 15, 2021, in consideration of the proposed Master Plan Amendment and the acceptance of this Declaration of Restrictions for the Impacted Property proffered by the Owner; and

WHEREAS, a duly noticed public hearing for the second reading of the Master Plan Amendment was held before City Council on February 16, 2022, at which hearing the City Council adopted Ordinance No. 2022-02-05 (the "Ordinance") approving the Master Plan Amendment subject to this Declaration of Restrictions for the Impacted Property proffered by the Owner; and

NOW, THEREFORE, in order to assure the City that the representations made during the consideration of the Master Plan Amendment will be abided by, the Owners freely and voluntarily and without duress hereby make the following Declaration of Restrictions covering and running with the Property:

1. **Recitals.** The foregoing recitals are true and correct, and are incorporated into this Declaration of Restrictions.

2. **Uses.** The Impacted Property shall be developed in compliance with the Airport Zoning Ordinance.

(a) The following activities and/or uses shall be prohibited on the Impacted Property:

i. Apparel and other finished products made from fabrics, leather, and similar materials.
ii. Chemicals and allied products; manufacturing.
iii. Petroleum refining and related industries.
iv. Rubber and misc. plastic products; manufacturing
v. Professional, scientific and controlling instruments; photographic and optical goods; watches and clocks; manufacturing.

(b) The Impacted Property shall be subject to the land use compatibility standards and regulations for properties located within the APZ II as set forth in the Airport Zoning Ordinance, attached hereto as **Exhibit "C"**. Notwithstanding any future

amendments and/or modifications to the Airport Zoning Ordinance by the City, the standards and regulations referenced herein and attached hereto shall be binding on the Impacted Property for the term of this Declaration of Restrictions except as may be modified, amended, or released in accordance with Subparagraph 3(d) of this Declaration of Restrictions.

3. (c) Nothing herein shall prohibit or limit the Expanded Uses on the Impacted Property, provided, however, that the Owner shall not engage in prohibited activities and/or uses described in Subparagraph 2(a) of this Declaration of Restrictions and shall comply with the land use compatibility standards and regulations for properties located within the APZ II as provided for in Subparagraph 2(b) of this Declaration of Restrictions.

4. **Miscellaneous**.

(a) **City Inspection**. As further part of this Declaration of Restrictions, 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.

(b) **Covenant Running with the Land**. This Declaration of Restrictions on the part of the Owner shall constitute a covenant running with the land and shall be recorded, at the Owners' expense, in the public records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the undersigned Owner, and its 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 Property and for the benefit of the City and the public welfare. Owner, and its heirs, successors and assigns, acknowledge that acceptance of this Declaration of Restrictions does not in any way obligate or provide a limitation on the City.

(c) **Term**. This Declaration of Restrictions is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration of Restrictions is recorded, after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that this Declaration of Restrictions has first been modified, amended or released pursuant to terms and conditions set forth in Subparagraph 3(d) of this Declaration of Restrictions..

(d) **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 or the affected portion thereof, including joinders of all mortgagees, if any, provided that the same is also approved by (i) written consent of a Homestead Air Reserve Base (the "HARB") authorized representative, and (ii) the City Council

after a public hearing. Provided, however, that written consent of a HARB authorized representative shall not be required for modification, amendment, or release if there has been a complete and total cessation of all federal flight activities at the installation currently referred to as HARB due to a decision to close the HARB under "base closure law," as such term is defined in 10 U.S.C. §101(17).

Should this Declaration of Restrictions be so modified, amended or released, the Director of the Development Services Department (the "Director"), or the executive officer of the successor of such Department, or in the absence of such Director or executive officer by his/her assistant in charge of the department in his/her absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release to be recorded in the Public Records of Miami-Dade County, Florida.

(e) **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 of Restrictions shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

(f) **Authorization for City to Withhold Permits and Inspections**. In the event the terms of this Declaration of Restrictions are not being complied with, in addition to any other remedies available, the City is hereby authorized to withhold processing and/or issuance of permits, and refuse to make any inspections or grant any approvals, until such time as this Declaration of Restrictions is complied with.

(g) **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.

(h) **Presumption of Compliance**. Where construction has occurred on the Impacted Property or any portion thereof, pursuant to a lawful permit issued by the City, and inspections made and approval of occupancy given by the City, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration of Restrictions.

(i) **Severability**. Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect. However, if any material portion is invalidated, the City shall be entitled to revoke any approval predicated upon the invalidated portion

(j) **Recording**. This Declaration of Restrictions shall be recorded in the public records of Miami-Dade County, Florida, at the Owner's sole cost and expense, no more than sixty (60) days following the final adoption by the City Council of the Ordinance approving the Master Plan Amendment, provided that no appeal or challenge of the Ordinance is filed within such sixty (60) day period.

(k) **Acceptance of Declaration of Restrictions**. The Owner acknowledges that acceptance of this Declaration of Restrictions 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 or dedication.

(l) **Owner**. The term Owner(s) shall include any Owner, and its heirs, successors and assigns.

**[Signature Page Follows]**

**IN WITNESS WHEREOF,** the undersigned have caused these present to be signed in its name on this 15 day of March, 2022.

**WITNESSES:**

Thelma Lincoln
Signature

Thelma Lincoln
Print Name

Christina Vargas
Signature

Christina Vargas
Print Name

**OWNER:**

DOUG, LLC, a Florida limited liability company

By: Clifford Lincoln
Name: Clifford Lincoln
Its: Manager
Address: 888 Kingman Road
Homestead, FL 33035

STATE OF Florida )
)SS
COUNTY Brevard )

The foregoing instrument was acknowledged before me means of physical presence or online notarization, this 15th day of March, 2022, by Clifford Lincoln as Manager of Doug, LLC, a Florida limited liability company, who is personally known to me or has produced _____ as identification.

[NOTARIAL SEAL]

CHRISTINA VARGAS
Commission # GG 313469
Expires May 18, 2023
Bonded Thru Troy Fain Insurance 800-385-7019

Christina Vargas
Print Name: Christina Vargas
Notary Public, State of Florida
Commission #: GG 313469
My Commission Expires: 5/18/23

## EXHIBIT "A

## LEGAL DESCRIPTION OF THE PROPERTY

A portion of Tract "B" of HOMESTEAD PARK OF COMMERCE, according to the Plat thereof, as recorded in Plat Book 157, page 38, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Begin at the Northwest corner of said Tract "B", being located at the point of intersection of the South line of S.W. 328 Street with the East right of way line of Park of Commerce Boulevard; thence run N89°31 '46"E along the North line of said Tract "B" for 414.22 feet; thence run S00°27'00"E along the tract line of said Tract "B" for 125.00 feet; thence run S00°27'00"E along the Southerly prolongation of the last described course for 769.13 feet; thence run S49°28'42"W, along the Northeasterly prolongation of and the Northwesterly line of an easement for an existing lift station as shown on said Tract "B", for 380.85 feet to a point of intersection with the Easterly right of way line of Park of Commerce Boulevard, said point also being on a circular curve whose radius point bears N51°49'23"E from said point of intersection; thence run Northwesterly along the arc of a circular curve to the right having for its elements a radius of 841.25 feet and a central angle of 36°05'24" for a distance of 529.89 feet to a point of tangency; thence run N02°05'13"W for 321.44 feet; thence run N00°28'11"W for 261.91 feet; thence run N43°07'09"E for 89.99 feet to a Point of Beginning (the last four courses being along the Easterly right of way line of Park of Commerce Boulevard also being the Westerly line of said Tract "B").

TOGETHER WITH:

A portion of Tract "B" of "HOMESTEAD PARK OF COMMERCE", according to the plat thereof, as recorded in Plat Book 157, page 38 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwest comer of said Tract "B", being located at the point of intersection of the South Right-of-way line of S.W. 328 Street with the East right of way line of Park of Commerce Boulevard; thence run N89°31'46"E along the North line of said Tract "B" for 414.13 feet; thence run S00°27'00"E along the tract line of said Tract "B" for 125.00 feet to the POINT OF BEGINNING of the hereinafter described parcel; thence continue S00°27'00"E along the Southerly prolongation of the last described course for 483.62 feet; thence run N89°31'46"E to its intersection with the Easterly line of said Tract "B" for 428.34 feet; the following six (6) courses being along the boundary lines of said Tract "B";

(1) thence run N00°29'00"W along said Easterly line for 408.62 feet;
(2) thence run S89°31'46"W for a distance of 278.07 feet;
(3) thence run N00°27'00"W for a distance of 200.00 feet;
(4) thence run S89°31'46"W for a distance of 50.04 feet;
(5) thence run S00°27'00"E for a distance of 125.00 feet;
(6) thence run S89°31'46"W for a distance of 100.00 feet to the POINT OF BEGINNING.

AND TOGETHER WITH:

A portion of Tract "B" of "HOMESTEAD PARK OF COMMERCE", according to the plat thereof, as recorded in Plat Book 157, page 38 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwest corner of said Tract "B", being located at the point of intersection of the South Right-of-way line of S.W. 328 Street with the East right of way line of Park of Commerce Boulevard; thence run N89°31'46"E along the North line of said Tract "B" for 414.13 feet; thence run S00°27'00"E along the tract line of said Tract "B" for 608.62 feet to the POINT OF BEGINNING of the hereinafter described parcel; thence run S00°27'00"E along the Southerly prolongation of the last described course for 285.51 feet; thence run S49°28'42" W, along the Northeasterly prolongation of the Northwesterly line of a lift station easement as shown on said Tract "B ", for 380.85 feet to a point of intersection with the Easterly right of way line of Park of Commerce Boulevard, said point also being on a circular curve whose radius point bears N51°49'23"E from said point of intersection; thence run Southeasterly along the arc of a circular curve to the left, having for its elements a radius of 841.25 feet and a central angle of 08°34'18" for an arc distance of 125.86 feet to a point of compound curvature with a circular curve to the left having for its elements a radius of 505.00 feet and a central angle of 42°55'25" for an arc distance of 378.32 feet to a point of reverse curvature with a circular curve to the right, having for its elements a radius of 670.00 feet and a central angle of 51°06'51" for an arc distance of 597.71 feet to a point of tangency; thence run S 38°33'31"E for a distance of 104.14 feet to its intersection with the approximately northwesterly limit of the flight path of Homestead Air Reserve Base; (the last four courses being along the Easterly right of way line of Park of Commerce Boulevard also being the Westerly Boundary line of said Tract "B"); thence run N49°03'26"E to its intersection with the Easterly line of said Tract "B", for 789.79 feet; the next three (3) courses being along the boundary lines of said Tract "B";
(1) thence N00°29'41"W, along said Easterly line for 331.45 feet;
(2) thence S89°31'57"W for 889.00 feet:
(3) thence N00°29'00"W for 258.47 feet; thence S89°31'46"W for 428.34 feet to the POINT OF BEGINNING.

**ALL LESS AND EXCEPT** THOSE LANDS CONVEYED TO CHARTER DC HOMESTEAD LLC described in Corrective Special Warranty Deed filed June 26, 2012 in Official Records Book 28163, page 3991, and more particularly described as:

A PORTION OF TRACT "B" "HOMESTEAD PARK OF COMMERCE" ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 157, PAGE 38 OF THE PUBLIC RECORDS OF MIAMI-D ADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

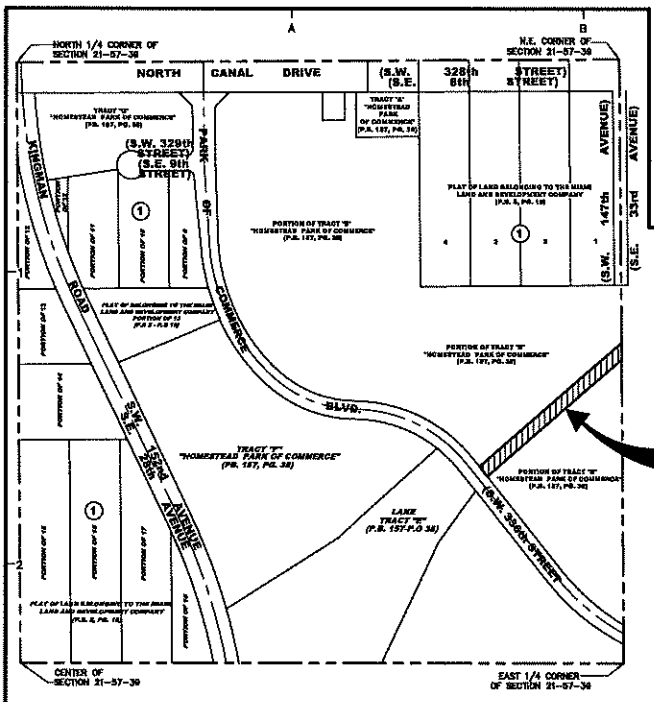
BEGIN AT THE NORTHWEST CORNER OF SAID TRACT "B" BEING LOCATED AT THE POINT OF INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF S.W. 328TH STREET WITH THE EAST RIGHT-OF-WAY LINE OF PARK OF COMMERCE BOULEVARD THE FOLLOWING EIGHT (8) COURSES BEING ALONG THE BOUNDARY LINES OF SAID TRACT "B";

(1) THENCE RUN N89 DEGREES 31'46"E ALONG THE SAID SOUTHERLY RIGHT-AT-

WAY LINE FOR 414.22 FEET;
(2) THENCE RUN S00 DEGREES 27'00" E FOR A DISTANCE OF 125.00 FEET;
(3) THENCE RUN N89 DEGREES 31'46" E FOR A DISTANCE OF 100.00 FEET;
(4) THENCE RUN N00 DEGREES 27'00" W FOR A DISTANCE OF 125.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF S.W. 328TH STREET;
(5) THENCE RUN N89 DEGREES 31'46" E ALONG THE LAST DESCRIBED LINE, FOR A DISTANCE OF 50.00 FEET;
(6) THENCE RUN S00 DEGREES 27'00" E FOR A DISTANCE OF 200.00 FEET TO THE SOUTHWEST CORNER OF TRACT "A" OF SAID "HOMESTEAD PARK OF COMMERCE";
(7) THENCE RUN N89 DEGREES 31'46" E, ALONG THE SOUTH LINE OF SAID TRACT A FOR A DISTANCE OF 278.07 FEET TO THE SOUTHEAST CORNER OF SAID TRACT "A";
(8) THENCE RUN S00 DEGREES 29'00" E ALONG THE EAST LINE OF SAID TRACT "B" FOR A DISTANCE OF 322.75 FEET; THENCE WEST FOR A DISTANCE OF 899.09 FEET TO A POINT ON THE WESTERLY LINE OF SAID TRACT "B" SAID LINE BEING COINCIDENT WITH THE EASTERLY RIGHT-OF-WAY LINE OF PARK OF COMMERCE BOULEVARD; THE FOLLOWING THREE (3) COURSES BEING ALONG SAID RIGHT-OF-WAY LINE; (1) THENCE RUN N02 DEGREES 05'13" W FOR A DISTANCE OF 188.36 FEET; (2) THENCE RUN N00 DEGREES 28' 11" W FOR A DISTANCE OF 261.91 FEET; (3) THENCE RUN N43 DEGREES 07'09" E FOR A DISTANCE OF 89.99 FEET TO THE POINT OF BEGINNING.

**EXHIBIT "B"**

**SKETCH AND LEGAL DESCRIPTION OF THE IMPACTED PROPERTY**




**LOCATION MAP**

NORTHEAST 1/4 OF SECTION 21
TOWNSHIP 57 SOUTH
RANGE 39 EAST,
CITY OF HOMESTEAD
MIAMI-DADE COUNTY
FLORIDA
(NOT TO SCALE)

## SURVEYOR'S NOTES:

1) This is not a Boundary Survey, but only a GRAPHIC DEPICTION of the description shown hereon.
2) North arrow direction and Bearings shown hereon are based on recorded value of N00°29'41"W, along the East Line of the Northeast 1/4 of Section 21, Township 57 South, Range 39 East, Miami-Dade County, Florida, Miami-Dade County Public Works.
3) Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper. Additions or deletions to survey maps or reports by other than the signing party or parties is prohibited without written consent of the signing party or parties.
4) There may be additional Restrictions not shown on this Sketch & Legal that may be found in the Public Records of this County, Examination of TITLE COMMITMENT will need to be made to determine recorded instruments, if any affecting this property.
5) The Sketch and Legal Description shown herein is based on the information provided by the Client.
6) No Title research has been performed to determine if there are any conflict existing or arising out of the creation of the easements, Right of Ways, Parcel Descriptions, or any other type of encumbrances that the herein described legal may be utilized for.

## SURVEYOR'S CERTIFICATE:

I Hereby Certify to the best of my knowledge and belief that this drawing is a true and correct representation of the SKETCH AND LEGAL DESCRIPTION of the real property described hereon.

I further certify that this survey was prepared in accordance with the applicable provisions of Chapter 5J-17.051 (Formerly 61G17-6), Florida Administrative Code, and conforms to the Standards of Practices set forth by the Florida Board of Land Surveyors and Mappers pursuant to Section 472.027, Florida Statutes.

**Ford, Armenteros & Fernandez, Inc. LB #6557**
Date: MARCH 3rd, 2022
Revision 1:

RICARDO RODRIGUEZ LICENSE No. 5936 STATE OF FLORIDA Professional Surveyor & Mapper

Digitally signed by Ricardo Rodriguez
Date: 2022.03.03 10:41:00 -05'00'

By: _____
Ricardo Rodriguez, P.S.M., For the Firm
Professional Surveyor and Mapper
State of Florida, Registration No.5936

# KEYS GATE - TRACT "B"- ACUZ

FORD, ARMENTEROS & FERNANDEZ, INC.
1950 N.W. 94th AVENUE, 2nd FLOOR
MIAMI, FLORIDA 33172
PH. (305) 477-6472
FAX (305) 470-2805

| | |
|---|---|
| TYPE OF PROJECT: | SKETCH AND LEGAL DESCRIPTION |
| SHEET NAME: | LOCATION MAP AND SURVEYOR'S NOTES |
| PREPARED FOR: | DOUG COMMERCE PARK OF HOMESTEAD |
| DRAWN BY: R.R. | DATE: 03-03-2022 |
| DWG. CHECKED BY: | SCALE: AS SHOWN |
| CHECKED BY: | PROJECT No: 20-049-1000 |
| SHEET: | 1 OF 3 SHEETS |

Q:\FORD COMPANIES\Engineering & Surveying\Survey\Sketch & Legal\20-049- KEYS GATE NOPC TO DRI ACUZ\20-049-1000 ACUZ.dwg

## LEGAL DESCRIPTION:

THAT PORTION OF THE APZII (ACCIDENT POTENTIAL ZONE II) AS PER RESOLUTION NO.2008-11-145 (HOMESTEAD AIR RESERVE BASE AIR INSTALLATION COMPATIBLE USE ZONE (AICUZ) STUDY 2008), LYING WITHIN TRACT "B", OF "HOMESTEAD PARK OF COMMERCE", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 157, AT PAGE 38, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE NORTHEAST CORNER OF SAID TRACT "B"; THENCE S00°29'41"E, ALONG THE EAST LINE OF SAID TRACT "B", SAID LINE BEEN COINCIDENT WITH THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 21, TOWNSHIP 57 SOUTH, RANGE 39 EAST, CITY OF HOMESTEAD, MIAMI-DADE COUNTY, FLORIDA, FOR A DISTANCE OF 256.88 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE CONTINUE S00°29'41"E, ALONG THE LAST DESCRIBED LINE FOR A DISTANCE OF 74.57 FEET; THENCE S49°03'26"W, ALONG THE SOUTHEASTERLY LINE OF SAID APZII (ACCIDENT POTENTIAL ZONE II) FOR A DISTANCE OF 789.79 FEET TO A POINT LYING ON THE SOUTHWESTERLY LINE OF SAID TRACT "B"; THENCE N38°33'31"W, ALONG THE LAST DESCRIBED LINE FOR A DISTANCE OF 55.54 FEET; THENCE N48°58'16"E, ALONG THE NORTHWESTERLY LINE OF SAID APZII (ACCIDENT POTENTIAL ZONE II) FOR A DISTANCE OF 835.85 FEET TO THE POINT OF BEGINNING.

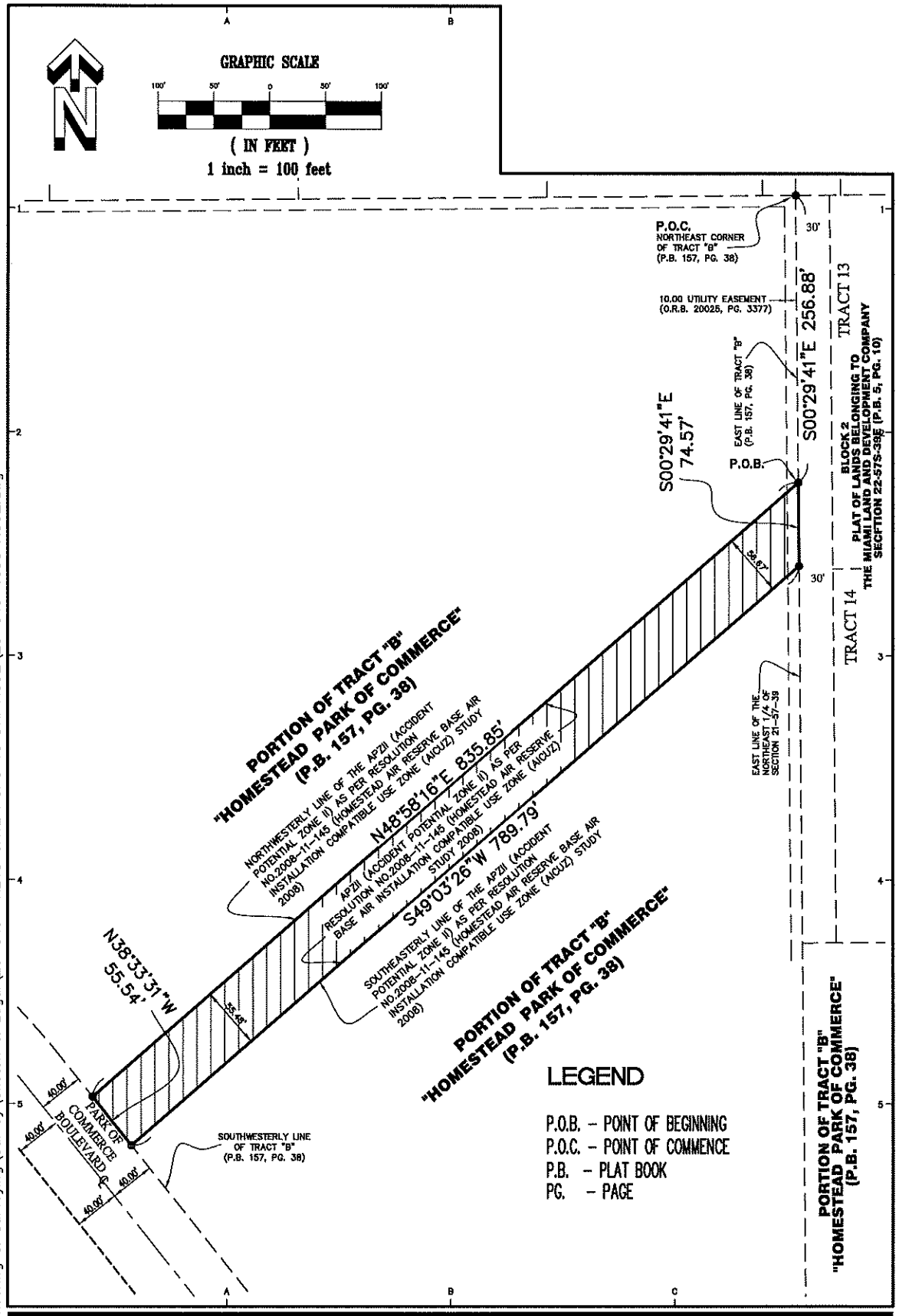
CONTAINING 45596.46 SQUARE FEET OR 1.05 ACRES MORE OR LESS.

Q:\FORD COMPANIES\Engineering & Surveying\Survey\Sketch & Legal\20-049- KEYS GATE NOPC TO DRI ACUZ\20-049-1000 ACUZ.dwg

# KEYS GATE - TRACT "B"- ACUZ

FORD, ARMENTEROS & FERNANDEZ, INC.
1950 N.W. 94th AVENUE, 2nd FLOOR
MIAMI, FLORIDA 33172
PH. (305) 477-6472
FAX (305) 470-2805

| | | | |
|---|---|---|---|
| TYPE OF PROJECT: | SKETCH AND LEGAL DESCRIPTION | | |
| SHEET NAME: | LEGAL DESCRIPTION TO ACCOMPANY SKETCH | | |
| PREPARED FOR: | DOUG COMMERCE PARK OF HOMESTEAD | | |
| DRAWN BY: R.R. | DATE: 03-03-2022 | SHEET: 2 OF 3 SHEETS | |
| DWG. CHECKED BY: | SCALE: N/A | | |
| CHECKED BY: | PROJECT No: 20-049-1000 | | |




Q:\FORD COMPANIES\Engineering & Surveying\Survey\Sketch & Legal\20-049- KEYS GATE NOPC TO DRI ACUZ\20-049-1000 ACUZ.dwg

# KEYS GATE - TRACT "B"- ACUZ

FORD, ARMENTEROS & FERNANDEZ, INC.
1950 N.W. 94th AVENUE, 2nd FLOOR
MIAMI, FLORIDA 33172
PH. (305) 477-6472
FAX (305) 470-2805

| | | | |
|---|---|---|---|
| TYPE OF PROJECT: | SKETCH AND LEGAL DESCRIPTION | | |
| SHEET NAME: | SKETCH TO ACCOMPANY LEGAL DESCRIPTION | | |
| PREPARED FOR: | DOUG COMMERCE PARK OF HOMESTEAD | | |
| DRAWN BY: R.R. | DATE: 03-03-2022 | SHEET: 3 | |
| DWG. CHECKED BY: | SCALE: AS SHOWN | | |
| CHECKED BY: | PROJECT No: 20-049-1000 | | |

**EXHIBIT "C"**

**AIRPORT ZONING ORDINANCE**

# Homestead Airport Zoning Ordinance

# City of Homestead
# September 22, 2010

## TABLE OF CONTENTS


1.1 DEFINITIONS ..... 5

(1) ACCIDENT POTENTIAL ZONE 1 (APZ1) ..... 5
(2) ACCIDENT POTENTIAL ZONE 2 (APZ2) ..... 6
(3) AIR INSTALLATION COMPATIBLE USE ZONE STUDY (AICUZ STUDY) ..... 6
(4) AIRPORT OBSTRUCTION ..... 6
(5) APPROACH/DEPARTURE CLEARANCE SURFACE ..... 6
(6) AVIGATION EASEMENT ..... 6
(7) CLEAR ZONE (CZ) ..... 6
(8) CLEAR ZONE SURFACE ..... 7
(9) CONICAL SURFACE ..... 7
(10) DAY/NIGHT NOISE LEVEL (DNL) ..... 7
(11) DB DECIBEL ..... 7
(12) DBA ..... 7
(13) DEVELOPMENT ..... 7
(14) DIRECTOR ..... 8
(15) EXPLOSIVE CLEAR ZONE (ECZ) ..... 8
(16) GOVERNMENTAL ACT OF DEVELOPMENT APPROVAL ..... 8
(17) HARB COORDINATING OFFICIAL ..... 8
(18) INNER HORIZONTAL SURFACE ..... 8
(19) NOISE LEVEL ..... 8
(20) NOISE LEVEL REDUCTION (NLR) ..... 8
(21) NOISE ZONES ..... 8
(22) NONCONFORMING USE ..... 8
(23) OUTER HORIZONTAL SURFACE ..... 9
(24) PERSON ..... 9
(25) PRIMARY SURFACE ..... 9
(26) QUALIFIED ACOUSTICAL CONSULTANT ..... 9
(27) RUNWAY ..... 9
(28) STRUCTURE ..... 9
(29) TRANSITIONAL SURFACES ..... 9

1.2 CITYWIDE; GENERAL REQUIREMENTS ..... 9

(1) APPLICABILITY ..... 9
(2) CONFLICT ..... 10
(3) DIRECTOR ..... 10
(4) PLANNING AND ZONING BOARD AND CITY COUNCIL, AS BOARD OF ADJUSTMENT ..... 10
(5) NONCONFORMING USES – GENERALLY ..... 10
(6) ADOPTION OR AMENDMENT TO THIS SECTION ..... 11

(7) DETERMINATION OF BOUNDARIES ..... 11
(8) CITY COORDINATION WITH HARB AND MIAMI-DADE COUNTY ..... 12
(9) NOTICE ..... 13
(10) PRE-APPLICATION COORDINATION ..... 14

1.3 HARB MILITARY ZONE OVERLAY ESTABLISHED; APPLICABILITY ..... 14

1.4 HEIGHT AND HAZARD ZONE ..... 14

1.5 NOISE ZONES ..... 16

(1) ESTABLISHMENT OF NOISE ZONES. ..... 16
(2) NOISE ZONE BOUNDARIES: ..... 16
(3) INDOOR NOISE LEVEL REDUCTION REQUIREMENTS ..... 16
(4) ADMINISTRATION AND ENFORCEMENT ..... 17
(5) NONCONFORMING USES AND STRUCTURES – NOISE ZONES ..... 17

1.6 LAND USE RESTRICTIONS ..... 18

(1) LAND USE RESTRICTION ZONES ..... 18
(2) PERMITTED AND RESTRICTED ACTIVITIES. ..... 18
(3) ADDITIONAL RESTRICTIONS ..... 18
(4) RESIDENTIAL DENSITY TRANSFER FROM APZ1 ..... 20

1.7 VARIANCES ..... 21

1.8 APPEALS ..... 23

1.9 VESTED RIGHTS PROCEDURE ..... 23

1.10 EFFECTIVE DATE ..... 25

APPENDICES

A. Homestead Air Reserve Base Military Zone Overlay Map
B. Developer Disclosure Statement
C. Height and Hazard Zone Map
D. Noise Zone Map
E. Accident Potential and Hazard Map
F. Land Use Compatibility Standards Chart

**Ordinance No. 2010-09-25**

As Revised To Correct Scrivener's Errors

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA REPEALING AND REPLACING SECTION 30-6 OF THE CODE OF ORDINANCES, RELATED TO AIRPORT ZONING, INCLUDING REQUIREMENTS FOR LAND USE DEVELOPMENT WITHIN DESIGNATED AREAS IN PROXIMITY OF HOMESTEAD AIR RESERVE BASE; PROVIDING FOR A REPEALER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** in 2003, the Vision Council for the Miami-Dade Defense Alliance prepared the Homestead Air Reserve Base Encroachment Study; and

**WHEREAS,** in 2004, the U.S. Air Force prepared an Air Installation Compatible Use Zone (AICUZ) Study for the 482nd Fighter Wing; and

**WHEREAS,** between 2005 and 2007, City representatives participated in the development of the Joint Land Use Study for the Homestead Air Reserve Base, dated March 2007 (the 2007 JLUS); and

**WHEREAS,** in 2007, an updated AICUZ (the 2007 AICUZ Study) was prepared, which analyzed, among other things, the effects of aircraft noise, accident potential, compatible land use, and development on existing and future development in the vicinity of the HARB; and

**WHEREAS,** the 2007 AICUZ Study was accepted by the City on November 17, 2008, pursuant to Resolution No. 2008-11-45; and

**WHEREAS,** updates to the AICUZ Study or the addition of aircraft in operation at the Homestead Air Reserve Base may necessitate subsequent amendments to this Ordinance; and

**WHEREAS,** the 2007 JLUS recommends certain compatibility tools for implementing its recommendations and the recommendations of the 2007 AICUZ Study; and

**WHEREAS,** the 2007 JLUS was adopted by the City on June 2, 2008, pursuant to Resolution No. 08-06-69; and

**WHEREAS,** the 2007 AICUZ Study found that the Homestead Air Reserve Base (HARB) infuses over $190,000,000 into the local economy each year, employs over 2,300 personnel (including over 850 civilian workers and contractors), generates an additional 600 local, off-base jobs; and

**WHEREAS,** in 2007, HARB expanded its attack fighter capabilities by adding 9 F-16C aircraft to its current squadron, bringing it to a total of 24 Primary Authorized Aircraft; and

**WHEREAS,** the 2007 AICUZ Study projects over 36,000 annual airfield operations at HARB, including about 60 total daily operations by F-16Cs and 7 daily operations by F-15Cs; and

**WHEREAS,** HARB serves a critical role in military, special operations, drug enforcement and interdiction, training, and hurricane response; and

**WHEREAS,** significant residential and commercial growth has occurred within proximity to HARB and, as of 2005, the City projected a total of 14,500 additional residential units by 2015; and

**WHEREAS,** the 2007 AICUZ Study established noise contours and zones around HARB, including within the City, 70-74 dBA (A-weighted decibels) and 65-69 dBA; and

**WHEREAS,** the 2007 AICUZ Study, based on the recommendations of federal agencies, deems residential units and other noise-sensitive land uses "normally unacceptable" within areas exposed to noise between 65 and 75 dBA and, therefore these land uses are discouraged or strongly discouraged in these areas; and

**WHEREAS,** HARB officials have established accident potential and hazard zones within the City, as follows:

(a) Clear Zone (CZ) – areas within the City nearest the HARB runway, within which the highest incidents of aircraft accidents typically occur;

(b) Accident Potential Zone 1 (APZ1): an area southwest of the CZ, within which there is a significant potential for accidents;

(c) Accident Potential Zone 2 (APZ2): an area extending southwest of the APZ1, within which there is a lower, but measurable risk of aircraft accidents; and

(d) Explosive Clear Zone (ECZ): an area with high potential for accidents resulting from explosive material and specified exposures.

**WHEREAS,** the 2007 AICUZ Study includes "Land Use Compatibility Guidelines" that identify land uses compatible within designated accident potential and hazard zones and noise zones; and

**WHEREAS,** federal AICUZ guidelines recommend maximum concentrations of 25 people/acre in Accident Potential Zone 1 and 50 people/acre in Accident Potential Zone 2 (OPNAV Instruction 11010.36B, Dec. 12, 2002); and

**WHEREAS,** the City has considered the policies and recommendations of the 2007 AICUZ Study, as provided in the "City of Homestead Comprehensive Plan," adopted November 21, 2005, as amended in accordance with the recommendations of City's most recent amendments to its Comprehensive Plan based on its most recent Evaluation and Appraisal Report, dated July 7, 2009 (the "2009 EAR-Based Amendments"); and

**WHEREAS,** Policies 1.16 and 1.17 of the Future Land Use Element of the 2009 EAR-Based Amendments requires the City to incorporate noise attenuation construction standards into the Land Development Code related to development within designated noise zones within the HARB Military Zone (HARB MZ); and

**WHEREAS,** Policy 1.18 of the Future Land Use Element of the 2009 EAR-Based Amendments requires the City enforce applicable requirements within the HARB Military Zone related to height restrictions, floor area ratios, and lot coverage; and

**WHEREAS,** Policy 13.1 of the Future Land Use Element of the 2009 EAR-Based Amendments designates as the HARB Military Zone all areas of geographic concern, including those within designated noise contours of 65 DNL or higher, clear zones, and Accident Potential Zones I and II; and

**WHEREAS,** Policy 13.5 of the Future Land Use Element of the 2009 EAR-Based Amendments requires the City to adopt lighting standards that minimize unnecessary uplight around and within the HARB Military Zone; and

**WHEREAS,** Policy 13.6 of the Future Land Use Element of the 2009 EAR-Based Amendments requires the City to inform developers of required noise reduction practices for all noise sensitive uses within the HARB Military Zone; and

**WHEREAS,** Policy 13.8 of the Future Land Use Element of the 2009 EAR-Based Amendments requires the City to establish a zoning overlay district for new development within the HARB Military Zone, in coordination with Miami-Dade County; and

**WHEREAS,** Policy 13.9 of the Future Land Use Element of the 2009 EAR-Based Amendments provides that the City will revise the Comprehensive Airport Zoning Ordinance, Sec. 30 – 6, adopted August 19, 1991, to consider the most current Air Force AICUZ compatibility standards; and

**WHEREAS,** Objective 8 of the Transportation Element of the 2009 EAR-Based Amendments provides for, among other things, the City's ongoing coordination with HARB, including at least quarterly meetings; prohibiting structures that would obstruct air operations or navigation; and coordination regarding the planning of transportation facilities within APZs and noise zones;

**WHEREAS,** Policy 1.9 of the Capital Improvements Element of the 2009 EAR-Based Amendments provides for the coordination with Miami-Dade County and HARB with to ensure consultation and guidance from HARB with respect to any planned public facilities in close proximity to the HARB Military Zone; and

**WHEREAS,** Policy 3.1 of the Intergovernmental Coordination Element of the 2009 EAR-Based Amendments provides that the City will coordinate with HARB and the Miami-Dade Property Appraiser to disclose notification that a property for sale or rent is within the HARB Military Zone; and

**WHEREAS,** Policy 3.2 of the Intergovernmental Coordination Element of the 2009 EAR-Based Amendments provides that the City will coordinate with HARB regarding Comprehensive Plan amendments, land development code changes, and other proposed developments within the HARB Military Zone; and

**WHEREAS,** Policy 3.5 of the Intergovernmental Coordination Element of the 2009 EAR-Based Amendments provides that the City will notify HARB regarding any vertical structure in excess of two-hundred (200) feet proposed within the HARB Military Zone and any vertical structure in excess of five-hundred (500) feet proposed within ten (10) miles of the HARB Military Zone; and

**WHEREAS,** Policies 3.6 and 3.7 of the Intergovernmental Coordination Element of the 2009 EAR-Based Amendments provide that the City will coordinate with, among others, HARB regarding proposed developments that would attract a significant bird population near HARB or the extension of public facilities within close proximity to HARB; and

**WHEREAS**, in addition to the standards identified in the AICUZ Study, the City has conferred with HARB personnel and the owners of private property within the proposed HARB Military Zone Overlay in development of this Ordinance and the standards included herein which are reasonable and necessary to protect the health, safety, and welfare of the public and protects private property rights; and

**WHEREAS**, the City has considered, among other things, the character of flying operations expected to be conducted at the HARB, the nature of the terrain and the character of the neighborhoods within the areas affected by this Ordinance, the uses to which the property to be affected is put and adaptable, and the impact of any new use, activity, or construction on the airport's operating capability and capacity; and

**WHEREAS**, on August 19, 1991, the City Council adopted the "Homestead Comprehensive Airport Zoning Ordinance" to regulate and restrict the height of structures and natural growth, and regulating the use of land and mode of construction of structures within areas in proximity to the Homestead Air Force Base (Ordinance 91-08-66) in accordance with the requirements of Section 333.03, Florida Statutes; and

**WHEREAS**, it is further the intent of the City Council that this Ordinance shall be adopted pursuant to the authority set forth in Section 333.03, Florida Statutes, in order to prevent the creation of airport obstructions and incompatible land uses in accordance with the intent of said statute, and that Chapter 30, "Zoning," Article I, "In General," Section 30-6, "Homestead Airport Zoning Ordinance," will be repealed and replaced by this Ordinance; and

**WHEREAS,** it is the intent of the City Council that the requirements of this Ordinance shall be in addition to any other requirement of the Code, including but not limited to Chapter 30, Zoning; and

**WHEREAS,** this Ordinance was heard and recommended by the Planning and Zoning Advisory Board, in its capacity as the City's Local Planning Agency; and

**WHEREAS,** in addition to City hearings and workshops, the Homestead Air Reserve Base has conducted further public outreach efforts in order to balance mission safety standards and the protection of private property rights; and

**WHEREAS,** the City Council has reviewed this Ordinance at a duly noticed hearing and determined that it is consistent with the City's comprehensive plan; and

**WHEREAS,** the City Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA:**

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

Section 2. Code Repealed. Chapter 30, "Zoning," Article I, "In General," Section 30-6, "Homestead Comprehensive Airport Zoning Ordinance," attached as Exhibit A to this Ordinance, is hereby repealed.

Section 3. Code Adopted. Chapter 30, "Zoning," Article I, "In General," Section 30-6, "Homestead Airport Zoning Ordinance adopted by reference," is hereby adopted to read as follows:

## HOMESTEAD AIRPORT ZONING

The purpose of this section is to establish standards related to airport obstructions, noise impacts, and land use compatibility, so as to promote the public health, safety, and welfare and to protect the utility and capacity of Homestead Air Reserve Base (HARB). In addition to certain requirements that apply citywide, this section creates specific zones of differing height restrictions and noise level reductions; establishes certain land use limitations by zone; and establishes procedures for their orderly administration and enforcement.

### 1.1 DEFINITIONS

As used in this section, unless the context otherwise requires:

**(1) ACCIDENT POTENTIAL ZONE 1 (APZ1)**

This is an area extending outward from the southwestern end of the CZ an additional 5,000 feet, with a width of 3,000 feet, where there is a significant potential for accidents, thereby, extra protection is required. APZ1 includes all lands encompassed within the area

designated APZ1 on the Accident Potential and Hazard Map set forth in Appendix E to this section.

**(2) ACCIDENT POTENTIAL ZONE 2 (APZ2)**

This is an area extending outward from the southwestern end of the APZ1 an additional 7,000 feet, with a width of 3,000 feet, where there is a measurable potential for accidents, thereby, extra protection is required. APZ2 includes all lands encompassed within the area designated APZ2 on the Accident Potential and Hazard Map set forth in Appendix E to this section.

**(3) AIR INSTALLATION COMPATIBLE USE ZONE STUDY (AICUZ Study)**

The "Air Installation Compatible Use Zone Study for Homestead Air Reserve Base, Florida," Headquarters Air Force Reserve Command, October 2007.

**(4) AIRPORT OBSTRUCTION**

Any structure, object, or use of land that protrudes above the planes or surfaces within the Height & Hazard Zone described in paragraph 1.4(1) of this section, any man-made object that extends more than five hundred (500) feet above the ground at the site of the structure; any obstruction that would exceed the federal obstruction standards as contained in Title 14, Part 77 CFR; or any structure, object, or use of land, which the HARB Coordinating Official determines otherwise obstructs the airspace required for flight of aircraft in taking off, maneuvering, or landing of aircraft or may otherwise be hazardous to the taking-off, maneuvering, or landing of aircraft from HARB.

**(5) APPROACH/DEPARTURE CLEARANCE SURFACE**

An inclined plane (glide angle), symmetrical about the runway centerline extended, beginning 200 feet beyond each end of the primary surface at the centerline elevation of the runway end and extending for 50,000 feet. The slope of the approach/departure clearance surface is 50 to 1 along the extended runway (glide angle) centerline extended until it reaches an elevation of 500 feet above glide angle. It then continues horizontally at this elevation to a point 50,000 feet from the point of beginning. The width of this surface at the runway end is 2,000 feet; it flares uniformly and the width at 50,000 is 16,000 feet.

**(6) AVIGATION EASEMENT**

The assignment of a right to HARB to a portion of the total benefits of the ownership of real property.

**(7) CLEAR ZONE (CZ)**

All lands encompassed within the area designated Clear Zone or CZ on the HARB Accident Potential and Hazard Map set forth in Appendix E to this section. These areas have a high potential for accidents.

**(8) CLEAR ZONE SURFACE**

This surface defines the limits of the obstruction clearance requirements in the vicinity contiguous to the end of the primary surface. For a single runway end, measures 3,000 feet by 3,000 feet.

**(9) CONICAL SURFACE**

A surface extending from the periphery of the inner horizontal surface outward and upward at a slope of 20 to 1 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation.

**(10) DAY/NIGHT NOISE LEVEL (DNL)**

A cumulative measurement of community noise exposure established by the Federal government, used to determine the sound pressure present in a 24-hour period, with a ten (10) decibel penalty applied to each aircraft event that occurs between 10:00 p.m. and 7:00 a.m. DNL values are shown as a series of noise contours surrounding HARB on Appendix D.

**(11) dB Decibel**

The measurement of sound by its pressure or energy level. The decibel scale is logarithmic. Noise energy doubles with each increase of three (3) decibels.

**(12) dBA**

The measurement of sound pressure using an A-weighted scale to best represent the range of human hearing.

**(13) DEVELOPMENT**

For purposes of this section, "development" shall mean:

(a) The division of a parcel of land into two (2) or more parcels;

(b) The construction, reconstruction, conversion, structural alteration, relocation, intensification, or enlargement of any buildings;

(c) Any new use or change in use of any buildings or land, including any extension of any nonconforming use of land; or

(d) Any clearing, grading, or other movement of land for which permission is required pursuant to this Chapter.

**(14) DIRECTOR**

The Director of the City's Department of Development Services, who is responsible for administering and enforcing the requirements of this section, or the Director's designee.

**(15) EXPLOSIVE CLEAR ZONE (ECZ)**

All lands encompassed within the area designated Explosive Clear Zone on the HARB Accident Potential and Hazard Map set forth in Appendix E to this section. These areas have a high potential for accidents resulting from explosive material and specified exposures.

**(16) GOVERNMENTAL ACT OF DEVELOPMENT APPROVAL**

For purposes of this Ordinance, approval of any master plan or approval of any development order as defined in section 30-1 of the Code of Ordinances.

**(17) HARB COORDINATING OFFICIAL**

The HARB Mission Support Group Commander or the Commander's designee.

**(18) INNER HORIZONTAL SURFACE**

A plane, oval in shape at a height of 150 feet above the established airfield elevation. The plane is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the end of each runway and interconnecting these areas with tangents.

**(19) NOISE LEVEL**

The quantity in decibels measured by an instrument satisfying the requirements of American Standard Specification for Type I Sound Level Meters. The sound level shall be the frequency weighted sound pressure level obtained with the frequency weighting "A" and the standardized dynamic characteristics "SLOW."

**(20) NOISE LEVEL REDUCTION (NLR)**

The difference in dBA between the noise level outside the building and the noise level inside the building or a designated room in the building.

**(21) NOISE ZONES**

Areas for which the boundaries are represented by DNL noise contour ranges and including all lands encompassed within the areas designated "Noise Zone 65dBA" and "Noise Zone 70 dBA" on the Noise Zone Map set forth in Appendix D to this section.

**(22) NONCONFORMING USE**

Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this section, or amendments thereto.

**(23) OUTER HORIZONTAL SURFACE**

A plane located 500 feet above the established airfield elevation, extending outward from the outer periphery of the conical surface for a horizontal distance of 30,000 feet.

**(24) PERSON**

Individual, firm, partnership, corporation, company, association, joint stock association, or political body including the trustee, receiver, assignee, administrator, executor, guardian, or other representative.

**(25) PRIMARY SURFACE**

A surface located on the ground or water longitudinally centered on each runway, including runway shoulders and lateral safety zones and extending two hundred (200) feet beyond the runway ends. The width of the primary surface for runways is 2,000 feet.

**(26) QUALIFIED ACOUSTICAL CONSULTANT**

A person having sufficient training and experience in the science and technology of acoustics and knowledge of construction methods and materials to be qualified to evaluate the adequacy of acoustical design, materials, and methods of construction for attenuation of noise.

**(27) RUNWAY**

Defined areas at HARB prepared for landing and takeoff of aircraft along its length.

**(28) STRUCTURE**

Any object, constructed or installed by man, including but not limited to: buildings, towers, smoke stacks, utility poles, and overhead transmission lines.

**(29) TRANSITIONAL SURFACES**

These surfaces connect the primary surfaces, the clear zone surfaces, and the approach/departure clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface, or other transitional surfaces. The slope of the transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.

## 1.2 CITYWIDE; GENERAL REQUIREMENTS

### (1) APPLICABILITY

(a) The provisions of this section apply to any new development for which a complete application is submitted after the effective date of this section.

(b) Compliance with the provisions of this section does not constitute compliance with other local, federal, or state requirements related to land use impacts on aviation, and all such requirements are in addition to the requirements of this section.

**(2) CONFLICT**

All development is subject to the provisions of this section, in addition to any other applicable Code provision. In the event of a conflict between the requirements of this section and another Code provision, the more restrictive applies.

**(3) DIRECTOR**

It shall be the duty of the Director to administer and enforce the requirements prescribed herein.

**(4) PLANNING AND ZONING BOARD AND CITY COUNCIL, AS BOARD OF ADJUSTMENT**

The Planning and Zoning Board and the City Council are hereby appointed to serve as the board of adjustment for purposes of deciding any appeal or variance under this section, pursuant to the provisions of section 333.10, Fla. Stat.

**(5) NONCONFORMING USES – GENERALLY**

(a) Unless provided for otherwise by its express terms, this section shall not be construed to necessitate the removal, change, or alteration to any nonconforming use structure, land use, or tree existing on the effective date of this section.

(b) Before any nonconforming use, tree, or structure is improved such that the costs equal or exceed fifty percent (50%) of the pre-improvement market value, as established by section 30-546(6), a permit must be secured from the City authorizing the improvement of the nonconforming use, tree, or structure in conformance with the requirements of this section.

(c) No permit shall be granted that would allow the establishment or creation of an obstruction hazardous to aircraft operations or permit a nonconforming use, structure, or tree to be made or increased in height so as to become a greater hazard to air navigation than it was as of the effective date of this section.

(d) Whenever the Director determines that a nonconforming use, structure, or tree has been more than eighty percent (80%) torn down, destroyed, deteriorated, or decayed, no permit shall be granted that would allow said use, structure, or tree to be repaired, reconstructed, or restored except by a conforming use, structure, or tree.

(e) If a use or structure that does not conform to the requirements of this section is abandoned for twelve (12) consecutive months following the effective date of this section, then such use or structure shall thereafter be reestablished only in compliance with this section, regardless of the intent of the owner in discontinuing the use or structure.

(f) If a landowner refuses to bring a use, tree, or structure into conformity with these provisions, the City may enforce such provisions and assess the costs of enforcement upon the object or the land whereon it is or was located, in accordance with section 333.07(1)(b), Fla. Stat. and by any other authorized means.

**(6) ADOPTION OR AMENDMENT TO THIS SECTION**

The adoption of this section and any change or amendment hereto shall be according to the public hearing and notice requirements of section 333.05(1), Fla. Stat. and a copy of same shall be provided to the Department of Transportation.

**(7) DETERMINATION OF BOUNDARIES**

(a) This section establishes the geographic zones within which specified regulations apply, which areas are shown on maps in the Appendices. The Department of Development Services maintains a copy of each of these maps on file in a GIS format so that the location of zone boundaries may be established on a parcel-by-parcel basis.

(b) Unless otherwise provided expressly herein, for purposes of applying the provisions of this section to parcels lying in more than one (1) geographic designation or zone, only the portion of the parcel within the area or zone shall be subject to the requirements applicable to the area or zone.

(c) Where interpretation is needed as to the location of an area or zone boundary, the Director shall make the necessary

interpretation, in consultation, as necessary, with the HARB Coordinating Official or other airport officials.

**(8) CITY COORDINATION WITH HARB AND MIAMI-DADE COUNTY**

The City will coordinate with the HARB Coordinating Official and officials at Miami-Dade County, as follows:

(a) The Director shall designate the HARB Coordinating Official as a member of the development review committee pursuant to Section 30-55 of the Code of Ordinances. The HARB Coordinating Official's review shall be limited to those proposed developments which are within the HARB Military Zone Overlay or otherwise may influence base mission and operations.

(b) The Director shall forward to the HARB Coordinating Official information relating to proposed changes to the comprehensive plan, plan amendments, and land development regulations, as required by section 163.3175(4), Florida Statutes, allowing the HARB Coordinating Official to provide comments that may address, among other matters, those set forth in section 163.3175(5), Florida Statutes. Any comments provided by the HARB Coordinating Official with respect to a proposed comprehensive plan amendment shall be forwarded by the Director to the Department of Community Affairs.

(c) If the AICUZ Study is updated or a new study is completed, the Director will cooperate with the HARB Coordinating Official by providing needed background data, reviewing draft documents, and coordinating amendments to this section to reflect study recommendations.

(d) At least ninety (90) days before any official consideration by the City Council to fund or plan for a transportation, water, or sewer capital improvement that would expand the development capacity within the HARB Military Zone Overlay, the Director will notify the HARB Coordinating Official and will identify the location and timing of the proposed capacity-expanding capital improvements.

(e) The Director will utilize best efforts to coordinate with the Miami-Dade County Property Appraiser to graphically link noise zones, accident potential and hazard zones, and regulations related to wildlife attractants to the property search function of the County website and to disclose that a property for sale

or rent is within the HARB Military Zone Overlay or otherwise subject to the requirements of this section.

**(9) NOTICE**

(a) Public notice through the use of maps depicting HARB Military Zone Overlay, and other designated areas or zones, shall be available at the City of Homestead Department of Development Services.

(b) The Director will use best efforts to coordinate with the Miami-Dade Property Appraiser to maintain a list of all property within the HARB Military Zone Overlay and other designated areas and zones, which shall be made available to the public. The listing will be compiled by the Miami-Dade County Tax Assessor from public records and shall be updated at least once each year. The listing will be available for use by title companies, real estate agencies, and individuals to determine the notice required to be given to prospective transferees, tenants, and purchasers of residential property.

(c) A Disclosure Statement as shown in Appendix B shall be made available to the public and may voluntarily be included with real estate listing agreements and marketing materials for the sale or lease of real property, and provided in conjunction with the sale or lease of all property located within a designated accident potential zone, clear zone, explosive clear zone, or noise zone surrounding the HARB. However, in the case of property sales, the Disclosure Statement shall be filed with the property deed. In the case of leases, the disclosure statement shall be presented to the lessee and executed prior to the lessee taking possession of the property.

(d) The following development approvals concerning property located within a designated accident potential zone, clear zone, explosive clear zone, or noise zone surrounding the HARB shall include a disclosure of the property's location within the applicable zone, that the property is subject to accident potential and/or noise from aircraft, and that all development activities shall comply with the requirements of each zone within which the property is located and other applicable requirements of this section:

(i) Plat and subdivision;

(ii) Site plan;

(iii) Rezoning;

(iv) Planned Unit Development;

(v) Future Land Use Map amendment;

(vi) Building permit.

**(10) PRE-APPLICATION COORDINATION**

Applicants may schedule a pre-application meeting with the HARB Coordinating Official and director in order to review preliminary development application plans and ensure timely compliance with this section.

**1.3 HARB MILITARY ZONE OVERLAY ESTABLISHED; APPLICABILITY**

(1) There is hereby established the HARB Military Zone Overlay to include all areas designated within the HARB Military Zone Overlay Map set forth in Appendix A to this section.

(2) The HARB Military Zone Overlay may encompass all or a portion of other regulatory zones created by this section, which govern the use of land. An applicant for development within the HARB Military Zone Overlay shall comply with the requirements of each zone within which the subject property is located. In the event of a conflict between requirements of this section, the more restrictive applies.

(3) The variance to or waiver of any such more restrictive requirement does not constitute a variance or waiver of the less restrictive requirement.

**1.4 HEIGHT AND HAZARD ZONE**

(1) In addition to the HARB Military Zone Overlay, there is hereby created and established a Height and Hazard Zone, which includes all of the land and air within the approach/departure, primary, transitional, inner and outer horizontal, clear zone, and conical surfaces as they apply to HARB and the land beneath these surfaces. The imaginary surface boundaries are defined herein and generally illustrated on the Height and Hazard Zone Map attached to this section and made a part hereof as Appendix C. An area located in more than one of the described zones is considered to be only in the zone with the more restrictive height limitation.

(2) The Director will notify the HARB Coordinating Official in the event that any development or use of land listed in paragraph 1.4(4) of this section is proposed within the Height and Hazard Zone. The City will provide the HARB Coordinating Official at least ten (10) business days to forward a written recommendation to the Director with respect to the development or land use, before the City makes any decision or recommendation related to the application.

(3) Airfield elevation and runway coordinates for HARB are as follows:

(a) Airfield Elevation: five (5) feet above mean sea level.

(b) Runway 05/23 Coordinates:

| | | | |
|---|---|---|---|
| 25 Degrees | 28 Minutes | 43.40 Seconds | North Latitude |
| 80 Degrees | 23 Minutes | 47.20 Seconds | West Longitude |
| 25 Degrees | 29 Minutes | 55.39 Seconds | North Latitude |
| 80 Degrees | 22 Minutes | 15.20 Seconds | West Longitude |

(4) Within the Height and Hazard Zone:

(a) no airport obstructions are permitted;

(b) the development of the following shall be prohibited if the use interferes with pilot vision and the operation of HARB aircraft: sanitary landfills, feeding stations, sand and gravel dredging operations, storm water retention ponds, created wetlands, or the growing of vegetation determined to be a wildlife attractant;

(c) no structure shall be approved that would be situated within ten (10) feet of approach/departure or transitional surfaces;

(d) no development shall be approved that produces steam, dust, smoke, light emissions, glare, or other visual impairments, has explosive characteristics, or otherwise interferes with pilot vision or the operation of HARB aircraft;

(e) no development shall be approved that produces electrical emissions that interfere with navigation equipment or radio communication between aircraft, HARB, or other air traffic control facility;

(f) notwithstanding the provisions of paragraph 1.2(5) of this section, no condition shall be maintained that attracts wildlife into the Height and Hazard Zone, which the HARB Coordinating Official determines to create a hazard to operations within the HARB Military Zone Overlay;

(g) any variance or permit granted for development under this section shall, as a specific condition, require the owner to mark and light the structures to indicate to aircraft pilots the presence of an obstruction. Such marking and lighting shall conform to the specific standards established by Chapter 14-60.009, Rules of the Department of Transportation and Federal Aviation Administration Advisory Circular 70/7460-1K (AC 70/7460-1K), as amended.

**1.5 NOISE ZONES**

**(1) ESTABLISHMENT OF NOISE ZONES.**

(a) There are hereby created and established two (2) noise zones as designated on the HARB Noise Zone Map attached to this section and made a part hereof as Appendix D. The noise zones contained herein are based on a projection of future noise environments arising from aircraft flight operations at HARB.

(b) For purposes of applying the noise level reduction provisions of this section to parcels lying in more than one (1) noise zone, only the portion of the parcel within the area or zone shall be subject to the requirements applicable to the area or zone. However, where a portion of a building or room lies within more than one (1) noise zone or only partially within a noise zone, the more restrictive noise level reduction requirements apply to the entire building or room, as applicable.

**(2) NOISE ZONE BOUNDARIES:**

(a) **Noise Zone 65 dBA.** Areas so designated on the HARB Noise Zone Map attached to this section and made a part hereof as Appendix D.

(b) **Noise Zone 70 dBA.** Areas so designated on the HARB Noise Zone Map attached to this section and made a part hereof as Appendix D.

**(3) INDOOR NOISE LEVEL REDUCTION REQUIREMENTS**

(a) The indoor noise level reduction compliance standards in the following subsection (b) apply to those noise-sensitive uses identified by a footnote in the Land Use Compatibility Standards Chart in Appendix F, based on the minimum noise level reduction required therein.

(b) Development within a designated noise zone, which, pursuant to Appendix F, requires noise level reduction, shall not be approved unless:

(i) the applicant provides a testing certificate from a qualified acoustical consultant, architect or engineer licensed in the state of Florida, as provided by law, that all structures associated with the noise-sensitive use will achieve an average minimum dBA reduction equal to or greater than the required minimum noise level reduction; or

(ii) in lieu of the required test, the applicant submits an engineering judgment signed and sealed by an engineer licensed in the state of Florida, that in his or her opinion a structure built according to submitted plans will meet the minimum required noise level reduction, based on the construction standards in section 4 or section 5, as applicable, in Appendix D of the "Guidelines for Sound Insulation of Residences Exposed to Aircraft Operations," prepared for the Department of the Navy, by Wyle Research and Consulting, Arlington Virginia, April 2005, on file with the Office of Legislative Services.

**(4) ADMINISTRATION AND ENFORCEMENT**

The Building Inspector may require, prior to granting a certificate of occupancy for a building subject to the requirements of this section, at the expense of the owner, field tests by a qualified acoustical consultant, architect or engineer licensed in the state of Florida, to verify the noise level reduction of the building, or as provided by law.

**(5) NONCONFORMING USES AND STRUCTURES – NOISE ZONES**

Buildings or structures to which additions, alteration, or repairs are made shall comply with all the requirements of this section as follows:

(a) When additions, alterations, or repairs within any three year period exceed 50 percent of the value of an existing building or structure, such buildings or structures shall be made to conform to the noise level reduction requirements of this section.

(b) Not more than 50 percent of the roof covering of any building or structure shall be replaced in any three year period unless the next roof covering is made to conform with the noise level reduction requirements of this section.

## 1.6 LAND USE RESTRICTIONS

### (1) LAND USE RESTRICTION ZONES

In addition to the Height and Hazard Zone and the Noise Zones, there are hereby created and established a clear zone, two (2) accident potential zones, and an explosive clear zone as designated on the HARB Accident Potential and Hazard Map attached to this section and made a part hereof as Appendix E.

### (2) PERMITTED AND RESTRICTED ACTIVITIES.

(a) Notwithstanding the zoning district regulations or other provisions of the Code, no development shall be approved within the HARB Military Zone Overlay except in accordance with the requirements of this section, including the Land Use Compatibility Standards Chart attached and made a part hereof as Appendix F.

(b) Land use requirements within the applicable zones are designated in three (3) categories;

(i) Prohibited (X): regardless of whether the use is otherwise permitted in the zoning classification of the parcel, the land use is prohibited based on the provisions of this section.

(ii) Allowable (A): the provisions of this section do not prohibit the land use, though all other zoning, City requirements, and applicable provisions of this section apply to the parcel.

(iii) Conditional (C): though allowed, the land use must meet the guidelines set forth in the footnotes to the Land Use Compatibility Standards Chart.

(c) Land uses not specifically listed in the Land Use Compatibility Standards Chart shall be governed by the standards applicable to the land use most similar to the proposed use based on its similarity to the listed use with respect to noise sensitivity and accident potential, based on the AICUZ Study and related federal guidelines.

### (3) ADDITIONAL RESTRICTIONS

Unless otherwise specified in the Land Use Compatibility Standards Chart, the following additional restrictions apply within the HARB Military Zone Overlay:

(a) All applications for development, including rezonings, site plans, Planned Unit Developments (PUD), Future Land Use Map

amendments, plats, subdivisions, and building permits, shall include a reference to the disclosure requirements of Paragraph 1.2(9)(d) of this section.

(b) No development shall be approved that produces light emissions that would interfere with pilot vision; therefore exterior lighting:

(i) used in conjunction with street, parking, signs, or use of land and structures shall be arranged and operated in such manner that it is not misleading or dangerous to aircraft operating from HARB; and

(ii) except for lighting provided in association with single-family homes, mobile homes, and duplexes, exterior lighting, must be fully shielded so that all light emitted by the fixture projects below the horizontal direction and contain shielding permanently affixed to the fixture.

(c) Implementation of the use restrictions in the Military Zone Overlay, including Appendix F, shall be determined by the following:

(i) APZ1: No land use shall be established which concentrates on a regular basis more than twenty-five (25) people/acre, on a non-aggregated basis.

(ii) APZ2: No land use shall be established which concentrates on a regular basis more than fifty (50) people/acre, on a non-aggregated basis.

(iii) For purposes of subparagraphs (c)(i) and (c)(ii), above:

a. "non-aggregated" means that no more than 25 or 50 people, respectively, may be concentrated on any given acre of land, regardless of the total size of tract or parcel being developed.

b. "regular basis" means a set period or series of repetitive or frequent occurrences comprising a uniform and consistent pattern, where organized groups of people assemble for periods

of six (6) to eight (8) hours within a twenty-four (24) hour period.

(iv) The director may approve a development with a population concentration up to 15% greater than those set forth in subparagraph (c)(i) or (c)(ii), only where written findings are attached to the development approval showing that the proposed development meets the following criteria:

a. The concentration increase maintains the basic intent and purpose of the subject regulations, particularly as it affects land use compatibility within the Military Zone Overlay.

b. The concentration increase is the minimum necessary in order to develop the proposed use or uses on the site.

c. The grant of the concentration increase is in harmony with the general intent and purpose of this section, and is not injurious to surrounding properties, or otherwise detrimental to the public welfare.

**(4) RESIDENTIAL DENSITY TRANSFER FROM APZ1**

Any landowner may transfer residential development rights from one or more parcels within Accident Potential Zone 1, a "sending parcel," to one or more parcels outside Accident Potential Zone 1, a "receiving parcel," if all of the following conditions are satisfied:

(a) The owner of the sending parcel establishes, to the satisfaction of the City, that, but for application of the APZ1 restrictions, the parcel would have the immediate right to construct on the sending parcel the residential units proposed for transfer. In addition, such rights do not exist if they have been terminated or are prohibited by operation of any other legal instrument, including but not limited to easements; state, federal, or local regulations or instruments; or prior transfers or purchases of development rights;

(b) Both the "sending parcel" and "receiving parcel" are owned by the same person or persons or the owners of the sending and receiving parcels execute a transfer agreement facilitating the transfer, demonstrating compliance with this subsection, the

Comprehensive Plan, and City Code, and approved by the City Council;

(c) The number of rights transferred does not exceed the number of dwelling units that could have been constructed on the sending parcel, but for application of the APZ1 restrictions;

(d) A Declaration of Restrictive Covenants that precludes the construction of residential development on the "sending parcel," shall be executed by the owner of the sending parcel in a form approved by the City Attorney. A Declaration of Restrictive Covenant executed pursuant to this subsection shall provide that any modification or release of the covenants shall require approval and may be enforced by the City Council. After review and comment by the HARB Coordinating Official, the Declaration of Restrictive Covenants shall be approved by the City Council and recorded in the public records of Miami-Dade County.

(e) The portion of the "sending parcel" from which residential rights are transferred is located in APZ1;

(f) The portion of the "receiving parcel" to which residential rights are transferred is located outside of APZ1 and is one for which the transfer is allowed under the City of Homestead Comprehensive Plan and City Code.

**1.7 VARIANCES**

(1) Notwithstanding any other code provisions related to variances, including sections 30-53 and 30-54, City Code, any person desiring to use his or her property not in accordance with the regulations prescribed in this section may apply for a variance which shall only be granted pursuant to this subsection 1.7.

(2) At the time of filing, the applicant shall forward a copy of his or her application for variance by certified mail/return receipt requested to:

(a) the Airspace and Land Use Manager, Florida Department of Transportation, M.S. 46, 605 Suwannee Street, Tallahassee, Florida 32399-450; and

(b) the HARB Coordinating Official, 482 MSG/CC, 29050 Coral Sea Blvd., Bldg. 360, Homestead ARB, Florida 33039-1299.

(3) The Department and HARB shall have 45 days from receipt of the application to provide comments to the applicant and the Planning and Zoning Board after which time that right is waived.

(4) No application for a variance may be considered unless the applicant shows evidence the requirement for Notice of Construction or Alteration under 14 Code of Federal Regulations Part 77 has been complied with, and a valid aeronautical evaluation has been submitted as required by Section 333.025(8), Fla. Stat.

(5) The Planning and Zoning Board may proceed with consideration of an application only upon receipt of Department of Transportation and HARB comments or the waiver of those rights as demonstrated by the applicant's filing a copy of a return receipt showing the 45 days have elapsed.

(6) Variances to the provisions of this section shall be granted only where a literal application or enforcement of the provisions of this section would result in practical difficulty or unnecessary hardship, and where relief granted is not contrary to the public interest but would do substantial justice and be in accordance with the spirit of this section and Section 333.07(2), Fla. Stat.

(7) No variance shall be approved solely on the basis that such proposed structure will not exceed federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29, or any other federal aviation regulation.

(8) In determining whether to issue or deny a variance, the following criteria shall be considered:

(a) Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport.

(b) Technological advances.

(c) The safety of persons on the ground and in the air.

(d) Land use density.

(e) The safe and efficient use of navigable airspace.

(f) The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area.

(9) In granting any variance, the Planning and Zoning Board and the City Council, as the board of adjustment designated by this section, may prescribe appropriate conditions, requirements, and safeguards in conformity with this section and the intent hereof, or may accept voluntary avigation easements as appropriate to effectuate a variance or terms of the Code.

**1.8 APPEALS**

Any person aggrieved, or taxpayer affected, by any decision of the City made in its administration of this section, which person is of the opinion that a decision of the City is an improper application of this section to such person, may appeal to the Planning and Zoning Board and the City Council, as provided by this section and section 333.08, Fla. Stat.

**1.9 VESTED RIGHTS PROCEDURE**

(1) Nothing in Ordinance 2010-09-25 shall be construed or applied to abrogate the vested right of a property owner to complete development of a parcel where the property owner can demonstrate by competent substantial evidence that each of the following has been met:

(a) A governmental act of development approval was obtained prior to September 22, 2010, affecting the standards governing development of real property; and

(b) The property owner has detrimentally and reasonably relied, in good faith, on such governmental act of development approval by making such a substantial change in position or incurring such extensive obligations and expenses that it would be highly inequitable to deny the property owner the right to complete the development.

If vested rights are granted, the decision shall describe the scope and extent of the vested rights determined.

(2) In making a determination based on the criteria provided for in subsection 1.9(1), the City Council may consider the following factors:

(a) The nature and extent of the development approved under the governmental act of development approval prior to September 22, 2010, including density, setbacks, floor area, and land uses;

(b) Whether building permits, site plans, or other development orders, as defined in section 30-1 of the Code, were approved prior to September 22, 2010;

(c) Whether development, as defined in section 30-1 of the Code, commenced prior to September 22, 2010;

(d) Whether the reliance of the applicant on the governmental act of development approval was reasonable, including whether purchase agreements, contracts for sale, or other obligations were incurred before the applicant had notice or knowledge of the adoption of Ordinance 2010-09-25.

(e) Whether the applicant would be prohibited by Ordinance 2010-09-25 from completing the proposed development in accordance with the prior governmental act of development approval.

(3) Any property owner claiming to have vested rights from the application of any requirement of Ordinance 2010-09-25 must file an application with the City Clerk for a determination within one hundred twenty (120) days after the effective date of this subsection.

(4) The application shall be accompanied by an application fee of $0. The application shall contain:

(a) A sworn statement as to the basis upon which vested rights are asserted, including a description of the nature and scope of the vested rights claimed;

(b) A completed application form, as prescribed by the City Manager;

(c) Documentation required by the City's application form, demonstrating compliance with the standards of subsection 1.9(1); and

(d) Any other documentary evidence the applicant chooses to submit in support of the application.

The City Council shall hold a quasi-judicial, evidentiary public hearing within one hundred twenty (120) calendar days of the City Clerk's receipt of a complete application, and based upon the evidence submitted, shall make a determination as to whether and to what extent the property owner has established vested rights. Upon completion of the hearing, the City Council shall enter a written decision specifying the reasons for its decision to either grant or deny a finding of vested rights.

(5) Any property owner which has been granted a vested rights determination under this subsection shall not be subject to the specific regulations identified

in the vested rights determination which affect the standards governing development of the owner's real property. Once the application is granted, the applicant shall be authorized to apply for development orders and permits in accordance with the vested rights determination. If the City Council denies the applicant's request for a finding of vested rights, all regulations applicable to that property owner shall remain in full force and effect.

(6) Appeals from final decisions by the City Council under this subsection shall be by the filing of a Petition for Certiorari in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County in accordance with the Florida Rules of Appellate Procedure for the review of the quasi-judicial decisions of municipalities.

**1.10 EFFECTIVE DATE**

Subsection 1.9 of this section shall become effective immediately upon adoption on second reading. All other subsections of this Ordinance shall become effective on January 20, 2011.

PASSED on first reading this 21 day of June, 2010.

PASSED AND ADOPTED on second reading this 22 day of September, 2010.

STEVEN BATEMAN
Mayor

ATTEST:
ELIZABETH SEWELL, CITY CLERK
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND BENEFIT OF THE CITY ONLY:

WEISS SEROTA HELFMAN PASTORIZA COLE & BONISKE, P.L.
City Attorney

Motion to adopt by Vice Mayor Waldman, seconded by Councilwoman Lobos.

***FINAL VOTE AT ADOPTION***

| | |
|---|---|
| *Mayor Steven Bateman* | *YES* |
| *Vice Mayor Judy Waldman* | *YES* |
| *Councilman Jon Burgess* | *YES* |
| *Councilwoman Wendy Lobos* | *YES* |
| *Councilman Elvis Maldonado* | *YES* |
| *Councilman Stephen Shelley* | *YES* |
| *Councilman Jimmie L. Williams, III* | *YES* |

## APPENDICES

A. Homestead Air Reserve Base Military Zone Overlay Map

B. Developer Disclosure Statement

C. Height and Hazard Zone Map

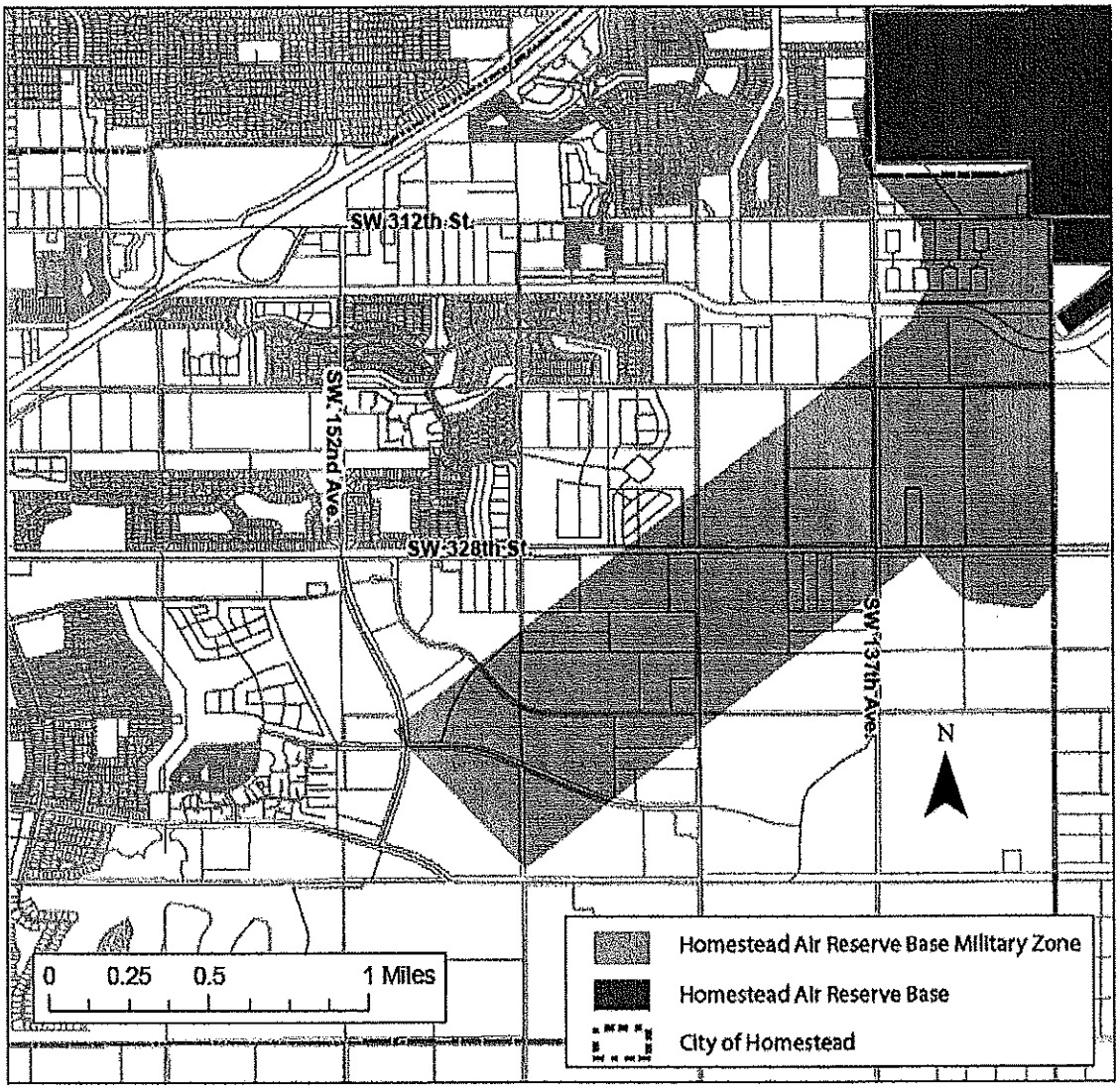
D. Noise Zone Map

E. Accident Potential and Hazard Map

F. Land Use Compatibility Standards Chart

# Appendix A: HARB Military Zone Overlay Map

# Homestead Air Reserve Base
# Military Zone Overlay Map



# Appendix B: Developer Disclosure Statement

# HOMESTEAD AIR RESERVE BASE
## REAL ESTATE SALE/LEASE DISCLOSURE

Pursuant to the section 30-6 of the Code of the City of Homestead, any owner of real property who sells or leases that real property within a designated Accident Potential Zone, Clear Zone, Explosive Clear Zone, or Noise Zone surrounding the Homestead Air Reserve Base (HARB) is required to disclose to any buyer or lessee that the property is subject to varying degrees of accident potential and/or noise from aircraft.

In the case of properties being sold, this disclosure shall be executed prior to closing and filed with the property deed. In the case of leases, this disclosure shall be presented to the lessee and executed prior to the lessee taking possession of the property.

**********

To: _____
(Buyers or Lessees)

The Property at: _____
(Street Address & Zip Code)

**Is located within the following Noise Zone(s):**

_____ Noise Zone 65 dBA (having an average Day/Night noise Level [DNL] of 65-69 dBA)
_____ Noise Zone 70 dBA (having an average Day/Night noise Level [DNL] of 70-74 dBA)

**Is located within the following Accident or Hazard Zones:**

_____ Accident Potential Zone 1
_____ Accident Potential Zone 2
_____ Clear Zone
_____ Explosive Clear Zone

**********

**CERTIFICATION:**

**AS TO SELLER/LANDLORD:**

_____
Signature

_____
Printed Name

**WITNESSED BY:**

_____
Signature

_____
Printed Name

**WITNESSED BY:**

Signature

Printed Name

**AS TO BUYER/LESSEE:**

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

**WITNESSED BY:**

Signature

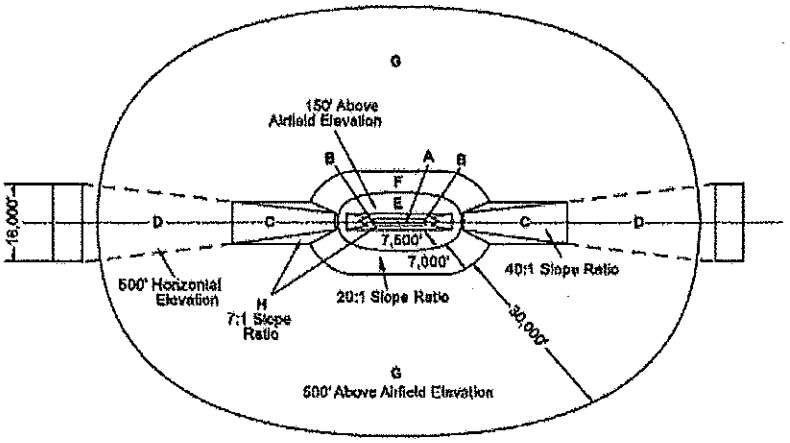
Printed Name

**WITNESSED BY:**

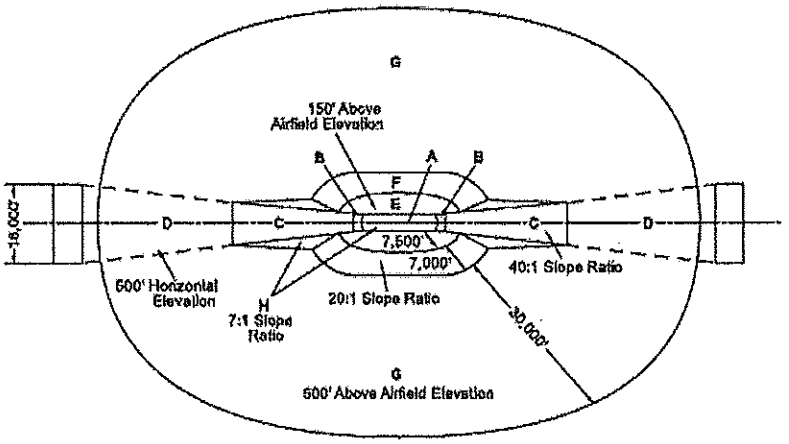
Signature

Printed Name

# Appendix C: Height and Hazard Zone Map




CLASS A IFR RUNWAY




CLASS B IFR RUNWAY

**LEGEND**

A Primary Surface

B Clear Zone Surface

C Approach/Departure Clearance Surface (Glide Angle)

D Approach/Departure Clearance Surface (Horizontal)

E Inner Horizontal Surface

F Conical Surface

G Outer Horizontal Surface

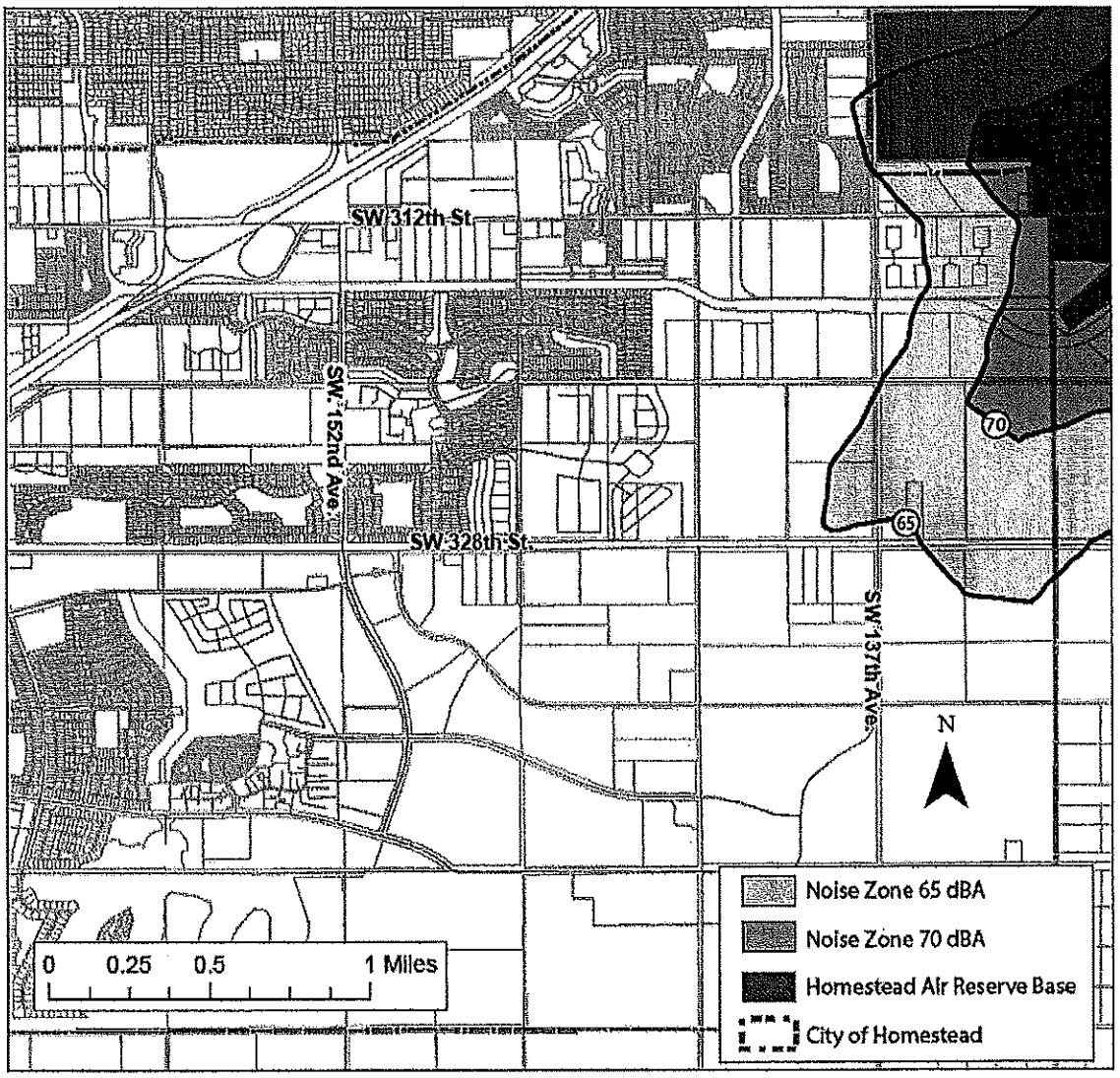
H Transitional Surface

*Notes:*

1. Datum elevation for:
   a. surface D, E, F, and G is the established airfield elevation
   b. surface C is the runway centerline elevation at the threshold
   c. surface H varies at each point along the runway centerline.
2. The intersections shown on the plan are for the case of a level runway.

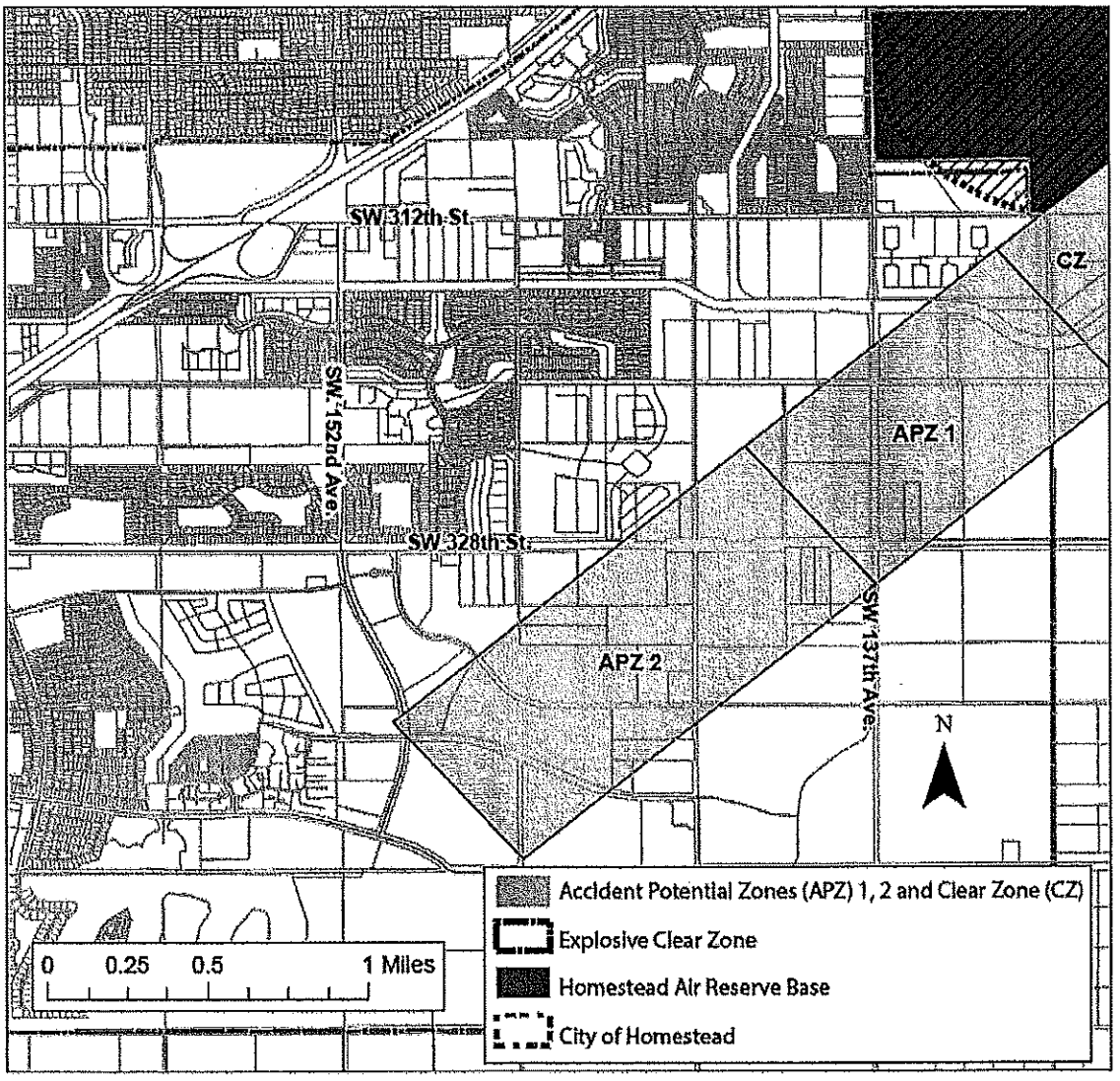
# Appendix D: Noise Zone Map

# Homestead Air Reserve Base
# Noise Zone Map



# Appendix E: HARB Accident Potential and Hazard Map

# Homestead Air Reserve Base
# Accident Potential & Hazard Map



# Appendix F: Land Use Compatibility Standards Chart

| | Accident & Hazard Zones | | | Noise Zones | |
|---|---|---|---|---|---|
| **Land Use** | **CZ/ ECZ** | **APZ 1** | **APZ 2** | **Noise Zone 65 dBA** | **Noise Zone 70 dBA** |
| ***Residential*** | | | | | |
| Single units; detached | X | X | C[1] | C[2] | C[3] |
| Single units; semidetached | X | X | X | C[2] | C[3] |
| Single units; attached row | X | X | X | C[2] | C[3] |
| Two units; side-by-side | X | X | X | C[2] | C[3] |
| Two units; one above the other | X | X | X | C[2] | C[3] |
| Apartments; walk-up | X | X | X | C[2] | C[3] |
| Apartments; elevator | X | X | X | C[2] | C[3] |
| Group quarters | X | X | X | C[2] | C[3] |
| Residential hotels | X | X | X | C[2] | C[3] |
| Mobile home parks or courts | X | X | X | X | C[3] |
| Transient lodgings | X | X | X | C[2] | C[3] |
| Other residential | X | X | X | C[2] | C[3] |
| ***Manufacturing*** | | | | | |
| Food and kindred products; manufacturing | X | X | A | A | C[5] |
| Textile mill products; manufacturing | X | X | A | A | C[5] |
| Apparel and other finished products made from fabrics, leather, and similar materials; manufacturing | X | X | C[4] | A | C[5] |
| Lumber and wood products (except furniture); manufacturing | X | C[4] | A | A | C[5] |
| Furniture and fixtures; manufacturing | X | C[4] | A | A | C[5] |
| Paper and allied products; manufacturing | X | C[4] | A | A | C[5] |
| Printing, publishing, and allied industries | X | C[4] | A | A | C[5] |
| Chemicals and allied products; manufacturing | X | X | X | A | C[5] |
| Petroleum refining and related industries | X | X | X | A | C[5] |

| | Accident & Hazard Zones | | | Noise Zones | |
|---|---|---|---|---|---|
| **Land Use** | **CZ/ ECZ** | **APZ 1** | **APZ 2** | **Noise Zone 65 dBA** | **Noise Zone 70 dBA** |
| ***Manufacturing*** | | | | | |
| Rubber and misc. plastic products; manufacturing | X | C[4] | A | A | C[5] |
| Stone, clay, and glass products manufacturing | X | C[4] | A | A | C[5] |
| Primary metal industries | X | C[4] | A | A | C[5] |
| Fabricated metal products; manufacturing | X | C[4] | A | A | C[5] |
| Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks; manufacturing | X | X | X | A | C[5] |
| ***Transportation, communications, and utilities*** | | | | | |
| Railroad, rapid rail transit, and street railroad transportation | X | C[6] | A | A | C[5] |
| Motor vehicle transportation | X | A | A | A | C[5] |
| Aircraft transportation | X | C[6] | A | A | C[5] |
| Marine craft transportation | X | C[6] | A | A | C[5] |
| Highway and street right-of-way | X | A | A | A | C[5] |
| Automobile parking | X | C[6] | A | A | C[5] |
| Communications | X | C[6] | A | A | C[5] |
| Utilities | X | C[6] | A | A | A |
| Other transportation communications and utilities | X | C[6] | A | A | C[5] |
| ***Trade*** | | | | | |
| Wholesale trade | X | C[4] | A | A | C[5] |
| Retail trade: building materials, hardware, and farm equipment | X | C[4] | A | A | C[5] |
| Retail trade: general merchandise | X | C[4] | C[4] | A | C[5] |
| Retail trade: food | X | C[4] | C[4] | A | C[5] |
| Retail trade: automotive, marine craft, aircraft, and accessories | X | C[4] | C[4] | A | C[5] |

| | Accident & Hazard Zones | | | Noise Zones | |
|---|---|---|---|---|---|
| **Land Use** | **CZ/ ECZ** | **APZ 1** | **APZ 2** | **Noise Zone 65 dBA** | **Noise Zone 70 dBA** |
| Retail trade: apparel and accessories | X | C[4] | C[4] | A | C[5] |
| Retail trade: furniture, home furnishings, and equipment | X | C[4] | C[4] | A | C[5] |
| Retail trade: eating and drinking establishments | X | X | C[4] | A | C[5] |
| Other retail trade | X | C[4] | C[4] | A | C[5] |
| ***Services*** | | | | | |
| Finance, insurance, and real estate services | X | X | C[8] | A | C[5] |
| Personal services | X | X | C[8] | A | C[5] |
| Cemeteries | X | C[7] | C[7] | A | C[5] |
| Business services | X | A | A | A | C[5] |
| Repair services | X | C[4] | A | A | C[5] |
| Professional services | X | X | A | A | C[5] |
| Hospitals, nursing homes | X | X | X | C[2] | C[3] |
| Other medical facilities | X | X | X | C[2] | C[5] |
| Contract construction services | X | C[8] | A | A | C[5] |
| Governmental services | X | X | C[8] | A | C[5] |
| Educational services | X | X | X | C[2] | C[3] |
| ***Cultural, entertainment, and recreational*** | | | | | |
| Cultural activities, including places of worship and public assembly | X | X | A | C[2] | C[3] |
| Nature exhibits | X | C[4] | A | X | X |

| | Accident & Hazard Zones | | | Noise Zones | |
|---|---|---|---|---|---|
| **Land Use** | **CZ/ ECZ** | **APZ 1** | **APZ 2** | **Noise Zone 65 dBA** | **Noise Zone 70 dBA** |
| Outdoor music shell, amphitheaters | X | X | X | X | X |
| Outdoor sports arenas, spectator sports | X | X | X | X | X |
| Amusements | X | X | A | X | X |
| Recreational activities (including golf courses, riding stables, water recreation) | X | C[9] | C[9] | A | C[5] |
| Resorts and group camps | X | X | X | C[2] | C[3] |
| Parks | X | C[9] | C[9] | A | C[5] |
| Other cultural, entertainment, and recreation | X | C[9] | C[9] | C[2] | C[3] |
| ***Resources production and extraction*** | | | | | |
| Agriculture (except livestock) | C[10] | A | A | C[11] | C[12] |
| Livestock farming and animal breeding | C[10] | A | A | C[11] | C[12] |
| Agricultural-related activities | C[10] | A | A | C[11] | C[12] |
| Forestry activities and related services | C[10] | A | A | C[11] | C[12] |
| Fishing activities and related services | X | C[10] | A | A | A |
| Mining activities and related services | X | C[10] | A | A | A |
| Other resources production and extraction | X | C[10] | A | C[11] | C[12] |

**Notes:**

1 Maximum density may not exceed one (1) dwelling unit per acre, except where pursuant to section 1.6 (4) of this section 30-6, development rights are transferred from APZ I, in which case density may not exceed two (2) dwelling units per acre.

2 Development is conditioned on design and construction providing for an average minimum Noise Level Reduction (NLR) of average minimum twenty-five (25) dBA throughout the facility or dwelling. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, and design and use of berms and barriers can help mitigate outdoor exposure, particularly from near ground level sources.

3 Development is conditioned on design and construction providing for an average minimum Noise Level Reduction (NLR) of average minimum thirty (30) dBA throughout the facility or dwelling. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, and design and use of berms and barriers can help mitigate outdoor exposure, particularly from near ground level sources.

4 Small neighborhood stores and uses are allowed but shopping malls and shopping centers are prohibited.

5 Development is conditioned on design and construction providing for an average minimum Noise Level Reduction (NLR) of average minimum twenty-five (25) dBA in the portions of these buildings where the public is received, office areas, noise-sensitive areas, employee lounge areas, or where the normal noise level is low.

6 No passenger terminals or aboveground transmission lines.

7 Chapels are prohibited.

8 Office uses that do not involve the regular reception of customers are allowed. Meeting places, auditoriums, and similar structures are prohibited.

9 Clubhouses, enclosed gathering places, and other large gatherings of people are prohibited.

10 Enclosed buildings are prohibited.

11 Residential buildings require an average minimum NLR of average minimum twenty-five (25) dBA throughout the dwelling.

12 Residential buildings require an average minimum NLR of average minimum thirty (30) dBA throughout the dwelling.