Application No.: ZC-2018-039

Attachment "B"

Letter of Intent/Application

Pelican Bay Amend Section 3-58

NC Neighborhood Center District

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 3-58 OF THE CODE OF ORDINANCES NC, NEIGHBORHOOD CENTER DISTRICT REGARDING RESIDENTIAL USES AND RELATED LAND DEVELOPMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING AND ZONING

APPLICATION FOR ZONING CHANGE

LIST ALL FOLIO #S: 36-6016-000-0027

DATE RECEIVED: _____

PROPOSED PROJECT NAME: Pelican Bay

1. **NAME OF APPLICANT** (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

Arc/Treo 216, LLC (owner)

2. **APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:**

Mailing Address: 2950 SW 27 Avenue, Suite 300

City: Miami State: FL Zip: _____ Phone#: (305) 789-7783

3. **OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:**

Owner's Name (Provide name of ALL owners): SAME

Mailing Address: _____

City: _____ State: _____ Zip: _____ Phone#: _____

4. **CONTACT PERSON'S INFORMATION:**

Name: Hugo P. Arza, Esq. Company: Holland & Knight, LLP

Mailing Address: 701 Brickell Avenue, Suite 3300

City: Miami State: FL Zip: 33131

Phone# (305) 789-7783 Fax# (305) 789-7799 E-mail: hugo.arza@hklaw.com

5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION
(Provide complete legal description, i.e., lot, block, subdivision name, plat book &page number, or metes and bounds. Include section, township, and range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets, as needed).

Please see Exhibit "A"

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc).

South of SW 216 Street, between SW 92 Avenue and SW 89 Place

7. SIZE OF PROPERTY (in acres): +/-18.52 (divide total sq. ft. by 43,560 to obtain acreage)

8. DATE PROPERTY ☒acquired ☐ leased: August 2013

9. LEASE TERM: N/A Years (Month & year)

10. IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S), provide Complete legal description of said contiguous property.

NONE

11. **Is there an option** to purchase ☒ or lease ☐ the subject property or property contiguous thereto? ☐ no ☐ yes (if yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)
Lennar Homes, LLC

12. **PRESENT ZONING AND FLU CLASSIFICATION:** FLU - Mixed Use ; Zoning - NC-2
(Pending Land Use Text Change to "Mixed Use: Lakes-by-the-Bay Mixed-Use Site")

13. **PROPOSED USE OF PROPERTY** (describe nature of the request in space provided)

Amendment to Text of Town of Cutler Bay Land Development Regulations - "Neighborhood Center 2 (NC-2)"
Please see Letter of Intent

14. **Has a public hearing been held on this property within the last year & a half?**
☒ **No** ☐ **yes.**
If yes, provide applicant's name, and date, purpose and results of hearing, and resolution number:

15. **Is this hearing a result of a violation notice?**
☒ **No** ☐ **yes.** If yes, give name to whom the Violation notice was served and describe the violation:

16. **Does property owner own contiguous property to the subject property? If so, give complete legal description of entire contiguous property:**

N/A

17. **Is there any existing use on the property?** ☒ **No** ☐ **yes.** If yes, what use and when established?

Use: Vacant Year:

18. Submitted Materials Required:
Please check all that Apply:

X Letter of intent
X Justifications for change
__ Statement of hardship
X Poof of ownership or letter from owner
__ Power of attorney
__ Contract to purchase (if applicable)
X Current survey (2 original sealed and signed and 10 reduced 11x17 copies)
X Complete set of plans 24'x36", scale 1'=50' (2 original sealed and signed and 10 reduced 11x17 copies)
__ Colored rendering of all 4 sides of each proposed building (If applicable)
__ 20% Property owner signatures (If required)
__ Mailing Labels (set amount depends on number of hearings) and map (If required)
X Required Fee(s)
__ Plans must be approved by Miami-Dade County Fire and Rescue Department with an original stamp and signature from the Fire Dept.
__ Necessary documentation from DERM and WASD

APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(We are) the □ owner □ tenant of the property described and which is the subject matter of the proposed hearing.

_____ Signature

_____ Signature

Sworn to and subscribed to before me
This _____day of _____, _____

Notary Public: _____
Commission Expires:

****

CORPORATION AFFIDAVIT

(I)(WE), ROLANDO DELGADO, being first duly sworn, depose and say that (I am)(We are) the □ President □ Vice-President □ Secretary □ Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the □ owner □ tenant of the property described herein and which is the subject matter of the proposed hearing.

Attest: _____

MICHELLE RIVERA-MORALES
Notary Public - State of Florida
Commission # FF 900904
My Comm. Expires Jul 16, 2019
Bonded through National Notary Assn.

(Corp. Seal)

ARC/TREO 216, LLC

By: _____
Authorized Signature

MANAGER
Office Held

Sworn to and subscribed to before me
This 13 day of July, 2018

Notary Public: _____

Commission Expires: 7/16/19

****

PARTNERSHIP AFFIDAVIT

(I)(WE),_____, being first duly sworn, depose and say that
(I am)(We are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the □ owner □ tenant of the property described herein which is the subject matter of the proposed hearing.

_____
(Name of Partnership)

By _____ %
By _____ %

By _____
By _____

Sworn to and subscribed to before me
This _____ day of _____, _____

Notary Public: _____
Commission Expires:

****

ATTORNEY AFFIDAVIT

I, Hugo P. Arza, Esq., being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

_____
Signature

Sworn to and subscribed to before me
This 23 day of July, 2018

Notary Public: _____
Commission Expires:

JULIE DE GRANDY
MY COMMISSION # GG 075946
EXPIRES: April 26, 2021
Bonded Thru Notary Public Underwriters

RESPONSIBILITIES OF THE APPLICANT

I AM AWARE THAT:

1. The Department Environmental Resources Management (DERM), and other agencies review and critique zoning applications which may affect the scheduling and outcome of applications. These reviews may require additional public hearings before DERM's Environmental Quality Control Board (EQCB), or other boards, and /or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM conditions and advise this office in writing if my application will be withdrawn.

2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Application withdrawn within 30 days of the filing are eligible for a refund of 25% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fess must be paid promptly.

3. The South Florida Building Code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and that a building permit will probably be required. I am responsible for obtaining permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use and Occupancy must be obtained for the use of the property after it has been approved at Zoning Hearing, and that failure to obtain the required permits and/or Certificates of Completion or of Use and Occupancy will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.

4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.

5. In Miami-Dade County v. Omnipoint Holdings, Inc. Case No. 3d01-2347 (Fla. 3rd DCA 2002), the 3rd District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of covenants. This is not a final decision and the County Attorney's Department professional staff to develop new standards that will address the Court's concerns. While the new standards are being developed, applicants are advised that any non-use variance, special exception, unusual use, new use requiring a public hearing or request for modification of covenants granted under the existing standards are subject to being reversed in the courts. An applicant wishing to avoid the substantial legal risks associated with going forward under the existing standard may seek a deferral until the new standards are developed.

6. Any covenant to be proffered must be submitted to the Town of Cutler Bay Legal Counsel, on Town form, at least 1 month prior to the hearing date. The covenant will be

reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. And that Legal Counsel must carry a cover letter indicating subject matter, application number and hearing date.

7. The Town of Cutler Bay Department of Public Works reviews and critiques Zoning applications and may require conditions for approval.

8. **THE APPLICANT IS RESPONSIBLE FOR TRACKING THE STATUS OF THE APPLICATION AND ALL HEARINGS THAT MAY BE ASSOCIATED WITH THIS APPLICATION.**

ARC/TREO 216, LLC.

By: _____
(Applicant's Signature)
ROLANDO DELGADO, MANAGER

Sworn to and subscribed before me this 13 day of July, 2018.

Affiant is personally known to me or has produced _____ as identification.

_____
(Notary Public)

My Commission Expires: 7/16/19

MICHELLE RIVERA-MORALES
Notary Public - State of Florida
Commission # FF 900904
My Comm. Expires Jul 16, 2019
Bonded through National Notary Assn.

DISCLOSURE OF INTEREST

If the property, which is the subject of the Application, is owned or leased by a **CORPORATION**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Arc/Treo 216, LLC (Owner)
Corporation Name

Name, Address and Office	Percentage of stock
See Exhibit "B".	

If the property, which is the subject of the Application, is owned or leased by a **TRUSTEE**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Trust Name

Name, Address and Office	Percentage of stock

If the property, which is the subject of the Application, is owned or leased by a **PARTNERSHIP or LIMITED PARTNERSHIP**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Partnership or Limited Partnership Name

Name, Address and Office	Percentage of stock

COST RECOVERY AFFIDAVIT

I hereby acknowledge and consent to the payment of **all applicable fees** involved as part of my application process. These fees include but are not limited to: application fees, postage, advertising, and attorney fees **regardless of the outcome of the public hearing.**

Please type or print the following:

Date: July 13, 2018 Public Hearing No. _____

Full Name:

(Mr.) Mrs. Ms. Rolando Delgado

Current Address: 2960 SW 27 Ave Suite 100 City: Miami

State: Florida Zip: 33133 Telephone Number (305) 789-7446

Date of Birth: _____

ARC/TREO 216, LLC.

BY:

Signature ROLANDO DELGADO, MANAGER

SWORN AND SUBSCRIBED BEFORE ME THIS 13 DAY OF July 20 18

Notary Public, State of Florida at Large

My Commission expires July 16 20 19

MICHELLE RIVERA-MORALES
Notary Public - State of Florida
Commission # FF 900904
My Comm. Expires Jul 16, 2019
Bonded through National Notary Assn.

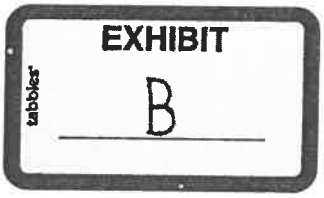
Pursuant to Ordinance No. 2000-09-33-Cost Recovery

EXHIBIT A

LEGAL DESCRIPTION

A portion of the N 1/2 of Section 16, Township 56 South, Range 40 East, Miami-Dade County, Florida, being particularly described as follows:

Begin at the Southeast corner of the plat of LAKES BY THE BAY SECTION EIGHT, according to the plat thereof recorded in Plat Book 139, at Page 50, of the Public Records of Miami-Dade County, Florida, said point also being the Southwest corner of the plat of LAKES BY THE BAY SECTION NINE, according to the plat thereof recorded in Plat Book 141, at Page 2, of the Public Records of Miami-Dade County, Florida, said point lying on the South Right-of-Way line of S.W. 216th Street, as said Street was dedicated and shown on the said plats of LAKES BY THE BAY SECTION EIGHT and LAKES BY THE BAY SECTION NINE; thence N 89°09'53"E along the South line of said LAKES BY THE BAY SECTION NINE and along the said South Right-of-Way of S.W. 216th Street, for 195.88 feet; thence S 00°31'55"E for 698.00 feet; thence S 89°03'14"W for 1090.15 feet; thence N 00°28'59"W for 886.77 feet to a point on a circular curve concave to the Northeast, said point bearing S 27°31'35"W from the center of said curve, said point lying on the Southerly line of the said LAKES BY THE BAY SECTION EIGHT, said point also lying on the Southerly Right-of-Way line of said S.W. 216th Street; thence run the following courses and distances along the said Southerly line of the LAKES BY THE BAY SECTION EIGHT, and along the said Southerly Right-of-Way line of S.W. 2166 Street: Southeasterly, Easterly and Northeasterly, along said curve to the left, having for its elements a radius of 1,555.00 feet and a central angle of 28°21'42" for an arc distance of 769.73 feet to the point of tangency; thence N89°09'53"E for 153.83 feet to the Point of Beginning.



Disclosure of Interest
ARC|TREO 216, LLC

ARC|TREO 216, LLC, a Florida limited liability company

Managing Member	*Percentage Interest*
ARC|TREO, LLC	20%
Members	*Percentage Interest*
ARC|TREO, LLC	12%
ARN Investments Group, LLC	3%
Emilio & Haymet Sauma	3%
Francisco R. Diaz	3%
Joanli Family Limited Partnership	3%
James W. Kern	3%
Kireland Equity Investments	4%
Luis & Marta Lemes	3%
Orlando A. Gomez Enterprises	3%
Otto Travieso	1%
Rodolfo & Ada Suarez	3%
Rolando & Miriam Delgado	3%
Samkle Investments	36%
Total	*100%*

Disclosure of Interest
ARC|TREO 216, LLC

ARC|TREO, LLC			
	Otto J. Boudet-Murias		20%
	Rolando Delgado		20%
	Eduardo J. Garcia		20%
	Juan T. O'Naghten		20%
	Carlos A. Ortega		20%
ARN Investments Group, LLC			
	Nancy Ramos Mata		50%
	Alfonso Ramos		50%
Joanli Family Limited Partnership			
	Jose Garcia		50%
	Elizabeth Garcia		50%
Kireland Equity Investments			
	EK Family Trust		50.0%
	BKJK Trust		25.0%
	NK Family Trust		12.5%
	RK Family Trust		12.5%
Orlando A. Gomez Enterprises			
	Ana Garcia Irrevocable Family Trust		42.00%
	Eduardo J Garcia Jr		13.75%
	Orlando F Garcia		13.75%
	Alexa I Garcia		5.00%
	Erica M Garcia		5.00%
	Orlando A. Garcia		5.00%
	Eduardo E Garcia		5.00%
	Paola E Garcia		5.00%
	Alexa I Garcia Trust		1.10%
	Erica M Garcia Trust		1.10%
	Orlando A. Garcia Trust		1.10%
	Eduardo E Garcia Trust		1.10%
	Paola E Garcia Trust		1.10%
Samkle Investments, LLC			
	S. Klein Family Partnership, a Florida LLC		100%
	EK Family Trust	50.0%	
	BKJK Trust	25.0%	
	NK Family Trust	12.5%	
	RK Family Trust	12.5%	
		100%	

Holland & Knight

701 Brickell Avenue, Suite 3300 | Miami, FL 33131 | T 305.374.8500 | F 305.789.7799
Holland & Knight LLP | www.hklaw.com

Alejandro J. Arias, Esq.
305-789-7446
alejandro.arias@hklaw.com

VIA HAND DELIVERY

July 24, 2018

Ms. Kathryn Lyon
Planning and Zoning Director
Department of Community Development
Town of Cutler Bay
10720 Caribbean Boulevard, Suite 105
Cutler Bay, Florida 33189

Re: Arc/Treo 216, LLC / Folio No. 36-6016-000-0027 / Pelican Bay / Letter of Intent for Amendment to Town of Cutler Bay Land Development Regulations / Zoning Text Amendment Request

Dear Ms. Lyon:

This law firm represents ARC/Treo 216, LLC ("Applicant"), the owner of the property located south of SW 216 Street between SW 92 Avenue and SW 89 Place, in the Town of Cutler Bay ("Cutler Bay"), further identified by Miami-Dade County Folio No. 36-6016-000-0027 (the "Property"). This letter shall serve as the Applicant's letter of intent in support of a request for approval of an application for an amendment to the language of the "NC (Neighborhood Center)" zoning district, as set forth in Section 3-58 of the Town of Cutler Bay Land Development Regulations ("Town Code"). The Applicant has also filed concurrent and respective (1) land use text amendment and (2) site plan approval applications in connection with this Property.

Currently, the "NC-2 (Neighborhood Center 2)" zoning classification does not allow for the inclusion of a residential component (whether vertically or horizontally integrated) as part of a mixed use development on the Property. However, the NC-2's floor area ratio allows over 322,000 square feet of non-residential development, including commercial, office, restaurant, medical, civic, and places of public assembly, such as a church or temple. Yet, despite the NC-2's generous development allowance, and notwithstanding an earlier approval by the Town Council of a site plan for the development of a large scale commercial and office project, the Property has remained vacant, as the surrounding community has been developed into a vibrant and attractive residential community.

The Applicant proposes the development of a first-class, mixed use community, consisting of 25,810 square feet, an approximately 2 acre park, and 70 single-family homes (the "Proposed Development Program"). The development of the Property would include the full range of neighborhood retail and personal services, including restaurants, that would serve the needs of the surrounding Lakes-by-the-Bay community, and would also provide housing opportunities to the many who wish to reside in the neighborhood. Additionally, other than small single family homes subdivisions that are scattered throughout the Town, the development of the Property will

replenish the Town's housing stock, as the first new residential neighborhood of its kind in a few years. The retail, residential, and park components will be horizontally integrated in order to take full advantage of the Property's privileged lakefront location. The proposed 2 acre park, will also provide a tremendous and much-needed amenity to Town residents. These elements will be arranged along a central, landscaped boulevard.

The community will be completely open to its neighbors. Here, our future residents (as well as their neighbors) will be able to enjoy a cup of coffee on the way to work, after dropping off items at the cleaners, or perhaps a meal with the family on the way home. Surrounding residents will no longer be forced to drive up and down Old Cutler Road in order to fulfill the most basic retail needs of daily living. The proposed homes will cater to those young families who are attracted to the area as a result of the Town's well-deserved reputation as a great place to raise a family. Residents will also be attracted to the neighborhood's location, walking proximity to retail and services.

Unfortunately, the Applicant's vision for the Property, as depicted in the proposed site plan, cannot be implemented under its current NC-2 zoning classification. By contrast to the NC-2 exclusion of residential development, under the NC-1 regulations, residential development is permitted at a density of up to 15 dwelling units per gross acre (30 dwelling units with a green a green bonus). The permitted density of 15 dwelling units per gross acre would translate into the potential development of 277 units (or 555 with the application of the green bonus) on the Property. The Applicant's site plan with a proposed density of 3.78 units per gross acre, and a little over 25,800 square feet of non-residential uses, strikes a far better balance than the 322,000 square feet of non-residential uses that would be allowed under the NC-2 regulations, and the up to 555 dwelling units that would be allowed in the NC-1 district. The Proposed Development Program would attain approximately 8% of the non-residential development allowed under NC-2 and a litte over one-tenth of the residential density that would be allowed under the proposed NC-1 zoning classification.

As you are aware, the Property is designated on the Town's Growth Management Plan for mixed use development under the text of the "Lakes-by-the-Bay Mixed Use Site," which not surprisingly reflects the same exclusion of residential units found in the NC-2 regulations as one of the components of a mixed use project. In fact, the only site in the Town that is zoned NC-2 is the Property. In an effort to obtain the approvals for the implementation of the Applicant's Proposed Development Program, along with this Application and the application for site plan approval, we filed a request to amend the text of the Town's Comprehensive Plan as it affects the "Lakes-by-the-Bay Mixed Use Site." The main purpose of the proposed Comprehensive Plan amendment is to allow the introduction of dwelling uses to the delineated uses that would be allowed on the Property as part of a mixed use project.

In an effort to ensure internal consistency between the Proposed Development Program set forth in the site plan, the requested land use text change, and the balance of the necessary zoning approvals, the Applicant seeks to maintain the exiting NC-2 (Neighborhood Center 2) zoning classification, and amend the text of Section 3-58 of the Town of Cutler Bay Land Development Regulations (the "Town Code"), as follows:

FROM:

"Sec. 3-58. – NC, Neighborhood Center District

The neighborhood center district provides for the location of pedestrian scaled shops, restaurants, services, small workplaces, and residential buildings central to a neighborhood (or grouping of neighborhoods) and within walking distance of dwellings. The neighborhood center district shall be developed on an interconnected pattern of streets and typically limited to approximately one-fourth mile in radius. Uses in the district will have a primary market area of three miles and are intended to service the daily needs of the residents of the surrounding neighborhoods. The pedestrian is expected to be able to walk from one end of the district to the other in ten to 15 minutes.

(1) *Permitted uses.*

a. Commercial and retail (not exceeding 25,000 square feet as a single use).

b. Office (requiring less than 50 parking spaces).

c. Restaurant.

d. Multifamily (within a vertical mixed use development).

e. Civic (excluding educational facility/school).

f. Medical.

g. Civic.

h. Park and open space.

i. Place of public assembly (with a minimum distance of 1,000 feet between another place of public assembly).

j. Outdoor dining (see supplemental standards for further regulations)."

TO:

"Sec. 3-58. – NC, Neighborhood Center District

The neighborhood center district provides for the location of pedestrian scaled shops, restaurants, services, small workplaces, and residential buildings central to a neighborhood (or grouping of neighborhoods) and within walking distance of dwellings. The neighborhood center district shall be developed on an interconnected pattern of streets and typically limited to approximately one-fourth mile in radius. Uses in the district will

have a primary market area of three miles and are intended to service the daily needs of the residents of the surrounding neighborhoods. The pedestrian is expected to be able to walk from one end of the district to the other in ten to 15 minutes.

(1) *Permitted uses.*

a. Commercial and retail (not exceeding 25,000 square feet as a single use).

b. Office (requiring less than 50 parking spaces).

c. Restaurant.

d. Multifamily (within a vertical mixed use development)~~.~~ in the Neighborhood Center 1 (NC-1) zoning district. Residential uses (within a mixed use development) in the Neighborhood Center 2 (NC-2) zoning district.

e. Civic (excluding educational facility/school).

f. Medical.

g. Civic.

h. Park and open space.

i. Place of public assembly (with a minimum distance of 1,000 feet between another place of public assembly).

j. Outdoor dining (see supplemental standards for further regulations)."

FROM:

"Sec. 3-58. – NC, Neighborhood Center District

(4) *Site development standards.*

a. Story. Buildings shall be at least two stories. Office, commercial and retail, residential, civic or finished attic space, or facade design above the ground floor shall count as a second story when more than 50 percent of the building footprint is encompassed by the space. Each upper story shall be a minimum of eight feet in height.

b. Mixed use. Buildings are encouraged to be vertically mixed use in design and character. Horizontal mixed use development is encouraged on a site that cannot otherwise accommodate vertical mixed use. Commercial and retail uses shall be located on the ground floor of a multi-story building. Office uses should be located on higher floors, while residential may exist on any level. When residential is part of the mix of uses, it can be no less than 20 percent or more than 80 percent, whether vertical or horizontal in form and function.

c. Green designation. Buildings that pursue a height bonus and which exceed two stories shall pursue green designation per the requirements of article V of this chapter.

d. Buildings fronting Old Cutler Road . Buildings which are located on Old Cutler Road shall be required to provide an outdoor plaza and/or an area for seating or cafe tables between the building and the right-of-way. No single tenant in a building fronting Old Cutler Road shall exceed 25,000 square feet in size."

TO:

"Sec. 3-58. – NC, Neighborhood Center District

(4) *Site development standards.*

a. Story. Buildings shall be at least two stories. Office, commercial and retail, residential, civic or finished attic space, or facade design above the ground floor shall count as a second story when more than 50 percent of the building footprint is encompassed by the space. Each upper story shall be a minimum of eight feet in height.

b. Mixed use. Buildings are encouraged to be vertically mixed use in design and character. Horizontal mixed use development is encouraged on a site that cannot otherwise accommodate vertical mixed use. Commercial and retail uses shall be located on the ground floor of a multi-story building. Office uses should be located on higher floors, while residential may exist on any level. In the Neighborhood Center 1 (NC-1) zoning district, ~~W~~when residential is part of the mix of uses, it can be no less than 20 percent or more than 80 percent, whether vertical or horizontal in form and function.

c. Green designation. Buildings that pursue a height bonus and which exceed two stories shall pursue green designation per the requirements of article V of this chapter.

d. Buildings fronting Old Cutler Road . Buildings which are located on Old Cutler Road shall be required to provide an outdoor plaza and/or an area for seating or

cafe tables between the building and the right-of-way. No single tenant in a building fronting Old Cutler Road shall exceed 25,000 square feet in size."

AND

FROM:

"Sec. 3-58. – NC, Neighborhood Center District

(5) *Table of Standards.*

Standard	NC-1	NC-2
Maximum lot area (square feet)	NA	NA
Maximum floor area ratio	1.6	0.4
Maximum floor area ratio with green bonus	2.0	0.5
Maximum density (units per acre)	15	NA
Maximum density with green bonus	30	NA
Maximum height (feet)	35	35
Maximum frontage height with green bonus	48	NA
Number of stories	3	2
Number of frontage stories with green bonus	4	NA
Adjoining residential zoning height (feet)	35	NA
Number of stories	3	
Building Frontage (percent)		
Along primary street	70	NA
Along secondary street	50	
Principal structure setbacks (feet)		
Front (maximum)	20	20
Side street	15	15
Interior side	0	0
Rear	20	20
Rear (abutting an alley)	0	0
Setbacks fronting Old Cutler Road when right-of-way is less than 100 feet, as measured from the edge of pavement		

Front (minimum)(feet)	12	NA
Front (maximum)(feet)	20	NA
Maximum impervious surface coverage (percent)	70	70
Minimum lot width (residential) (feet)	25	NA
Minimum lot depth (feet)	NA	NA
Open space (percent)	5	NA
In the form of courtyards, gardens, colonnade, forecourt, balconies, plazas or squares		
Encroachment into ROW (feet)		
Balcony	5	
Awning	5	
Accessory structure height (feet)	6	NA
Only permitted in rear yards of townhomes	6	NA

TO:

"Sec. 3-58. – NC, Neighborhood Center District

(5) *Table of Standards.*

Standard	NC-1	NC-2
Maximum lot area (square feet)	NA	NA
Maximum floor area ratio	1.6	~~0.4~~ 0.5
Maximum floor area ratio with green bonus	2.0	0.5
Maximum density (units per acre)	15	~~NA~~ 4
Maximum density with green bonus	30	NA
Maximum height (feet)	35	35
Maximum frontage height with green bonus	48	NA
Number of stories	3	2
Number of frontage stories with green bonus	4	NA

Adjoining residential zoning height (feet)	35	~~NA~~ 35
Number of stories	3	2
Building Frontage (percent)		
Along primary street	70	~~NA~~ 35
Along secondary street	50	40
Principal structure setbacks (feet)		
Front (maximum)	20	~~20~~ 15
Side street	15	15
Interior side	0	0
Rear	20	~~20~~ 15
Rear (abutting an alley)	0	0
Setbacks fronting Old Cutler Road when right-of-way is less than 100 feet, as measured from the edge of pavement		
Front (minimum)(feet)	12	NA
Front (maximum)(feet)	20	NA
Maximum impervious surface coverage (percent)	70	70
Minimum lot width (residential) (feet)	25	50
Minimum lot depth (feet)	NA	NA
Open space (percent)	5	~~NA~~ 5
In the form of courtyards, gardens, colonnade, forecourt, balconies, plazas or squares		
Encroachment into ROW (feet)		
Balcony	5	
Awning	5	
Accessory structure height (feet)	6	NA
Only permitted in rear yards of townhomes	6	NA

The proposed amendment to Section 3-58 (1) is simply meant to resolve an internal inconsistency in the NC regulations, which while appearing to allow residential uses in the zoning district (even to the point of providing required lot dimensions), currently only lists "multifamily within a vertical mixed use development" as a permitted use. Because of the location of the Property, in a much more residential area than the existing NC-1 zoned parcels in the Town, the proposed amendment would keep low density at 4 dwelling units per acre, while making a slight additional floor area allowance than currently permitted, to allow and promote a more robust retail presence. The 2 story/35 feet height restriction, which again is sensitive to the surrounding

community, as well as the fact that floor area ratio is measured project wide, would maintain a sensible cap on the overall amount of permitted development.

As depicted in the site plan filed by the Applicant, the development program would meet all of the requirements of the NC-2 zoning regulations, as amended. The result will be a well-balanced, fully integrated mixed use project that will serve the needs of the Town's growing diverse community, by contributing to the Town's economic prosperity and viability by creating much-needed jobs, improving access to quality housing and retail, cultivating the aesthetic character of the surrounding neighborhood, preserving property values, and increasing the Town's ad valorem tax base. Perhaps most importantly, however, the development of the Property under the revised NC-2 regulations would fulfill the vision of the Town, as expressed through the Growth Management Plan and the Town Code, to promote sensible and sustainable mixed use development.

Based on the foregoing, we would request the Town's favorable consideration of our proposed amendment to Sections 3-58 (1) and 3-58(5) of the Town Code.

Respectfully submitted,

HOLLAND & KNIGHT LLP

Alejandro J. Arias

JJM:sf

Department of Regulatory and Economic Resources
Environmental Resources Management
Code Coordination and Public Hearings
701 NW 1st Court 4th Floor
Miami, Florida 33136-3912
T 305-372-6764 F 305-372-6759

miamidade.gov

April 15, 2019

Kathryn Lyon, Planning and Zoning Director
Town of Cutler Bay
10720 Caribbean Boulevard, Suite 105
Cutler Bay, FL 33189

Re: Municipal Site Plan Review #MZ2019000003-1st Revision
Arc/Treo 216, LLC
SW 216th Street, between SW 92nd Avenue and SW 89th Place
Cutler Bay, Florida
Town of Cutler Bay Site Plan SP-2018-038

Dear Ms. Lyon:

The Department of Regulatory and Economic Resources – Division of Environmental Resources Management (DERM) has reviewed the above referenced Municipal Site Plan Review for compliance with the requirements of Chapter 24 of the Miami-Dade County Code (the Code) for potable water service and wastewater disposal. Based on the information provided, this site plan review is approved pursuant to Section 24-43.1 the Code. With respect to other issues discussed herein DERM does not object to this application provided that all the conditions contained herein are complied with.

Potable Water Supply and Wastewater Disposal
Public water and public sanitary sewers can be made available to the subject property. Therefore, connection of the proposed development to the public water supply system and sanitary sewer system shall be required in accordance with Code requirements.

The property owner has submitted an executed covenant running with the land in compliance with Section 24-43.1(6)(c) of the Code confirming that the proposed development will be connected to the public water supply and sanitary sewer system.

Be advised that the required water main extension permit is issued by the Florida Department of Health. Civil drawings for the water main extension will need to be approved by the Miami-Dade Water and Sewer Department and the Environmental Permitting Section of RER.

Civil drawing for the required sewer main extension will need to be approved by Miami-Dade Water and Sewer Department and the Water and Wastewater Division of DERM prior to approval of final development orders.

Notwithstanding the foregoing, and in light of the fact that the County's sanitary sewer system has limited sewer collection, transmission, and treatment capacity, no new sewer service connections can be permitted, unless there is adequate capacity to handle the additional flows that this project would generate. Consequently, final development orders for this site may not be granted if adequate capacity in the system is not available at the point in time when the project will be contributing sewage to the system. Lack of adequate capacity in the system may require the approval of alternate means of sewage disposal. Use of an alternate means of sewage disposal may only be granted in accordance with Code

requirements, and shall be an interim measure, with connection to the public sanitary sewer system required upon availability of adequate collection/transmission and treatment capacity.

Stormwater Management
Applicant is advised that an Environmental Resource Permit modification from the South Florida Water Management District (1-800-432-2045) may be required for the construction and operation of the required surface water management system. It is the applicant's responsibility to contact the above-mentioned agency for further information regarding permitting procedures and requirements.

Stormwater should be retained on site utilizing designed seepage or infiltration drainage system. Drainage plans shall provide for full on-site retention of the stormwater runoff generated by a 5-year/1-day storm event.

Applicant is advised that the proposed surface water management system must be approved by the DERM's Pollution Remediation Section (PRS). Please contact the PRS at (305)372-6700 for additional information.

Additionally, a Class VI Permit shall be required for the construction of the proposed surface water management system. Please contact DERM's Water Control Section (305-372-6681) for additional information.

The review of the above noted plans shall not constitute DERM approval of paving and drainage plans. Paving and drainage plans shall be reviewed and approved by the RER Environmental Plan Review office.

Pollution Remediation
The site has records of current contamination issues under Vista Del Lago (DERM file HWR-566). Any construction, development, drainage, and dewatering at the subject site will also require DERM review and approval as it relates to environmental contamination issues.

Wetlands
The subject property is located within the Southwest Biscayne Bay Wetland Basin, and contains wetlands as defined by Section 24-5 of the Code. Class IV Permit CLIV06-089 was issued on June 6, 2007 and expired on June 6, 2009. A final inspection conducted on June 9, 2009 indicates that the work authorized in this permit never occurred. Therefore, a Class IV permit will be required before any work occurs in wetlands on the property.

DERM has no objection to this application provided the applicant acquires all permits prior to the initiation of any work on the subject property. A full evaluation of the resources is performed during the permitting process. While every effort is made to notify the applicant of all requirements at this time, the full permit evaluation may require that site plans be changed to preserve unique biologic resources.

The DERM Coastal and Wetland Resources Section (305-372-6585) may be contacted for further information concerning the wetland permitting requirements.

The applicant is advised that permits from the Army Corps of Engineers (305-526-7181), the Florida Department of Environmental Protection (561-681-6600) and the South Florida Water Management District (1-800-432-2045) may also be required for the proposed project. It is the applicant's responsibility to contact these agencies.

Tree Preservation

A review of the subject properties revealed the presence of tree resources and wetlands. Please be advised that tree resources that lie within wetlands areas will be regulated through a Class IV Wetlands Permit; however, any tree resources within areas not designated as wetlands will require a Miami-Dade County Tree Removal Permit prior to removal and/or relocation.

A Miami-Dade County Tree Permit is required prior to the removal and/or relocation of any tree that is subject to the tree preservation and protection provisions of the Code. Projects and permits shall meet the requirements of Sections 24-49.2 and 24-49.4 of the Code, specifically the specimen tree standards. Should the applicant require impacts to specimen trees (trunk diameter equal to or greater than 18 inches), substantive changes to the site plan pursuant to the specimen tree standards outlined in Section 24-49.2(II)(2) of the Code shall be made. The applicant is advised that a tree survey that includes a tree disposition table may be required prior to reviewing the tree removal permit application. A recommendation of approval is contingent on the applicant obtaining a permit.

It is advised that pursuant to Policy Con-8I of the CDMP and Section 24-49.9 of the Code, should there be exotic pest plant and nuisance species as listed in Section 24-49.9 of the Code present on the subject property, they shall be removed prior to development or redevelopment and developed property shall be maintained to prevent the growth or accumulation of prohibited species.

Please contact DERM's Tree and Forest Resources Section at (305)372-6574 for additional information regarding tree permitting procedures and requirements.

Enforcement History

The subject property has no closed and one (1) open enforcement records for violations of Chapter 24 of the Code:

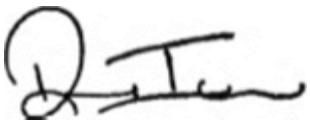
Vista Del Lago (DERM file HWR-566): On February 26, 2016, a Notice of Violation (NOV) was issued for failure to submit to DERM a Quarterly Sampling Report (QSR) for contamination on the subject property. DERM received a QSR, which was approved, and the case was closed on October 5, 2016. Due to non-compliance with a letter dated September 18, 2017 issued by DERM regarding requirements for completion of a No Further Action with Conditions Closure (NFAC), this case was reopened, and a NOV was issued on October 9, 2018 followed by a Final Notice Prior to Court Action (FNPTCA) on November 29, 2018. This case remains open.

Please contact the DERM's Environmental Monitoring & Restoration Division at (305)372-6700.

In summary, this letter shall constitute written approval for this municipal site plan review to the extent required by Chapter 24 of the Code.

If you have any questions concerning the comments or wish to discuss this matter further, please contact Christine Velazquez at (305) 372-6764.

Sincerely,



Rashid Istambouli, P.E.
Department of Regulatory and Economic Resources

Concurrency Management System (CMS)

Miami Dade County Public Schools

Miami-Dade County Public Schools

Concurrency Management System
School Concurrency Determination

MDCPS Application Number:	SP3618120407564	Local Government (LG):	Cutler Bay
Date Application Received:	12/4/2018 11:44:20 AM	LG Application Number:	SP2018038
Type of Application:	Site Plan	Sub Type:	Public

Applicant's Name: Arc/Treo 216, LLC
Address/Location: 2950 SW 27 Ave, Ste 100, Miami, FL 33133
Master Folio Number: 3660160000027
Additional Folio Number(s):

PROPOSED # OF UNITS: 70

SINGLE-FAMILY DETACHED UNITS: 70

SINGLE-FAMILY ATTACHED UNITS: 0

MULTIFAMILY UNITS: 0

CONCURRENCY SERVICE AREA SCHOOLS						
CSA Id	Facility Name	Net Available Capacity	Seats Required	Seats Taken	LOS Met	Source Type
5981	DR EDWARD L WHIGHAM ELEMENTARY	53	13	13	YES	Current CSA
6111	CUTLER BAY MIDDLE	384	7	7	YES	Current CSA
7731	MIAMI SOUTHRIDGE SENIOR	111	8	8	YES	Current CSA
ADJACENT SERVICE AREA SCHOOLS						

*An Impact reduction of 25.28% included for charter and magnet schools (Schools of Choice).

MDCPS has conducted a public school concurrency review for this application and has determined that it **DOES MEET (Concurrency Met)** all applicable LOS Standards for a Final Development order as adopted in the local Government's Educational Element and incorporated in the Interlocal Agreement for Public School Facility Planning in Miami-Dade County.

Master Concurrency Number:	MA3618120407564	Total Number of Units:	70
Issue Date:	12/5/2018 12:05:56 PM	Expiration Date:	12/5/2019 12:05:56 PM
Capacity Reserved:	Elementary:13 / Middle:7 / Senior: 8		

MDCPS Administrator

MDCPS Authorized Signature

1450 NE 2 Avenue, Room 525, Miami, Florida 33132 / 305-995-7634 / 305-995-4760 fax / concurrency@dadeschools.net

TOWN OF CUTLER BAY
DEVELOPMENT REVIEW COMMENTS

Discipline:	***Traffic Engineering***
Reviewed by:	***Eric Czerniejewski, PE, ENV SP***
Review Date:	***04/22/19***
Phone:	*(954) 921-7781*
Fax:	*(954) 921-8807*
Application:	***Site Plan Amendment***
Project Name:	***Pelican Bay***
Project Number:	***18-1427***

Comments Based on Plan Submittal: 3rd submittal

_____ *No comments*
__X__ *Comments as follows or attached*

---

1. Please address comments provided by Miami Dade County Public Works and Waste Management Traffic Engineering Division.

   Langan 12/13/18 Response: The proposed development consists on the same type of uses with less intensity than the previously approved Vista del Lago project and is expected to generate fewer trips. The county will not require a revised traffic study.

   CGA 02/08/19 Response: Addressed. Please provide details regarding approval by Miami Dade County Public Works and Waste Management Traffic Engineering Division of the proposed eastbound right turn lane and westbound left turn lane on SW 216th Street as well as any required turn lane extensions on Miami Dade County maintained roadway facilities.

   Langan 04/04/19 Response: The county approved the traffic study and site plan for the previous project (Vista Del Lago) that included the proposed westbound left-turn lane on SW 216th Street at our project driveway. The county will review and approved the turn-lane design during their review of the paving and drainage plans.

   CGA 04/22/19 Response: Addressed.

2. Please update label on the site plan from Vista De Lago to Pelican Bay. *Langan 12/13/18 Response: The proposed Site Plan shown in Appendix B is labeled as Pelican Bay. No revisions were required.*

   CGA 02/08/19 Response: Addressed.

3. Please update Scope of Study section to specify the date of the methodology memo for this project. The approved methodology memo had a different land use breakdown for the Vista De Lago project.

   Langan 12/13/18 Response: We amended the report to specify the date of the methodology and to note the difference of the land use breakdown between the proposed project and Vista del Lago. The difference is also mentioned on the Executive Summary section of the report.

   CGA 02/08/19 Response: Addressed.

4. Please specify in the Background Traffic Conditions if there are committed trips from approved but unbuilt development projects that need to be included in the traffic analysis per the Town of Cutler Bay. It is my understanding that the recent nearby Publix project was recently approved by the Town Council. Please update the traffic analysis accordingly.

   Langan 12/13/18 Response: We amended the report, figures, capacity analysis and appendices to include the committed development trips from the recently approved Shoppes at Cutler Bay project.

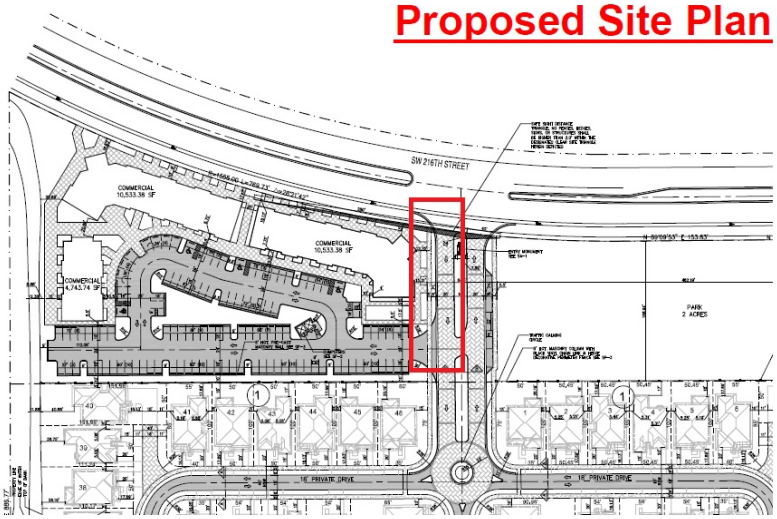
   CGA 02/08/19 Response: Addressed.

5. Please provide additional narrative in the driveway analysis section of the traffic study that discusses the left turn lane analysis and warrant at the main driveway for the proposed Pelican Bay site. The Executive Summary and Conclusions section references the westbound left turn lane but a detailed analysis is not provided.

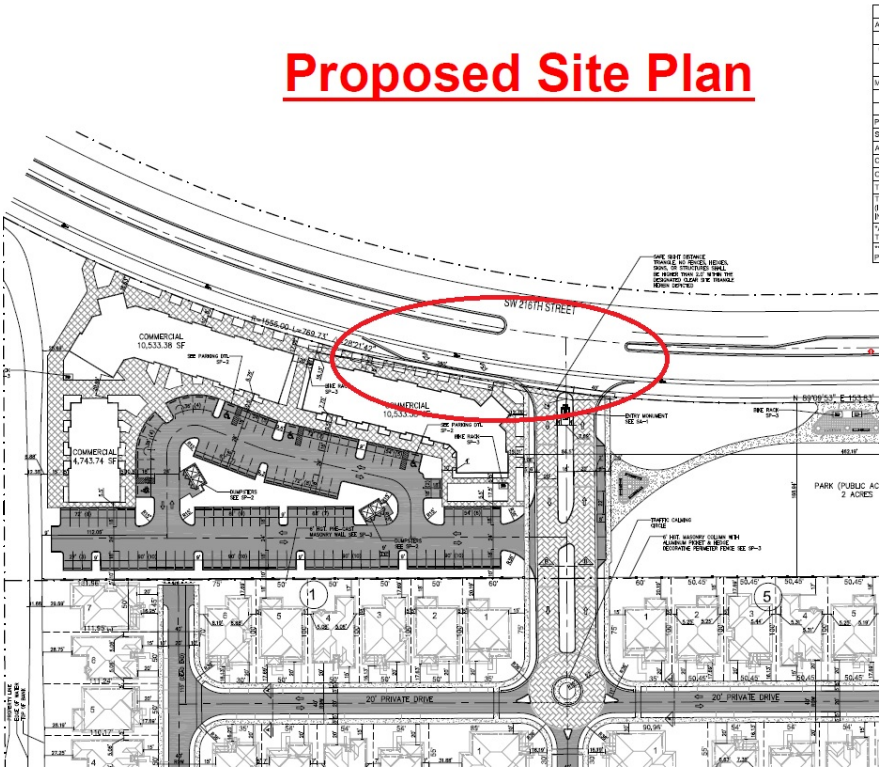
   Langan 12/13/18 Response: The county requires a left-turn lane at existing median openings where the number of peak-hour left-turns is 25 vehicles or more. Appendix G includes the intersection analysis capacity report for the proposed driveway connection. The Vista del Lago project was approved with the proposed westbound left-turn by Miami Dade Traffic Engineering Division. No revisions were required.

   CGA 02/08/19 Response: Addressed.

6. Please consider providing an eastbound right turn lane as well into the primary driveway entrance. The eastbound right turn volume is 75 vehicles in the PM which is near the threshold of 80 vehicles for a warranted right turn lane. The current site plan includes an east-west internal drive aisle that is offset by only a couple vehicle lengths from 216th Street which could create vehicles stacking into the public right-of-way.



Langan 12/13/18 Response: The site plan was revised to show the right-turn lane on SW 216th Street for the development's main driveway.



CGA 02/08/19 Response: Addressed. Please provide label with details regarding storage length and taper length of the new turn lane on the site plan and pavement marking and signage plan.

7. Please update the LOS D capacity in Table 6 for SE 216th Street from 2,000 to 1,630. Per the FDOT Quality/LOS Handbook Table 7 for a four-lane roadway at 35 mph or less, the LOS D capacity is 1,630.

   Langan 12/13/18 Response: We revised Table 6 of the report to update the roadway capacity of SW 216th Street from 2,000 to 1,630.

   CGA 02/08/19 Response: Addressed.

8. The level of service for the roundabout at Old Cutler Road and SW 87th Avenue is failing in the PM peak hour and there appears to be traffic operational issues for some of the movements. Roundabouts should be designed to operate at no more than 85 percent of their estimated capacity. When traffic flows on an approach exceed approximately 85 percent of capacity, delays and queue lengths very significantly about their mean values. Please provide field observations during the peak hours to confirm the traffic conditions for the roundabout approaches in the AM peak hour (NB left) and the PM peak hour (WB left and SB left).____Please update the narrative to define the date and time the field observations were made at the intersection of Old Cutler Road and SW 87th Avenue. Please note that recent aerial drone images were collected for the roundabout at Old Cutler Road and SW 87th Avenue for the Old Cutler Properties development project that can be referred to as well.

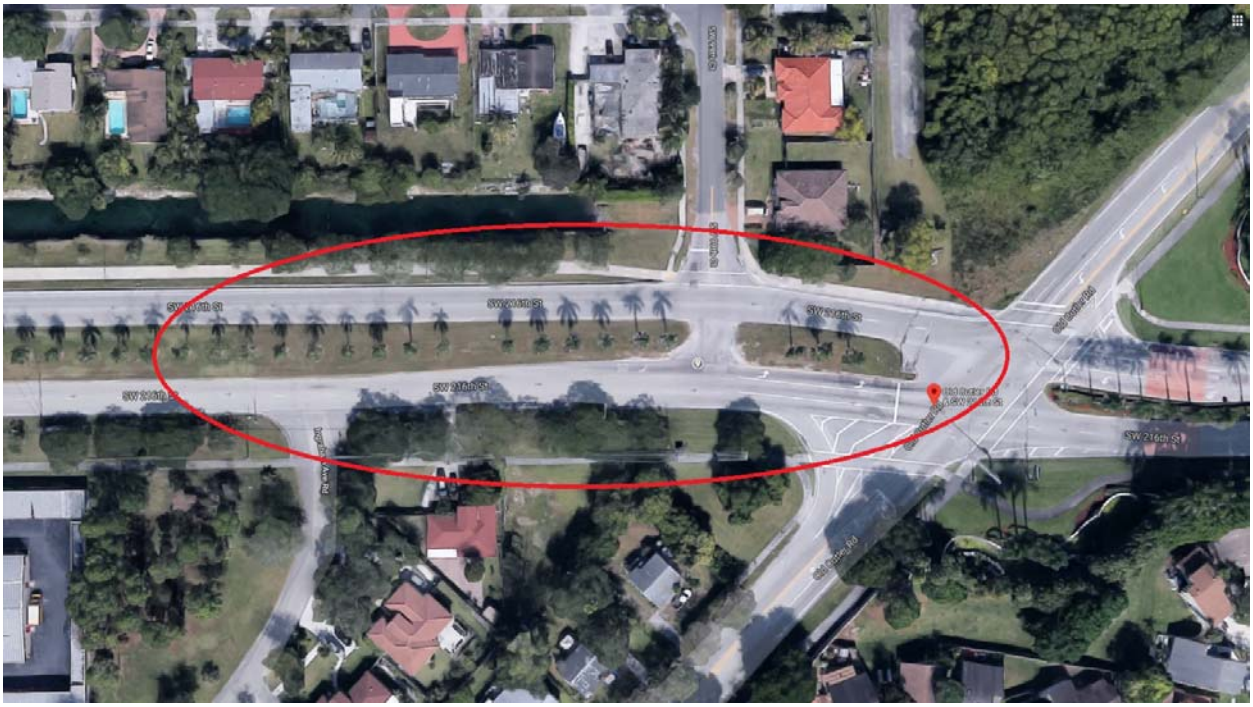
   Langan 12/13/18 Response: We amended the report to include the field observations conducted at the intersection of Old Cutler Road and SW 87th Avenue. The field observations verified that the estimated queue lengths observed during the peak-hour field observations was consistent with the 95th percentile queues of the no-build analysis. We noted also that, despite the queue lengths, traffic continued to flow through the intersection with minimal vehicle delays and recommend that the roundabout remain at the intersection.

   CGA 02/08/19 Response: Addressed.

9. Please provide a table that summarizes the 95th percentile vehicle queue stacking for the key add turn lanes for each approach of the intersections that were analyzed. Please provide the Synchro Queue reports for each intersection for each scenario in the resubmitted traffic study. Please also ensure that these exhibits/tables include the most current LOS and delay information from the submitted Synchro reports for each intersection for each scenario. For instance, at the roundabout at Old Cutler Road and SW 87th Avenue, the Synchro Reports indicate that there is 255.9 seconds of delay and 32 vehicles stacking/queuing in the PM peak hour for the SB left turn movement. A narrative should be added to the Roadway Capacity Analysis for Future Conditions that addresses any 95th percentile vehicle queue that extends past the existing turn lane storage length provided at each intersection.

Langan 12/13/18 Response: We amended Appendix G to include the summary tables showing the 95th percentile queues for turn-lanes at each intersection and scenario.

CGA 02/08/19 Response: This item is still pending. Please provide narrative in the Roadway Capacity Analysis section that provides details regarding turn lane extensions required due to vehicle stacking past the existing turn lane storage. For example, turn lane extensions will be required for the eastbound left turn lane on SW 216th Street at Old Cutler Road. Please provide aerial drone image during existing peak hour to confirm existing vehicle stacking at the subject intersections.



Langan 04/04/19 Response: We collected drone video of the eastbound left-turn movement at the intersection of SW 216th Street and Old Cutler Road and found that the queue during the morning peak hour extends up to the beginning of the taper for this turn lane. The developer has agreed to lengthen the eastbound exclusive left-turn lane at the intersection of SW 216th Street and Old Cutler Road (by approximately 200 feet) to meet the current and future peak hour demands even though this project does not assign traffic to this left-turn movement. We stated in the report that a copy of the drone video was forwarded to you.

CGA 04/22/19 Response: Addressed.

10. Please provide safe pedestrian crossings using pavement markings and signage per MUTCD for pedestrians at the main intersection between street type D and street type E roadways near the open space and pool cabana area. Please clarify the traffic control proposed at the internal intersections of the development site as part of the pavement marking and signage plan. Please ensure that appropriate Do Not Enter and One-Way signage is placed on the street type A roadways at the main entrance.

    Langan 12/13/18 Response: Acknowledged.

    CGA 02/08/19 Response: Addressed.

11. Please provide a travel time and delay study for existing conditions during the AM and PM peak hour periods for the Old Cutler Road segment between SW 216th Street and SW 87th Avenue. Please ensure that travel speeds are also collected along this road segment.

    Langan 04/04/19 Response: We conducted a travel-time delay study on Old Cutler Road between SW 87th Avenue and SW 216th Street and found that the average speeds on Old Cutler Road are at LOS D or better during the morning and afternoon peak hours. The data is included as an appendix to the report.

    CGA 04/22/19 Response: Addressed. Clarification regarding the correlation between the travel time and delay data in Appendix J (NB/SB) versus the link/capacity analysis results in table 6 (EB/WB) should be provided by the applicant team for the public hearing.

Date: April 22, 2019

Eric S. Czerniejewski, P.E., ENV SP

Director of Traffic Engineering