



***Application No.: FLUT-2018-040***

**Attachment "B"**

**Letter of Intent/Application**

**Pelican Bay Amend LBB Mixed Use**

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE TOWN'S COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT MIXED USE CATEGORY LAKES-BY-THE-BAY TO PERMIT RESIDENTIAL USES AS A PART OF A MIXED USE PROJECT; PROVIDING FOR TRANSMITTAL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.



DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING AND ZONING

Text Change to Town Growth Management Plan  
**APPLICATION FOR**

**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: FL 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)

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**12. PRESENT ZONING AND FLU CLASSIFICATION:** FLU - Mixed Use ; Zoning - NC-2

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

Text Amendment to Town of Cutler Bay Growth Management Plan - "Mixed Use: Lakes-by-the-Bay Site"  
Please see Letter of Intent.

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**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:

Arc/Treo 216, LLC, 6/21/18, Item #2017-096, Text Amendment to Town of Cutler Bay Growth Management Plan.

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Item was withdrawn by Applicant. 4/18/18, Item #2018-093, denied.

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**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:

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

N/A

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**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:**

- ☒ Letter of intent
- ☒ Justifications for change
- ☐ Statement of hardship
- ☒ Proof of ownership or letter from owner
- ☐ Power of attorney
- ☐ Contract to purchase (if applicable)
- ☒ Current survey (2 original sealed and signed and 10 reduced 11x17 copies)
- ☒ 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)
- ☒ 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.

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### 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: \_\_\_\_\_



Sworn to and subscribed to before me

This 13 day of July, 2018

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Office Held

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.

By \_\_\_\_\_ %  
By \_\_\_\_\_ %

\_\_\_\_\_  
(Name of Partnership)

By \_\_\_\_\_  
By \_\_\_\_\_

Sworn to and subscribed to before me  
This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Notary Public: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

\*\*\*\*\*

### ATTORNEY AFFIDAVIT

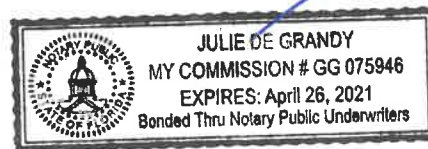
I, Hugo P. Arza, Esq., being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.



\_\_\_\_\_  
Signature

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

Notary Public:   
Commission Expires: \_\_\_\_\_







### **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 fees 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 3<sup>rd</sup> 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. 3<sup>rd</sup> DCA 2002), the 3<sup>rd</sup> 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

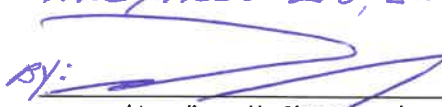






reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. And that Legal Counsel must carry a cover letter indicating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





### 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 27th Ave. Suite City: Miami

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

Date of Birth: \_\_\_\_\_

ARG-TREO 216, LLC

Signature ROLANDO DELGADO, MANAGER

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

[Signature]  
Notary Public, State of Florida at Large

My Commission expires July 16 20 19



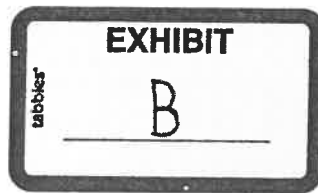
Pursuant to Ordinance No. 2000-09-33-Cost Recovery

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. 216th 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 N 89°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

<u>Managing Member</u>	<u>Percentage Interest</u>
ARC TREO, LLC	20%
<u>Members</u>	<u>Percentage Interest</u>
ARC TREO, LLC	12%
ARN Investments Group, LLC	3%
Emilio & Haymet Sauma	3%
Francisco R. Diaz	3%
Joauli 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%
<i>Total</i>	<i>100%</i>

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	<u>12.5%</u>
	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  
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 / Request for Text Amendment to the Town's Growth Management Plan / Letter of Intent**

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"). The Property is commonly known as the "Lakes-by-the-Bay" mixed use parcel. This letter shall serve as the Applicant's letter of intent in support of an application for an amendment to the text of the Town's Growth Management Plan, as it applies to the "Lakes-by-the-Bay Mixed-Use" land use category:

FROM:

"Lakes-by-the-Bay Mixed-Use Site

Commercial, office, community facilities, and recreation open space uses that serve the surrounding residential communities. Floor Area Ratio of .5, maximum building height of two stories, 35 feet. Architectural features can exceed maximum height limitations."

TO:

"Lakes-by-the-Bay Mixed-Use Site

Commercial, office, community facilities, and recreational open space uses that serve the surrounding residential communities, as well as residential uses as part of a mixed use project. Floor Area Ratio (FAR) of .5, residential density of no more than 4 units per gross acre, maximum building height of two stories, 35 feet. Architectural features can exceed maximum height limitations."



Ms. Kathryn Lyon  
 Planning and Zoning, Director  
 July 24, 2018  
 Page 2

Request. In order to efficiently use land resources and accommodate the projected operational needs for the proposed residential development, the Applicant respectfully requests approval of the proposed text change to the Town's Growth Management Plan. In considering an amendment to the text of the Growth Management Plan, the Town must take into consideration the multiple needs of the Town's growing and diverse community. The primary intention of the Growth Management Plan is to protect the public health, safety and welfare of the Town and its residents. This often requires a balancing of competing goals, objectives, and policies of the Growth Management Plan. The policies that are most in line with the proposed amendment are as follows:

- **Policy FLU-4B:** The Town shall ensure the provision of multi-modal transportation access between its residential neighborhoods, the Town Center, and mixed-use districts along US-1 and Old Cutler Road; and

**Policy H1-1C:** The Town shall encourage housing proximate to transit and employment centers by allowing residential development at appropriate densities along transit corridors.

*All public services and facilities, including transit services, required to serve the Property are available or can be made available to the Property. The Property is served by the Cutler Bay local bus service, a joint Town of Cutler Bay – Miami-Dade County bus service that connects the rest of the Miami-Dade County Transit System and provides access to all points in the County. Additionally, the Project is served by County Metrobus Route 287, which connects South Dade Health Center and Dadeland South Metrorail Station via US-1, SW 168 Street, SW 87 Avenue, and SW 216 Street. There is a stop located just west of the Property at SW 92 Avenue, and another to the east at SW 89 Place.*

- **Policy FLU-4C:** Development and redevelopment in the residential districts shall be regulated to ensure compatibility with the existing neighborhood, implement the recommendations or neighborhood improvement plans or initiatives that may be adopted, and prevent the encroachment of incompatible uses. When considering redevelopment proposals, maintaining consistency with existing densities and intensities shall be a major factor. Please see Objective LU-5 and its implementing policies for information regarding development compatibility criteria.

*The proposed mixed-use Project will be wholly compatible with the existing neighborhood, which is primarily developed with single-family, townhouse and multi-family neighborhoods, and will further serve to provide Town residents with a balanced mix of commercial and residential uses, without negatively impacting the surrounding neighborhood. Additionally, the unique nature of the Property which is entirely surrounded by an existing lake, further ensures compatibility to adjoining communities by providing a natural buffer from other uses.*

Ms. Kathryn Lyon  
 Planning and Zoning, Director  
 July 24, 2018  
 Page 3

- **Policy FLU-4D:** The Town shall implement strategies to improve residential neighborhoods.

*The Property will be developed in a manner consistent with the high quality of development that is representative of the Town of Cutler Bay, and will incorporate beautiful architecture, world-class design elements, and high-end materials and finishes. The Project will also provide the surrounding residential communities with much-needed neighborhood-serving retail and service uses, a tremendous and much-needed park and open space area, and will encompass sufficient off-street parking spaces to accommodate the Project's operational demand, well in excess of the Town's requirements. The proposed development will also meet all of the Town's FAR, lot coverage, and open space requirements, and will only further the quality of existing neighborhoods and development.*

- **Policy FLU-5B:** Development and redevelopment in the Town shall provide for pedestrian friendly street design, an interconnected street network and hierarchy to reduce congestion and improve traffic flow, design that promotes the use of non-motorized transportation modes, connectivity to transit, and a range of uses in a compact area to reduce the need for external trips.

*The proposed Project encompasses extensive sidewalks around the Property, and will serve to improve the Town's transportation infrastructure and help to encourage transit ridership, bicycling, and a quality pedestrian experience. The unification of the Property into one unified site plan will also reduce traffic congestion and improve traffic circulation both internally to the Project and in the surrounding community. Additionally, the project is served by a number of Metrobus routes and there is a stop located just west of the Property at SW 92 Avenue, and another to the east at SW 89 Place.*

- **Policy FLU-5F:** The Town shall require aesthetically pleasing and environmentally sensitive landscaping as an important component of development and redevelopment projects. To the maximum extent feasible, existing on-site native vegetation shall be preserved.

*In addition to the beautiful design elements of the Project, the Project will also feature a meticulously landscaped perimeter and an approximately 2 acre park and open green space, which will include a significant amount of native trees and shrubs.*

- **Policy FLU-5I:** The Town shall ensure that any applications to amend the Growth Management Plan and/or Future Land Use Map are reflective of the community's vision as expressed in this Plan or special neighborhood plans, and will not result in increased sprawl.

*The proposed Project design and functional layout will represent the most appropriate use that will be compatible with the area, and which will not result in increased sprawl. Ultimately, the Project will provide a new and diverse commercial and residential mixed-use product, which will only serve to beautify and enhance the surrounding community.*

Ms. Kathryn Lyon  
Planning and Zoning, Director  
July 24, 2018  
Page 4

- **Policy I1-2A:** The Town will encourage future development into areas that are already served, or programmed to be served by County WASD potable water facilities.

*Connection with water and sewer is available or may be readily available at the Applicant's expense. The Applicant will also meet or exceed County requirements to ensure adequate facility capacity for the development.*

It is the Applicant's goal to design a site plan and development program and to develop the Property with the most appropriate uses that will be compatible with the area. Additionally, the Project will contribute to the Town's economic prosperity and viability by creating much-needed jobs, improving access to quality retail and housing, cultivating the aesthetic character of the surrounding neighborhood, preserving property values, and increasing the Town's ad valorem tax base.

Based on the forgoing, we look forward to your favorable consideration of this Application. Thank you for your help and should you have any questions or comments please feel free to contact me at (305) 789-7446.

Respectfully submitted,

HOLLAND & KNIGHT LLP



Alejandro J. Arias, Esq.


**Department of Regulatory and Economic Resources**

Environmental Resources Management  
 Code Coordination and Public Hearings  
 701 NW 1<sup>st</sup> Court 4<sup>th</sup> 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 #MZ2019000003-1<sup>st</sup> Revision  
 Arc/Treo 216, LLC  
 SW 216<sup>th</sup> Street, between SW 92<sup>nd</sup> Avenue and SW 89<sup>th</sup> 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.





Town of Cutler Bay #MZ2019000003

ARC/Treo 216, LLC

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

Sincerely,

A handwritten signature in black ink, appearing to read "R. Istambouli".

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

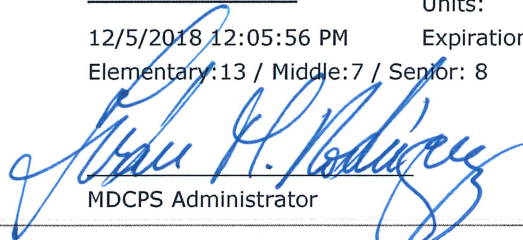
CSA Id	Facility Name	Net Available Capacity	Seats Required	Seats Taken	LOS Met	Source Type
5981	DR EDWARD L WHIGHAM ELEMENTARY	53	13	13	YES	Current CSA
6111	CUTLER BAY MIDDLE	384	7	7	YES	Current CSA
7731	MIAMI SOUTHRIDGE SENIOR	111	8	8	YES	Current CSA

#### 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: 3<sup>rd</sup> submittal**

<u>          </u>	No comments
<u>  X  </u>	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 216<sup>th</sup> 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 216<sup>th</sup> 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 Del 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.

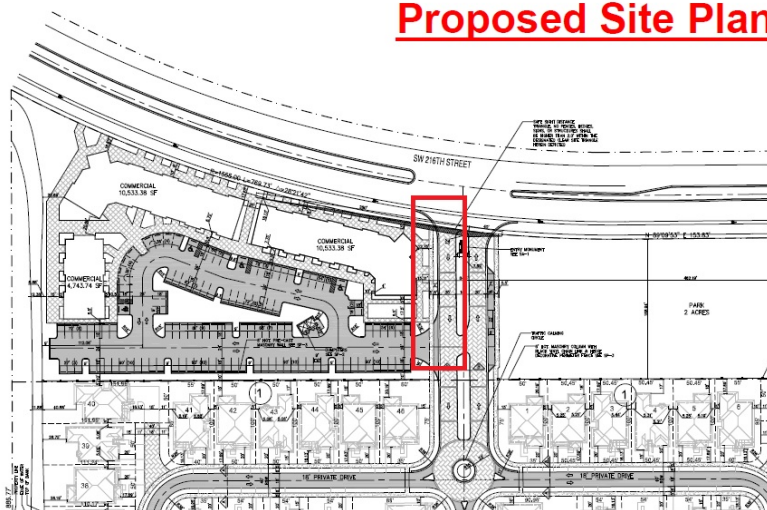
*Langan 12/13/18 Response: The county requires a left-turn lane at existing median openings where the number of peak-hour left-turns is 25 vehicles or more. Appendix G includes the intersection analysis capacity report for the proposed driveway connection. The Vista del Lago project was approved with 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 216<sup>th</sup> Street which could create vehicles stacking into

the public right-of-way.

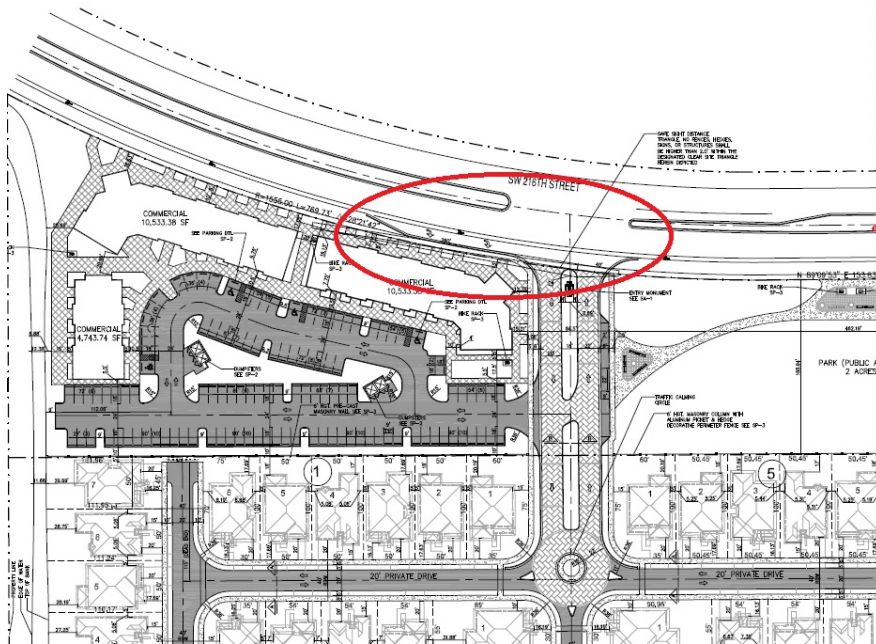
### **Proposed Site Plan**



*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.*



## Proposed Site Plan



**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 216<sup>th</sup> 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 87<sup>th</sup> 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 87<sup>th</sup> Avenue. Please note that recent aerial drone images were collected for the roundabout at Old Cutler Road and SW 87<sup>th</sup> 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 95<sup>th</sup> 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 87<sup>th</sup> 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 95<sup>th</sup> 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 95<sup>th</sup> 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 216<sup>th</sup> 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 216<sup>th</sup> 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 216<sup>th</sup> 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 216<sup>th</sup> Street and SW 87<sup>th</sup> 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 87<sup>th</sup> Avenue and SW 216<sup>th</sup> 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

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Eric S. Czerniejewski, P.E., ENV SP  
Director of Traffic Engineering