

DEFERRED ITEM

2B. KENDALL ASSOCIATES I, LLLP ET AL. Z2021000031

BCC/District 07

The application is to permit a rezoning of the subject property from GU (Interim Zoning) and EU-M (15,000 square foot lots) to PAD (Planned Area Development), which will allow the property to be developed with more residential units than currently allowed under the current zoning designation but less than allowed under the Comprehensive Development Master Plan. Additionally, the application seeks approval for the excavation of new lakes, the filling of existing lakes, provide for less private open space than required, permit 0 street trees to be provided on the individual lots, more lawn area than permitted, allow the residences to be located on private drives and to waive the required dedication for SW 132 Avenue and SW 96 Street.

- (1) DISTRICT BOUNDARY CHANGE from GU, Interim District and EU-M Estate Modified District to PAD (Planned Area Development District).
- (2) UNUSUAL USE to permit lake excavations and to permit the partial filling of existing lakes.
- (3) NON-USE VARIANCE to permit a private open space for certain units with a minimum of 82% (125% required).
- (4) NON-USE VARIANCE to permit the required street trees to be located between 10 and 12 feet from the edge of the roadway or sidewalk (7' maximum from edge of roadway or sidewalk permitted).
- (5) NON-USE VARIANCE to permit a maximum lawn area of 46% (40% maximum permitted).
- (6) NON-USE VARIANCE of zoning and subdivision regulations requiring lots to have frontage on a public right-of-way; to permit the proposed residential lots and a private recreational tract with 0' frontage (50' required) and to have access to a public street by means of a private drive.
- (7) NON-USE VARIANCE of the zoning and subdivision regulations requiring half section line rights-of-way to be 70' in width; to waive same to permit 0' dedication for SW 132 Avenue and SW 96 Street (70' required).

Plans are on file and may be examined in the Department of Regulatory and Economic Resources, consisting of thirty-six (36) sheets prepared by Ballbe & Associates, entitled "Calusa" dated stamped received 8/5/21; and fifty-six (56) sheets prepared by Kendall Associates I, LLLP, consisting of Recreational Pod Landscape Plans, with two sheets labeled LR-1 and one sheet labeled LR-3 with one sheet LR-2 (3 sheets), Typical Unit Landscape Plans LT-1 to LT-17 (17 sheets) dated revised 9-16-21, Overall Tree Plan and Landscape Legend L-1b consisting of one sheet dated last revised 9-8-21, Single Family Residence Floor Plans (21 sheets), Single Family Residence Elevations (8 sheets), Guardhouse floor plan and elevation with two sheets labeled A1 and A2 (2 sheets), and Clubhouse floor plan, elevations and roof plan with four sheets labeled A1, A2, A3, and A4 (4 sheets) dated stamped received 4/1/21; and, six (6) sheets, prepared by Parker & Yannette Design Group, entitled "Calusa Planting Plans", dated stamped received 8/5/21, for a total of ninety-eight (98) sheets. Plans may be modified at Public Hearing.

LOCATION: 9400 SW 130 Avenue and 9800 & 9810 East Calusa Club Drive, Miami-Dade County, Florida.
SIZE OF PROPERTY: 169.27 acres

Department of Regulatory and
Economic Resources
Recommendation:

Approval of request #1, subject to the Board's acceptance of the proffered covenant and PAD Agreement, and approval with conditions of requests #2 through 7.

Protests: 951

Waivers: 17

APPROVED: _____

DENIED WITH PREJUDICE: _____

DENIED WITHOUT PREJUDICE: _____

DEFERRED: _____

Deferred from October 20, 2021

DEFERRED ITEM

2C. EVANGEL CHURCH INTERNATIONAL, INC. Z2021000083

BCC/District 02

The application is to permit a rezoning of the subject parcel from EU-S (minimum 25,000 square foot lots) to RU-4 (multi-family residential, maximum of 50-units per acre) which would allow the subject property to be developed with more residential units than currently allowed. Additionally, the application seeks to delete a prior recorded covenant that restricts the property to a church use and to previously approved plans, in order to build a 236-unit multi-family residential development on the subject property, with 10% of the proposed units reserved for workforce housing. The application also seeks to permit the excavation of a proposed lake on the subject property.

- (1) DISTRICT BOUNDARY CHANGE from EU-S, Estate Use Suburban District, to RU-4, High Density Apartment House District.
- (2) UNUSUAL USE to permit a lake excavation.
- (3) DELETION of Declaration of Restrictions, recorded in Official Record Book 22520, Pages 2157 through 2161.

The purpose of request #3 is to allow the applicant to delete a prior recorded declaration of restrictions running with the land, in order to submit new site plans showing a 236-unit multi-family residential development, including workforce housing, on the subject property, to be built under the proposed zoning district regulations.

**Miami-Dade County Department of Regulatory and Economic Resources
Staff Report to the Board of County Commissioners**

PH: Z21-031

November 17, 2021

Item No. 3b

Recommendation Summary	
Commission District	7
Applicant	Kendall Associates I, LLLP ET AL
Summary of Requests	The application is to permit a rezoning of the subject property from GU (Interim Zoning) and EU-M (15,000 square foot lots) to PAD (Planned Area Development), which will allow the property to be developed with more residential units than currently allowed under the current zoning designation but less than allowed under the Comprehensive Development Master Plan. Additionally, the application seeks approval for the excavation of new lakes, the filling of existing lakes, provide for less private open space than required, permit street trees to be within 10 to 12 feet from the edge of the driveway or sidewalk on the individual lots, more lawn area than permitted, allow the residences to be located on private drives and to waive the required dedication for SW 132 Avenue and SW 96 Street.
Location	9400 SW 130 Avenue and 9800 & 9810 East Calusa Club Drive, Miami-Dade County, Florida
Property Size	169.27 Acres
Existing Zoning	GU, Interim and EU-M, Estate Modified Residential District
Existing Land Use	Vacant and Two (2) Single-Family Residences
2020-2030 CDMP Land Use Designation	Parks and Recreation and Low Density Residential (2.5-6 du/a) (see attached Zoning Recommendation Addendum)
Comprehensive Plan Consistency	Consistent with the LUP map, and the interpretative text and policies of the CDMP
Applicable Zoning Code Section(s)	Section 33-311, District Boundary Change, Section 33-311(A)(3) Special Exceptions, Unusual Uses and New Uses and Section 33-311(A)(4)(b) Non-Use Variance from other than airport regulations and (see attached Zoning Recommendation Addendum)
Recommendation	Approval of request #1, subject to the Board's acceptance of the proffered covenant and PAD Agreement, and approval with conditions of requests #2 through 7.

This item was deferred from the October 20, 2021, meeting of the Board of County Commissioners (BCC) due to lack of quorum. This report has been revised from the October report to: include an updated memorandum from DERM; revise references to the DERM memorandum in this recommendation; and revise the proposed conditions to correct scrivener's errors in the description of the site plan and to incorporate comments from the revised DERM memorandum.

REQUESTS:

- (1) DISTRICT BOUNDARY CHANGE from GU, Interim District and EU-M Estate Modified District to PAD (Planned Area Development District).
- (2) UNUSUAL USE to permit lake excavations and to permit the partial filling of existing lakes.
- (3) NON-USE VARIANCE to permit a private open space for certain units with a minimum of 82% (125% required).
- (4) NON-USE VARIANCE to permit the required street trees to be located between 10 to 12 feet from the edge of the roadway or sidewalk (7' maximum from edge of roadway or sidewalk permitted).
- (5) NON-USE VARIANCE to permit a maximum lawn area of 46% (40% maximum permitted).
- (6) NON-USE VARIANCE of zoning and subdivision regulations requiring lots to have frontage on a public right-of-way; to permit the proposed residential lots and a private recreational tract with 0' frontage (50' required) and to have access to a public street by means of a private drive.
- (7) NON-USE VARIANCE of the zoning and subdivision regulations requiring half section line rights-of-way to be 70' in width; to waive same to permit 0' dedication for SW 132 Avenue and SW 96 Street (70' required).

Plans are on file and may be examined in the Department of Regulatory and Economic Resources, consisting of thirty-six (36) sheets prepared by Ballbe & Associates, entitled "Calusa" dated stamped received 8/5/21; and fifty-six (56) sheets prepared by Kendall Associates I, LLLP, consisting of Recreational Pod Landscape Plans, with two sheets labeled LR-1 and one sheet labeled LR-3 with no sheet LR-2 (3 sheets), Typical Unit Landscape Plans LT-1 to LT-17 (17 sheets) dated revised 9-16-21, Overall Tree Plan and Landscape Legend L-1b consisting of one sheet dated last revised 9-8-21, Single Family Residence Floor Plans (21 sheets), Single Family Residence Elevations (8 sheets), Guardhouse floor plan and elevation with two sheets labeled A1 and A2 (2 sheets), and Clubhouse floor plan, elevations and roof plan with four sheets labeled A1, A2, A3, and A4 (4 sheets) dated stamped received 4/1/21; and, six (6) sheets, prepared by Parker & Yannette Design Group, entitled "Calusa Planting Plans", dated stamped received 8/5/21, for a total of ninety-eight (98) sheets. Plans may be modified at Public Hearing.

PROJECT DESCRIPTION AND HISTORY:

The 169.27-acre property is comprised of the majority of the former Calusa Golf Course (the "Vacant Land") together with contiguous property (referred to as the "postage stamp") and two (2) additional existing single-family residential lots located along the eastern portion of the Vacant Land, (the postage stamp and two additional residential lots are collectively referred to as "Residential Lots"). The Vacant Land and the Residential Lots are collectively referred to as the "Property". In August 1967, pursuant to Resolution #3ZAB-342-67, the Zoning Appeals Board (ZAB) approved an unusual use on the Vacant Land and certain adjacent property (the "Former

Golf Course”) to permit a golf course, practice fairway, and golf course club house with ancillary uses, including a pro-shop, dining room, and bar. Among the conditions for approval of the unusual use were “[t]hat restrictive covenants running with the land in proper covenant form, meeting with the approval of the Zoning Director, be recorded to ensure that the golf course be perpetually maintained as such.” The ZAB resolution also recommended approval of a district boundary change from GU, Interim District to EU-M, Single-family Modified Estate District, on a 180’ strip surrounding the Former Golf Course (the “ring lots”), which the Board of County Commissioners (BCC) subsequently approved pursuant to Resolution #Z-167-67. But the BCC approval for the ring lots did not reference or address, and was not subject to any covenant or other restriction regarding, the unusual use on the Former Golf Course.

On March 28, 1968, in furtherance of the condition of the unusual use approval, the then-owner executed a Restriction that the Former Golf Course “may only be used for the following purposes: A golf course and for the operation of a country club which may include a clubhouse, pro shop, locker rooms, swimming pools, cabanas, liquor, beer and wine bar facilities, dining room facilities, parking, tennis courts, putting greens, golf driving ranges and all other uses incidental thereto.” The Restriction further provided that its terms “shall continue for a period of ninety-nine years unless released or revised by the Board of County Commissioners of the County of Dade, State of Florida, or its successors with the consent of 75 percent of the members of the corporation owning the afore-described property and those owners within 150 feet of the exterior boundaries of the afore-described property.” On October 29, 2020, pursuant to Resolution Z-21-20, the BCC released the Vacant Land from the aforementioned Restriction.

The applicant now seeks to rezone the 169.27-acre Property from GU and EU-M to PAD, to develop the Property with 550 single family residential units. Together with the aforementioned request, the applicant also seeks an unusual use to permit the filling of portions of the existing lakes and lake excavations, to submit new lake slope plans for improvements to the existing lake features. Additionally, the applicant is seeking ancillary variances to: permit certain units with a reduced private open space; permit the street trees to be placed within 10 to 12 feet from the edge of the roadway or sidewalk; exceed the maximum permissible lawn area; permit the proposed residences with 0’ of frontage on a public street; and permit access to the public street by means of a private drive; waive the right-of-way dedications for SW 132nd Avenue and SW 96th Street. The main entrance to the proposed PAD development will have direct vehicular and pedestrian access to SW 97th Street which will lead all traffic to SW 137th Avenue, a major north-south corridor, and the proposed development will also have a secondary pedestrian access and residents-only entrance, and an exit to North Calusa Club Drive. Submitted plans indicate that the proposed lots are designed along a network of private drives to allow connectivity for pedestrians and autos alike. Said plans also illustrate amenities such as a clubhouse building with two swimming pools, a children’s wet play area, a covered children’s playground and basketball and tennis courts. Submitted landscape plans depict landscaping exceeding the code requirements in the form of trees and shrubs provided around the perimeter of the blocks, along the proposed structures, as well as along the edges of the external of the development to buffer the adjacent properties.

The applicant has proffered a Planned Area Development Agreement together with a Declaration of Restrictions, which, among other things, restricts the Property to the submitted site plans, development parameters and roadway/infrastructure improvements. Staff notes that the reason that there is a Declaration of Restrictions in addition to the PAD Agreement is that the code requires a development agreement for applications requesting a PAD Zoning Districts. Additionally, the applicants have entered into a private agreement with the neighbors that requires a Declaration of Restrictions be proffered agreeing to certain terms and would require the

neighbors to modify. Accordingly, the applicant has proffered these two separate instruments to address these obligations.

<u>NEIGHBORHOOD CHARACTERISTICS</u>		
Zoning and Existing Use		Land Use Designation
Subject Property	GU and EU-M; vacant and two (2) single-family residences	Parks & Recreation and Low Density Residential (2.5-6 dua)
North	EU-M; single-family residences	Low Density Residential (2.5-6 dua)
South	EU-M; single-family residences	Low Density Residential (2.5-6 dua)
East	EU-M; single-family residences	Low Density Residential (2.5-6 dua)
West	EU-M; single-family residences	Low Density Residential (2.5-6 dua)

NEIGHBORHOOD COMPATIBILITY:

The 169.27-acre Property is primarily made up of the former now vacant Calusa Golf Course and 2 single-family residences located at 9400 SW 130 Avenue and 9800 & 9810 East Calusa Club Drive. The immediately surrounding area is characterized by single-family residences developed under the EU-M district standards, with the remainder of the residential units in the section developed with a mix of housing types ranging from single-family residential, townhouses and multi-family units.

SUMMARY OF THE IMPACTS:

Approval of this application will allow the applicant to rezone the property to develop the parcel with additional housing in this area of the County. Based on the memoranda from the departments reviewing this application, staff opines that approval of same may bring additional traffic to the area on the surrounding area. The Platting and Traffic Review Section of the Department of Regulatory and Economic Resources (RER) state in their memorandum that this application will generate approximately 522 PM peak hour vehicle trips. Staff notes that the application requests will add to the population of the area, impact water and sewer services, and may bring additional noise into the neighborhood, but in staffs opinion, impacts have been appropriately mitigated.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The Vacant Land is located in an area designated **Parks and Recreation** on the Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map. The Parks and Recreation designation includes "golf courses and other parks of approximately 40 acres and larger which are significant community features." The Parks and Recreation designation further provides that, "unless otherwise restricted, the privately owned land designated as Parks and Recreation may

be developed for a use or a density comparable to, and compatible with, surrounding development providing that such development is consistent with the goals, objectives and policies of the CDMP. Staff notes, that because the covenant governing the land was released in 2020 as previously mentioned, this land is not "otherwise restricted".

The Residential Lots are located in an area designated as **Low Density Residential** on the Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map. *This category allows a range in density from a minimum of 2.5 to a maximum of 6 dwelling units per gross acre and is characterized by single family housing, e.g., single-family detached, cluster, zero lot line and townhouses and a mixture of housing types, provided that the maximum gross density is not exceeded.*

As previously set forth in a January 10, 2019 CDMP Interpretation letter for the Vacant Land, "Comprehensive Development Master Plan Interpretation for the Calusa Golf Course Property at 9400 SW 130 Avenue, Miami; Folio 30-5902-000-0010," in accordance with the Interpretive Text for the "Parks and Recreation" land use category, the Vacant Land, which is currently zoned GU-Interim District, may be rezoned for development with residential uses at a density comparable to the surrounding development. The development surrounding the Property ranges from 2.15 units per acre for properties immediately abutting the property to an average density of 5 dwelling units per acre in the general vicinity of the Property. These densities are most reflective of the densities of development allowed under the "Low Density Residential" land use category which allows 2.5 to 6 dwelling units per acre. The Vacant Land can therefore be rezoned to allow development with between 420 and 1,008 units. The applicant is requesting a district boundary change of the Vacant Land from GU, Interim District to PAD, Planned Area Development together with ancillary non-use variances and unusual uses. Staff notes that the density permitted under the proposed PAD zoning district is limited by the underlying CDMP designation. The applicant is proposing to develop the Property with a maximum of 550 units. The proposed density of this development including the EU-M zoned Residential Lots is 3.25 units per acre which is within the maximum density permitted under the CDMP. Staff also notes that the applicant has voluntarily proffered a covenant which among other things limits the maximum development of the site to 550 residential units.

Several sections of the CDMP Conservation, Aquifer Recharge and Drainage Element text are relevant. **Objective CON 9** provides for the conservation of freshwater fish, wildlife and plants. **Conservation Policy CON-9A sets for the criteria** *for all activities that adversely affect habitat that is critical to Federal or State designated, endangered or threatened species shall be prohibited unless such activity(ies) are a public necessity and there are possible alternative sites where the activity(ies) can occur.* Additionally, **Conservation Policy CON-9B sets forth that all** *nesting, roosting and feeding habitats used by federal or State designated endangered or threatened species, shall be protected and buffered from surrounding development or activities and further degradation or destruction of such habitat shall not be authorized.* The Division of Environmental Resources Management (DERM) of the Department of Regulatory and Economic Resources, in their memorandum dated November 8, 2021, confirm that they have reviewed the "Calusa Country Club Environmental Assessment Report" and the "Calusa Country Club Bonneted Bat Acoustic Survey Report". In their review of these reports they confirmed that the little blue heron (*Egretta caerulea*) and the tri-colored heron (*Egretta tricolor*) which are listed as state threatened by the Florida Fish and Wildlife Conservation Commission were observed on the

site. Additionally, the Florida bonneted bat (*Eumops floridanus*) which is listed as endangered by the U.S. Fish and Wildlife Service were also identified on the property. No rookeries were identified, and accordingly it appears that the species use the property for foraging and feeding. It should be noted that the property **is not** federally recognized as critical habitat for the aforementioned species, and staff has not received any information that establishes that this habitat is critical for the survival of any of the listed species. Notwithstanding, as the presence of these species do exist, staff opines that the site be developed in a manner that provides for land that these species can utilize for their activities. The applicant has provided a Best Management Practices Plan (BMP) for the Property, which proposes the six BMPs that are consistent with the guidance from the U.S. Fish and Wildlife Service to preserve the roosting and social behaviors of the Florida bonneted bat. These species will continue to forage and feed throughout the open spaces, lakes, open spaces and landscaping provided within the development. The applicant will also be required to continue monitoring the property for species activity, to ensure continued compliance with Objective Con-9. Based on the foregoing analysis, staff opines that the proposed development is **consistent** with the criteria set forth in the CDMP Conservation, Aquifer Recharge and Drainage Element text, Objective **CON-9**, and Policies **CON-9A and CON-9B**.

Staff opines that the rezoning of the Property to PAD together with the ancillary variances and unusual uses would be **consistent** with the CDMP Land Use Element Interpretative text and the maximum density threshold permitted for the **Parks and Recreation and Low Density Residential** designations on the CDMP Land Use Plan (LUP) map.

ZONING ANALYSIS:

The applicant seeks approval of a request for a district boundary change from GU, Interim Zoning District and EU-M, Estate Modified District to PAD, Planned Area Development District on the Property (request #1). For the reasons stated above and below, staff opines that when the request to rezone the Property to a Planned Area Development District in order to improve the site with a 550-unit residential development, is analyzed under Section 33-311, District Boundary Change, the approval of the request, subject to the Board's acceptance of the proffered Declaration of Restrictions and Planned Area Development Agreement, would be compatible with the surrounding area when considering the necessity and reasonableness in relation to the present and future development of the area concerned. Section 33-311 of the Code states that the purpose of the Code is to provide a comprehensive plan and design among other things, lessen congestion on the highways and promote convenience and general welfare, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses. Staff supports the district boundary change and opines that based on the Comprehensive Development Master Plan land use designation of Parks and Recreation and Low Density Residential, and for the reasons explained in the Comprehensive Development Master Plan Analysis section, the request for a zone change on the Property to PAD is **consistent** with the CDMP designation of the parcel on the CDMP Land Use Plan map and the CDMP covenant and would be **compatible** with the trend of development in the surrounding area.

Staff notes that the 169.27-acre parcel is located within an established residential neighborhood and provides for access along SW 97th Street to SW 137th Avenue, a major north-south corridor together with a secondary pedestrian access and an entrance for residents only to include exit to North Calusa Club Drive. Staff opines that the proposed PAD development as designed together with the proposed 75' buffer (25' will be within the development site and 50' as an addition to some of the existing homes along Calusa Club Drive or as an additional buffer) to the immediately

adjacent residences is a logical development of the site. The applicant has proffered a Planned Area Development Agreement together with a Declaration of Restrictions, which among other things, limits the development of the Property to a total of 550 residential units and ties the development of the Property to the site plans and specific development parameters. The submitted plans depict a 550-unit single-family residential development with eight (8) different models ranging from one (1) to two (2) stories. Submitted plans indicate that the proposed lots are designed along a network of private drives to allow connectivity for pedestrians and autos alike, ensuring better traffic dispersal within and outside of the future residential development. The plans also illustrate a clubhouse building with two swimming pools, a children's wet play area, a covered children's playground and basketball and tennis courts. Submitted landscape plans depict a 75' buffer area surrounding the development. This buffer consists of a 50' wide strip surrounding the development which will be transferred to the adjacent property owners. In addition to ample landscaping in the form of trees and shrubs provided along the perimeter of the common areas of the development together with a heavily landscaped buffer 25' in width along the entire perimeter of the development which will minimize any visual impacts of the proposed development on the surrounding area. Landscaping is similarly provided within the residential lots. As designed, the proposed PAD development, with the pedestrian and auto connectivity, buildings with an intensity similar in scale to the surrounding uses as well as the proposed landscaping, will produce a development that will be compatible with the neighborhood. Staff further opines that the proposed development depicts the applicant's intent to comply with the regulations, the conditions within the proffered Declaration of Restrictions, and towards utilizing development parameters in a manner that maintains the development in the area.

Staff also notes that based on the memoranda submitted by other departments reviewing the application, approval of the request would not have an unfavorable effect on the environment, the natural resources, or the economy of Miami-Dade County, and would not be incompatible with the area concerned. Staff notes that Department of Transportation and Public Works (DTPW) also reviewed the request and has no objection to the application, subject to conditions set forth under Section V, as specified in their memorandum, dated August 26, 2021. The Platting and Traffic Review Section of the Department of Regulatory and Economic Resources (DER), in their memorandum dated August 27, 2021, state that they have no objections to the application subject to the conditions set forth in their memorandum, also the application will generate approximately an additional 522 PM daily peak hour vehicle trips. Although staff recognizes that approval of the application may have an impact on the surrounding roadways or transportation facilities based on the recommendations and information contained within their memoranda, but staff opines that those impacts are appropriately mitigated. Staff recognizes the comments in the memorandum by the Police Department dated April 2, 2021 regarding the proposed impact on traffic and the increase of staffing and equipment that the proposed development could have. Staff opines that the applicant has submitted traffic study which was reviewed by the DTPW and Platting and Traffic Review Section and which provided for the traffic improvements needed to maintain roadway levels of service. Staff acknowledges their concerns regarding an increase to the demands of the development will have on police services. Staff opines that through the Impact Fees generated from this development all capital improvements needed will be addressed. Additionally, the development will increase the current tax base on the property which will fund the additional police resources needed. Additionally pursuant to the proffered Covenant the applicant is proposing to include in the HOA documents that they will provide for an off-duty police officer to enforce the traffic modifications proposed. Further, the Division of Environmental Resources Management (DERM) of the Department of Regulatory and Economic Resources, in their memorandum dated November 8, 2021, indicate that the application meets all applicable LOS standards for potable water supply, wastewater disposal, and flood protection. Additionally, the memorandum from the Miami-Dade Fire Rescue (MDFR) Department does not indicate that the application will have a

negative impact on fire rescue services in the area. The memoranda submitted by the Departments of Water and Sewer and Park, Recreation and Open Spaces (PROS) indicate no objections to the application as well. Further, the Miami-Dade County Public Schools (MDCPS) memorandum dated March 8, 2021, indicates that the proposed 550-unit residential development will generate 191 students; 86 elementary, 47 middle and 58 senior high students, and that all levels have sufficient capacity available to serve the application. Based on the aforementioned department memoranda, staff opines that the requested rezoning will not result in, among other things, excessive noise or cause undue or excessive burden on public facilities. As such, staff opines that approval of the request to rezone the Property to PAD, subject to the proffered covenant and Planned Area Development Agreement, would be **compatible** with the character of the surrounding neighborhood, when considering the necessity and reasonableness of the modifications in relation to the present and future development of the area. **Therefore, subject to the Board's acceptance of the proffered covenant and Planned Area Development Agreement, staff recommends approval of request #1 for a district boundary change to PAD, Planned Area Development, under Section 33-311, District Boundary Change.**

The applicant also seeks an unusual use to permit the partial filling of the lake edges and the excavations of the lakes (request #2). When the request is analyzed under Section 33-311(A)(3), Special Exceptions, Unusual Uses and New Uses Standards, staff opines that approval of the request would be **compatible** with the area concerned. This request is to permit partial filling of the edges of the lakes and for the lake excavations that would allow for the modifications to existing lake features on the Property. Staff notes that new lake slope plans have been submitted by the applicant which depict improvements intended for the lake's edges in conjunction with the site plans and are ancillary to the proposed PAD development on the subject site. These modifications to the lake slopes are necessary to meet the lake excavation requirements set forth under the Code, to improve drainage throughout the area and to accommodate the proposed residential development. Staff notes that these lakes would be internal to the site and will be visually buffered from the surrounding area since they are primarily located towards the rear of the proposed residences and would be further visually buffered from the surrounding area by the 75' buffer located along the perimeter of the development. **As such, staff recommends approval with conditions of request #2 under Section 33-311(A)(3), Special Exceptions, Unusual Uses and New Uses.**

To implement the residential development, the applicant is requesting ancillary Non-Use Variances to permit certain units to have private open spaces that are less than required (request #3) a variance to permit the required street trees to be located between 10 and 12 feet from the edge of the roadway or sidewalk (7' maximum from edge of roadway or sidewalk permitted) (request #4) and a variance to permit a lawn area greater than permitted (request #5). When these requests are analyzed under the Non-Use Variances from Other Than Airport Regulations, Section 33-311(A)(4)(b), staff notes that these requests are intrinsically intertwined with the request for a zone change to PAD which staff supports and opines that the approval of these requests with conditions would be **compatible** with the surrounding area and would not affect the appearance of the community.

Staff opines that the private open spaces that are less than required for certain proposed lots, and the variance to permit a greater lawn area than permitted will be internal to the said lots, would only impact the interior areas of the Property, and would not create a significant visual impact on the surrounding properties. Though certain units within the proposed development will not meet the minimum private open space required for a PAD, the proposed overall common open space for the entire development equates to of 69.45 total acres (41% of the total property area), which

far exceeds the 30% (50 acres) required by code. The common open space includes the lakes and common landscaped areas. Additionally, the proposed open space provided on the individual lots exceeds the open space found for lots developed under the RU-1M(a) zoning district which is similar in lot size and requirements as the proposed for this development.

Similarly, staff opines that approval with conditions to permit street trees within 10 to 12 feet from the edge of driveway or sidewalk is acceptable. The purposed development contemplates a 10' wide utility easement that runs along the front of the lots, and the purpose of moving the street trees further back is so that the roots do not interfere with the underground utilities. It should be noted that the development exceeds the minimum number required trees by providing 4,471 trees provided rather than the 4,246 trees required. All street trees will consist of either Live Oak, Gumbo Limbo or Green Buttonwood, thus providing tree canopy that will appropriately shade pedestrian ways. Staff opines to permit a lawn area greater than permitted for the proposed single-family residences would be compatible with the surrounding area and would not adversely affect the adjacent residences surrounding the property. Staff notes that the submitted landscaping plans depict the proposed residences with landscaping in the form of trees, shrubs and sodded areas. Additionally, staff notes that the request to exceed the maximum permissible lawn area on the proposed lots is minimal in nature. The maximum requested lawn area requested is only exceeding the maximum allowable by 3%. Furthermore, any impact generated by the sub-standard private open spaces, the request for no street trees and to exceed the maximum lawn area will be adequately mitigated by landscaping in the form of trees and shrubs provided along the common areas of the development as well as the proposed 75' heavily landscaped buffer which is proposed along the entire perimeter of the proposed development, enhancing the views from the neighboring residential properties. **As such, staff recommends approval with conditions of requests #3 through #5 under Section 33-311(A)(4)(b), Non-Use Variances From Other Than Airport Regulations.**

When the request to permit residential lots with 0' of frontage (50' required) and the recreational tract on a public right of way and to permit access to a public street by means of a private drive (request #6) and the request to permit the 0' of dedication for SW 132nd Avenue and SW 96th Street (request #7) are analyzed under Section 33-311(A)(4)(b), Non-Use Variances From Other Than Airport Regulations, staff opines that approval of these requests would be **compatible** with surrounding area.

The submitted plans depicts a layout showing the proposed 550 single-family residential homesites and the recreational tract which connects the entire development interconnected through a private drive. The plan shows that the proposed development will have its main access point as previously mentioned along SW 96th Street with a secondary access point along North Calusa Club Dr. Staff notes that the residential lots as indicated in the provided site plan comply with all other minimum requirements of the Code and each lot contains a minimum of 50' of frontage albeit on a private drive. Additionally, the plan shows that the waiving of the right-of-way's for SW 132nd Avenue and SW 96th Street is required for this development. The Property is surrounded by existing single-family residences around the entirety of the property. Staff opines that the dedication of SW 132nd Avenue and SW 96th Street is not necessary since there is no possible connection of these roads to the existing right of way system. Staff further notes that the Platting and Traffic Review Section does not object to the requested waivers for the private drive or the waiver of the right of way dedications. **Therefore, staff recommends approval of requests #6 & #7 with conditions, under Section 33-311(A)(4)(b), Non-Use Variances From Other Than Airport Regulations.**

ACCESS, CIRCULATION AND PARKING: The submitted plans indicate a main ingress/egress point of direct pedestrian and vehicular access to the site along SW 96 Street with a secondary pedestrian ingress/egress point along North Calusa Club Drive with a resident entrance and exit for all vehicles along said North Calusa Club Drive access point.

The Department of Transportation and Public Works (DTPW) has required the applicant to perform several traffic operational improvements. The applicant is required to install a traffic signal at the intersection of SW 97 Street and SW 127 Avenue. Also, the applicant must contribute towards an adaptive signal program for SW 104 Street between SW 137 Avenue and SW 127 Avenue and perform signal timing adjustments to help improve traffic flow for signalized intersections surrounding the proposed project. Furthermore, enhancements must be constructed for several intersections along SW 104 Street between SW 122 Avenue and SW 137 Avenue and at the intersection of SW 133 Avenue and SW 88 Street. These improvements must be completed prior obtaining the 31st Temporary Certificate of Use (TCU) and/or Temporary Certificate of Occupancy (TCO).

It should be noted that to help address the Calusa residents' concerns with the traffic conditions throughout the neighborhood, the applicant has offered to implement several traffic calming measures. These improvements are outlined in the proffered covenant.

NEIGHBORHOOD SERVICES PROVIDER REVIEW: See attached.

OTHER: Not applicable.

RECOMMENDATION: Approval of request #1, subject to the Board's acceptance of the proffered covenant and PAD Agreement, and approval with conditions of requests #2 through 7.

CONDITIONS FOR APPROVAL:

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Regulatory and Economic Resources or its successor Department upon the submittal of an application for a building permit and/or Certificate of Use; said plan must include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with the plans submitted to the Department of Regulatory and Economic Resources, consisting of thirty-six (36) sheets prepared by Ballbe & Associates, entitled "Calusa" dated stamped received 8/5/21, fifty-six (56) sheets prepared by Kendall Associates I, LLLP, and six (6) sheets, prepared by Parker & Yannette Design Group, entitled "Calusa Planting Plans", with five (5) of the sheets dated stamped received 8/5/21 and one (1) of the sheets (LST-1) dated revised 9/8/21, for a total of ninety-eight (98) sheets. The 56 sheets prepared by Kendall Associates I, LLLP consist of the following: Recreational Pod Landscape Plans, with two sheets labeled LR-1 and one sheet labeled LR-3 with no sheet LR-2 (3 sheets), and Typical Unit Landscape Plans LT-1 to LT-17 (17 sheets), dated revised 9-16-21; Overall Tree Plan and Landscape Legend L-1b consisting of one sheet, dated last revised 9-8-21; Single Family Residence Floor Plans (21 sheets), Single Family Residence Elevations (8 sheets), Guardhouse floor plan and elevation

with two sheets labeled A1 and A2 (2 sheets), and Clubhouse floor plan, elevations and roof plan with four sheets labeled A1, A2, A3, and A4 (4 sheets), dated stamped received 4/1/21.

3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant submits to the Department of Regulatory and Economic Resources for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to the issuance of a Certificate of Use.
5. That the applicant implement the six Best Management Practices (BMPs) per the letter submitted to the Division of Environmental Resources Management dated June 10, 2021 consistent with the guidance from the U.S. Fish and Wildlife Service for how the applicant will preserve the roosting and social behaviors of the Florida bonneted bat.
6. That the applicant obtain a Tree Permit from the Division of Environmental Resources Management.
7. All drainage features, inclusive of lakes, are conceptual and subject to a future review and approval of Paving and Drainage Plans by the Miami-Dade County Division of Environmental Resources Management.
8. Prior to obtaining the earlier of a soil improvement permit, building permit, or tree removal permit within 330 feet of the documented rookery, the Applicant shall submit to DERM: (i) the results of six (6) site inspections to be conducted every month between March 2022 and August 2022, during the Florida Fish and Wildlife Conservation Commission's recommended wading bird survey period for Florida's South Zone; and (ii) a plan for DERM's review and approval demonstrating how the nesting, feeding, and roosting habitat of the little blue heron, the tricolored heron, and any other Federal or state threatened or endangered species will be protected and buffered from the proposed development and to ensure further degradation of such habitat is not authorized; (iii) a plan for DERM's review and approval demonstrating how County designated species shall be conserved; and (iv) agreement to implement the Florida bonneted bat best management practices (BMPs) that have been approved by DERM. The applicant has acknowledged that compliance with this condition could result in the permitted scope of the development being reduced.
9. That the applicant complies with all the applicable conditions, requirements, recommendations, requests, and other provisions of the Division of Environmental Resources Management of the Department of Regulatory and Economic Resources as contained in its memorandum dated November 8, 2021.
10. That the applicant complies with all applicable conditions, requirements, recommendations, requests, and other provisions of the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources as indicated in the memorandum dated August 27, 2021.
11. That the applicant complies with all applicable conditions, requirements, recommendations, requests, and other provisions of the Traffic Engineering Division (TED) of the Department of Transportation and Public Works as indicated in the memorandum dated August 26, 2021.

12. That the applicant complies with all applicable conditions, requirements, recommendations, requests, and other provisions of the Transit Division of the Department of Transportation and Public Works as indicated in the memorandum dated March 11, 2021.

NK:JB:NN:JR



Nathan Kogon, AICP, Assistant Director
Development Services Division Miami-Dade County
Regulatory and Economic Resources Department

ZONING RECOMMENDATION ADDENDUM

Kendall Associates, I LLLP ET AL

PH: Z21-031

NEIGHBORHOOD SERVICES PROVIDER COMMENTS	
<i>Division of Environmental Resource Management (RER)</i>	<i>No objection*</i>
<i>Platting and Traffic Review Section (RER)</i>	<i>No objection*</i>
<i>Parks, Recreation and Open Spaces</i>	<i>No objection</i>
<i>Fire Rescue</i>	<i>No objection</i>
<i>Water and Sewer Department</i>	<i>No objection</i>
<i>DPTW</i>	<i>No objection*</i>
<i>Police</i>	<i>Objection</i>
<i>*Subject to conditions in their memorandum.</i>	

COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES, POLICIES AND INTERPRETATIVE TEXT

Parks and Recreation (Pg. I-51)	<p><i>The Land Use Plan map specifically illustrates parks and recreation areas of metropolitan significance, including State parks and the Biscayne and Everglades National Parks. Also illustrated are golf courses and other parks of approximately 40 acres and larger which are significant community features. Most neighborhood local parks smaller than 40 acres in size are not specifically shown on the Plan map; however, this omission should not be interpreted as meaning that these parks will be taken out of public use. Compatible parks are encouraged in all of the residential categories and may be allowed in all other categories of the LUP map. The siting and use of future parks and recreation areas shall be guided by the Park and Open Space, and Capital Improvements Elements, and by the goals, objectives and policies of the CDMP. Both governmentally and privately owned lands are included in areas designated for Parks and Recreation use. Most of the designated privately owned land either possesses outstanding environmental qualities and unique potential for public recreation, or is a golf course included within a large scale development. Unless otherwise restricted, the privately owned land designated as Parks and Recreation may be developed for a use or a density comparable to, and compatible with, surrounding development providing that such development is consistent with the goals, objectives and policies of the CDMP. Except as consistent with the provisions below, however, this allowance does not apply to land designated Parks and Recreation that was set aside for park recreation or open space use as a part of, or as a basis for approving the density or other aspect of, a residential (or other) development or is otherwise subject to a restrictive covenant accepted by a public entity.</i></p> <p><i>The long term use of golf courses or other private recreation or open space on privately owned land designated as Park and Recreation may be previously limited by deed restriction or restrictive covenant. A new development plan governing such land set-aside for park, recreation or open space use (restricted lands) may be approved at public hearing by the Board of County Commissioners or the applicable zoning board only if the following is demonstrated: (1) that the restricted land is subject to a restrictive covenant relating to development served by the open space, that such restrictive covenant continues to limit the use of the land to open space, and that this limitation in the restrictive covenant may be modified only with the written consent of adjacent or proximate property owners or a prescribed percentage thereof; (2) that the required written consents of the adjacent or proximate property owners have been obtained; and (3) that the proposed development will replace park or recreation land or open space that has fallen into prolonged disuse or disrepair to the detriment of the surrounding neighborhood. The development plan for such land (1) shall provide for development compatible with adjacent development; (2) shall provide by restrictive covenant that not less than two-thirds of the land subject to the new development plan (or such</i></p>
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	<i>other proportion deemed appropriate by the Board of County Commissioners and/or appropriate Community Zoning Appeals Board but in no event less than 50 percent of such land) shall be maintained as Park, Recreational or open space for use by residents or other residents or users of the entire development for which the open space had originally been provided; (3) shall provide a financial means of assuring such maintenance, by homeowner's association, special tax district or other comparable means approved at public hearing or by the Director of the Department of Regulatory and Economic Resources or successor agency; and (4) shall provide that the residential density of the portion of the Park and Recreation-designated land eligible for development shall not exceed either the gross existing density of the development in connection with which the park-designated land was originally set aside, or the gross density of all the ownership parcels immediately abutting the entire the park-designated land whichever is lower. An approval pursuant to this provision may allow the gross density of the combined new and existing development, and its existing zoning, to exceed the maximum otherwise allowed by the LUP map, but only to the extent necessary to enable reuse of the park designated land in accordance with this provision. Nothing herein shall be construed to permit development of property subject to a restrictive covenant accepted by the county or other public entity without compliance with the terms that covenant including, but not limited to, those terms governing modification or amendment thereof.</i>
Policy CON-9A (Page IV-15)	<i>All activities that adversely affect habitat that is critical to federal or State designated, endangered or threatened species shall be prohibited unless such activity(ies) are a public necessity and there are no possible alternative sites where the activity(ies) can occur</i>
Policy CON-9B (Page IV-15)	<i>All nesting, roosting and feeding habitats used by federal or State designated endangered or threatened species, shall be protected and buffered from surrounding development or activities and further degradation or destruction of such habitat shall not be authorized.</i>

PERTINENT ZONING REQUIREMENTS/STANDARDS

Section 33-311 District Boundary Change	<i>The Board shall hear applications to modify or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution; and to modify or eliminate any provisions of restrictive covenants, or parts thereof, accepted at public hearing, except as otherwise provided in Section 33-314(C)(3); provided, that the appropriate Board finds after public hearing that the modification or elimination, in the opinion of the Community Zoning Appeals Board, would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or would not tend to provoke a nuisance, or would not be incompatible with the area concerned, when considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned, or (b) (i) that the resolution that contains the condition approved a school use that was permitted only as a special exception, (ii) that subsequent law permits that use as of right without the requirement of approval after public hearing, and (iii) that the requested modification or elimination would not result in development exceeding the standards provided for schools authorized as a matter of right without the requirement of approval after public hearing.</i>
Section 33-311(A)(3) Special Exception, Unusual and New Uses	<i>Special exceptions (for all applications other than public charter schools), unusual and new uses. Hear application for and grant or deny special exceptions, except applications for public charter schools; that is, those exceptions permitted by the regulations only upon approval after public hearing, new uses and unusual uses which by the regulations are only permitted upon approval after public hearing; provided the applied for exception or use, including exception for site or plot plan approval, in the opinion of the Community Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the necessity for and reasonableness of such applied for exception or use in relation to the present and future development of the area concerned and the compatibility of the applied for exception or use with such area and its development.</i>

Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations	<i>Upon appeal or direct application in specific cases, the Board shall hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.</i>
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This instrument was prepared by:

Brian S. Adler
Bilzin Sumberg
1450 Brickell Avenue, Suite 2300
Miami, FL 33131

Folio Numbers:

30-5902-000-0010
30-5902-002-0350
30-5902-002-0360

(Space reserved for Clerk)

PLANNED AREA DEVELOPMENT AGREEMENT

WHEREAS, the undersigned owners, **Kendall Associates I, LLLP**, a Florida Limited Liability Limited Partnership; **9800 Calusa Club Drive, LLC**, a Florida Limited Liability Company; and **Home at 9810, LLC**, a Florida Limited Liability Company (collectively, the “**Owner**”), hold the fee simple title to the land in Miami-Dade County, Florida, described in **Exhibit “A”** attached hereto and hereinafter called the “**Property**”;

WHEREAS, the Property contains approximately 169.27+/- net and 169.54 +/- gross acres with current addresses of 9400 SW 130th Avenue, 9800 East Calusa Club Drive and 9810, East Calusa Club Drive, in unincorporated Miami-Dade County, Florida;

WHEREAS, the Owner filed Application No. Z2021000031 (the “**Application**”) with Miami-Dade County (the “**County**”) for a district boundary change (and other related requests) on the Property to the Planned Area Development (“**PAD**”) district, pursuant to Article XXXIIID of the Code of Miami-Dade County (the “**Code**”) on the Property;

WHEREAS, Code Section 33-284.26(B)(1)(a) requires the Owner to submit to the Miami-Dade County Department of Regulatory and Economic Resources (the “**Department**”) a recordable agreement guaranteeing the development of the Property in accordance with promises

made in the written and graphic documents, as approved by the Board of County Commissioners (the "**BCC**"); and

WHEREAS, this Planned Area Development Agreement ("**Agreement**") is submitted pursuant to Code Section 33-284.26(B)(1)(a) and is contingent upon and will be effective only upon final approval by the BCC of the district boundary change and related requests under the Application.

IN ORDER TO ASSURE the County that the representations made by the Owner during consideration of the Application will be abided by, the Owner freely, voluntarily and without duress makes this Agreement covering and running with the Property.

1. Site Plan. As part of the Application, Owner submitted a site plan consisting of thirty-six (36) sheets prepared by Ballbe & Associates, entitled "Calusa" dated stamped received 8/5/21; and fifty-six (56) sheets prepared by Kendall Associates I, LLLP, consisting of Recreational Pod Landscape Plans, with two sheets labeled LR-1 and one sheet labeled LR-3 with no sheet LR-2 (3 sheets) dated received 4/1/21, Typical Unit Landscape Plans LT-1 to LT-17 (17 sheets) dated revised 9-16-21, Overall Tree Plan and Landscape Legend L-1b consisting of one sheet dated last revised 9-8-21, Single Family Residence Floor Plans (21 sheets), Single Family Residence Elevations (8 sheets), Guardhouse floor plan and elevation with two sheets labeled A1 and A2 (2 sheets), and Clubhouse floor plan, elevations and roof plan with four sheets labeled A1, A2, A3, and A4 (4 sheets) dated stamped received 4/1/21; and, six (6) sheets, prepared by Parker & Yannette Design Group, entitled "Calusa Planting Plans", with five (5) of the sheets dated stamped received 8/5/21 and one (1) of the sheets (LST-1) dated revised 9/8/21, for a total of ninety-eight (98) sheets, as such site plan may be modified at the public hearing on the Application, said site plan being on file with the Department and incorporated into this Agreement (the "**Site**

Plan"). Owner agrees the Property shall be developed in substantial compliance with the Site Plan, subject to the provisions contained in paragraph 12 of this Agreement. It is expressly provided pursuant to Notes 1 and 2 on Site Plan Sheet EX2 that the plan may be modified administratively in accordance with the Code of Miami-Dade County to address the proposed final lake design based on the final site geometry, grading and stormwater design approved by the Division of Environmental Resources Management. Further, the Site Plan may be modified administratively to address protection of nesting sites for threatened or endangered bird species as may be required by the Division of Environmental Resources Management.

2. **Maximum Density Restriction.** Notwithstanding the zoning district or land use designation on the Property, the maximum number of dwelling units permitted to be developed on the Property shall be 550 single-family detached residential dwelling units, or 3.245 +/- units per gross acre or 3.250 +/-units per net acre. If all or any portion of the Home Buffer Area is subject to a Buffer Area Easement in favor of the owner of a Ring Lot Home or the fee title of such portion of the Home Buffer Area is conveyed to the owner of a Ring Lot Home, all as described in paragraph 8 of this Agreement, such portions of the Home Buffer Area are not intended to contain any residential dwelling units to be constructed thereon, and no permitted improvements installed or constructed on such portions of the Home Buffer Area by owners of a Ring Lot Home shall constitute a residential dwelling unit for purposes of calculating the maximum number of dwelling units permitted to be developed on the Property.

3. **Anticipated Development Schedule and Stages.** Development of the Property is projected to commence no later than twelve (12) months following the final approval by the County of the Application. The development of the Property is expected to proceed in stages generally as follows:

- 75 units initiated by the end of 2022;
- 150 units initiated by the end of 2023;
- 150 units initiated by the end of 2024; and
- 175 units initiated by the end of 2025.

4. Additional Development Information.

(a) Total Number of Bedrooms. The maximum total number of bedrooms on the Property shall not exceed 2,750.

(b) Total Building Coverage. The total area of the Property to be covered by buildings and structures (not including entrance features, swimming pools, pool decks or patios, or accessory garden structures such as fences, gazebos or chickee huts, etc.) shall not exceed approximately 38.72 acres, or 22.84% of the Property.

(c) Open Space. Pursuant to section 33-284.27(L), the Site Plan meets the required minimum common open space, and provides 53.08 ± acres, or 31% common open space constituting the recreation pod and associated uses, the perimeter buffer area (not including the Home Buffer Area as described as described in paragraph 8 below), the lakes/water bodies and surrounding green areas around the lakes, the main entrance, and other areas as illustrated on the site plan, including pocket park areas, sidewalks and green swales.¹ The common open space may be subject to use and access rules and regulations established by the Owner or any homeowners,

¹ The calculations for common open space used in this Agreement are governed by article XXXIIID of chapter 33 of the Code of Miami-Dade County, Florida (Planned Area Development (PAD) District). Approval of the Application separately includes acceptance of a voluntarily proffered Declaration of Restrictions that contains different open space requirements, which shall be governed by the terms of that Declaration. The Owner acknowledges and agrees that the open space requirements of this Agreement and the Declaration might not overlap and that this may result in more portions of the Property being precluded from development than the zoning regulations would otherwise require.

property owners, condominium or other collective ownership association established to operate and maintain such common open space (an “**HOA**”).

(d) Total Nonresidential Construction. Aside from the residential dwelling units, the Property will be developed with a recreational building between 8,000 and 13,000 square feet, and a guard house of up to 520 square feet, along with entrance features. The total nonresidential construction not including the entrance features shall not exceed 13,520 square feet.

(e) Private Roads. The roads within the Property are all proposed to be private roads. The proposed private roads, including parking areas, to be developed on the Property as reflected on the Site Plan are approximately 21.19 acres. The precise area constituting roadways may be subject to change based on final design and paving criteria.

(f) Population Projection. The estimated population projection resulting from the development of the Property is approximately 1,793 persons.

5. Types of Dwelling Units. The Site Plan proposes a variety of lot sizes categorized into minimum 50 foot wide lots and minimum 55 foot wide lots. Eight different one and two story model types or plans are proposed with the ultimate purchaser of the particular lot having the option to select the model or plan home to be constructed on the selected lot. Owner agrees that the Property shall be developed with a variety of models and sizes² and is initially anticipated to include the following³:

- | | | |
|-----|--|-----------------|
| (a) | <u>Maximum Number of residential lots:</u> | 550 |
| (b) | <u>Models:</u> | 8 |
| (i) | Plan 501 | |
| | Stories: | 1 |
| | Bedrooms: | 2 with den or 3 |

² The unit sizes provided reflect the amount of space under air conditioning.

³ The specific model sizes and configurations may be changed and new models added from time to time, which changes and additions will be consistent in character and scale with the model homes submitted with the Application.

	Bathrooms:	2
	Square Footage:	1,911 under air
	Lot Coverage ⁴ (Maximum)	48.16%
	Height to Top of Roof (Maximum)	19 feet
	Front Setback (Minimum)	15 feet
	Side Setback (Minimum, 50 foot lot)	5 feet
	Side Setback (Minimum, 55 foot lot)	7.5 feet
	Side Street Setback (Minimum)	10 feet
	Rear Setback to Structure (Minimum)	20 feet
	Rear Setback to Pool or Accessory Structure (Minimum)	3 feet
	Front Setback to Pool or Accessory Structure (Minimum)	75 feet
	Side Setback to Pool (Minimum)	10 feet
	Side Setback to Screened Porch (Minimum)	7.5 feet
(ii)	Plan 502	
	Stories:	1
	Bedrooms:	3
	Bathrooms:	3
	Square Footage:	2,067 under air
	Lot Coverage (Maximum)	49.78%
	Height to Top of Roof (Maximum)	19 feet
	Front Setback (Minimum)	15 feet
	Side Setback (Minimum, 50 foot lot)	5 feet
	Side Setback (Minimum, 55 foot lot)	7.5 feet
	Side Street Setback (Minimum)	10 feet
	Rear Setback to Structure (Minimum)	10 feet
	Rear Setback to Pool or Accessory Structure (Minimum)	3 feet
	Front Setback to Pool or Accessory Structure (Minimum)	75 feet
	Side Setback to Pool (Minimum)	10 feet
	Side Setback to Screened Porch (Minimum)	7.5 feet
(iii)	Plan 503	
	Stories:	1
	Bedrooms:	3 with den or 4
	Bathrooms:	3
	Square Footage:	2,350 under air
	Lot Coverage (Maximum)	54.99%
	Height to Top of Roof (Maximum)	19 feet
	Front Setback (Minimum)	20 feet

⁴ Lot Coverage for purposes of this Agreement means the total square footage of the first floor under roof, and does not include swimming pools, pool decks (unless under roof), screen enclosures (unless under roof), chickee huts, driveways, or entry walkways (unless under roof).

	Side Setback (Minimum, 50 foot lot)	5 feet
	Side Setback (Minimum, 55 foot lot)	7.5 feet
	Side Street Setback (Minimum)	10 feet
	Rear Setback to Structure (Minimum)	10 feet
	Rear Setback to Pool or Accessory Structure (Minimum)	3 feet
	Front Setback to Pool or Accessory Structure (Minimum)	75 feet
	Side Setback to Pool (Minimum)	10 feet
	Side Setback to Screened Porch (Minimum)	7.5 feet
(iv)	Plan 504	
	Stories:	2
	Bedrooms:	3 with den or 4
	Bathrooms:	4
	First Floor Square Footage Under Air:	1,332
	Total Under Air:	2,926
	Lot Coverage (Maximum)	37.49%
	Height to Top of Roof (Maximum)	30 feet
	Front Setback (Minimum)	15 feet
	Side Setback (Minimum, 50 foot lot)	5 feet
	Side Setback (Minimum, 55 foot lot)	7.5 feet
	Side Street Setback (Minimum)	10 feet
	Rear Setback to Structure (Minimum)	20 feet
	Rear Setback to Pool or Accessory Structure (Minimum)	3 feet
	Front Setback to Pool or Accessory Structure (Minimum)	75 feet
	Side Setback to Pool (Minimum)	10 feet
	Side Setback to Screened Porch (Minimum)	7.5 feet
(v)	Plan 505	
	Stories:	2
	Bedrooms:	3 with den and loft or 4 with den or 5
	Bathrooms:	4
	First Floor Square Footage Under Air	1,992
	Total under air:	2,940
	Lot Coverage (Maximum)	49.84%
	Height to Top of Roof (Maximum)	27 feet
	Front Setback (Minimum)	20 feet
	Side Setback (Minimum, 50 foot lot)	5 feet
	Side Setback (Minimum, 55 foot lot)	7.5 feet
	Side Street Setback (Minimum)	10 feet
	Rear Setback to Structure (Minimum)	20 feet
	Rear Setback to Pool	

or Accessory Structure (Minimum) 3 feet
 Front Setback to Pool
 or Accessory Structure (Minimum) 75 feet
 Side Setback to Pool (Minimum) 10 feet
 Side Setback to Screened Porch (Minimum) 7.5 feet

(vi) Plan 506
 Stories: 2
 Bedrooms: 4 with den or 5
 Bathrooms: 4
 First Floor Square Footage Under Air: 1,568
 Total Under Air: 3,656
 Lot Coverage (Maximum) 46.57%
 Height to Top of Roof (Maximum) 30 feet
 Front Setback (Minimum) 20 feet
 Side Setback (Minimum, 50 foot lot) 5 feet
 Side Setback (Minimum, 55 foot lot) 7.5 feet
 Side Street Setback (Minimum) 10 feet
 Rear Setback to Structure (Minimum) 20 feet
 Rear Setback to Pool or Accessory Structure (Minimum) 3 feet
 Front Setback to Pool
 or Accessory Structure (Minimum) 75 feet
 Side Setback to Pool (Minimum) 10 feet
 Side Setback to Screened Porch (Minimum) 7.5 feet

(vii) Plan 507
 Stories: 2
 Bedrooms: 4 with den or 5
 Bathrooms: 5
 First Floor Square Footage Under Air: 1,750
 Total Under Air: 3,868
 Lot Coverage (Maximum) 45.1%
 Height to Top of Roof (Maximum) 30 feet
 Front Setback (Minimum) 20 feet
 Side Setback (Minimum, 50 foot lot) 5 feet
 Side Setback (Minimum, 55 foot lot) 7.5 feet
 Side Street Setback (Minimum) 10 feet
 Rear Setback to Structure (Minimum) 20 feet
 Rear Setback to Pool
 or Accessory Structure (Minimum) 3 feet
 Front Setback to Pool
 or Accessory Structure (Minimum) 75 feet
 Side Setback to Pool (Minimum) 10 feet
 Side Setback to Screened Porch (Minimum) 7.5 feet

(viii) Plan 508	
Stories:	2
Bedrooms:	5
Bathrooms:	7
First Floor Square Footage Under Air:	2,051
Total Under Air:	4,396
Lot Coverage (Maximum)	49.95%
Height to Top of Roof (Maximum)	30 feet
Front Setback (Minimum)	15 feet
Side Setback (Minimum, 50 foot lot)	5 feet
Side Setback (Minimum, 55 foot lot)	7.5 feet
Side Street Setback (Minimum)	10 feet
Rear Setback to Structure (Minimum)	20 feet
Rear Setback to Pool	
or Accessory Structure (Minimum)	3 feet
Front Setback to Pool	
or Accessory Structure (Minimum)	75 feet
Side Setback to Pool (Minimum)	10 feet
Side Setback to Screened Porch (Minimum)	7.5 feet

6. Ownership and Maintenance of Association Property and Common Open

Space. All property not subject to fee simple title acquisition by future residents, including the common open space as described on the Site Plan, the lakes, maintenance areas, roadways, guardhouse, recreation areas, entrance features, private roads, and those portions of the Home Buffer Area not subject to a Buffer Area Easement (as defined in paragraph 8 below) or conveyed to the owners of Ring Lot Homes, shall be maintained and funded by either: (a) a county approved special taxing district composed of the fee simple residential lots depicted on the Site Plan, or (b) an HOA.

The common open space includes an approximate 5-acre recreation pod with a clubhouse. The development parameters of the structures on the recreation pod are as follows:

Clubhouse Square Footage Minimum:	
Under Air:	8,000
Not Under Air:	592
Covered, not Under Air:	2,000
Restroom:	200
Clubhouse/Restroom Lot Coverage Minimum	4%

Clubhouse Square Footage Maximum:	
Under Air:	13,000
Not Under Air:	892
Covered, not Under Air:	3,593
Restroom:	358
Clubhouse/Restroom Lot Coverage Maximum:	10%
Height to Top of Roof (Maximum):	35 feet
Front Setback to Clubhouse (Minimum):	25 feet
Side Setback to Clubhouse (Minimum):	15 feet
Rear Setback to Clubhouse (Minimum):	15 feet
Front Setback to Recreation Courts/Pool (Minimum):	15 feet
Side Setback to Recreation Courts/Pool (Minimum):	15 feet
Rear Setback to Recreation Courts/Pool (Minimum):	15 feet

7. **Pedestrian and Vehicular Access.** The Owner agrees to provide pedestrian and vehicular access within the Property at all times. Access may be subject to rules and regulations established by the Owner or any HOA. Access shall also be provided at all times to fire, police, health, sanitation, and other public service personnel and vehicles. The vehicular turnaround area on North Calusa Club Drive at the residents' only entrance shown on Sheet SP11 of the Site Plan shall not be gated and shall remain accessible to the public at all times. Furthermore, all streets or accessways within the Property shall be installed by the Owner, including, but not limited to, sidewalks, drainage facilities, water and sewer facilities, and fire hydrants, subject to the approval of the appropriate County departments.

8. **Home Buffer Area.** The Site Plan specifically notes and details that an area of approximately 50 feet behind the abutting homes surrounding the Property (each, a "**Ring Lot Home**", and collectively, the "**Ring Lot Homes**") which may be subject to an easement (a "**Buffer Area Easement**") granted to an adjacent owner of a Ring Lot Home or whose fee title may be conveyed to such adjacent owner of a Ring Lot Home (the "**Home Buffer Area**"). The remainder of the Property not including the Home Buffer Area is referred to in this Agreement as the

“Development Property”. The Home Buffer Area is not counted toward common open space or private open space calculations on the Site Plan. The majority of the Home Buffer Area is anticipated to be restricted open space for the private use and enjoyment of the owners of certain Ring Lot Homes who are expressly granted a Buffer Area Easement or receive fee title to a portion of the Home Buffer Area. Uses of the Home Buffer Area include, among other uses, swimming pools, gazebos and recreation and sporting areas. It is specifically contemplated that the portions of the Home Buffer Area that are subject to Buffer Area Easements or are conveyed to owners of Ring Lot Homes shall be treated separately for all purposes of any code enforcement or other violations on such portions of the Home Buffer Area. In that regard, any such violation by an Owner of a Ring Lot Home with respect to the Home Buffer Area shall not be deemed a violation by Owner with respect to the Development Property; and none of the remedies afforded to the County under this agreement for any such violation by an owner of a Ring Lot Home (including, without limitation, those remedies under paragraphs 13 or 14 of this Agreement) shall be exercised or enforced against Owner or the Development Property.

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

10. **Covenant Running with the Land.** This Agreement on the part of the Owner shall be considered the planned area development agreement required under the County Code for PAD developments and shall not be otherwise construed or treated as a Chapter 163, Florida Statutes development agreement. This Agreement shall constitute a covenant running with the land and

shall remain in full force and effect and be binding upon the Owner, and Owner's heirs, successors and assigns until such time as the same is modified or released by the County. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the Property, and for the benefit of the County in the exercise of its powers to protect the public health, safety and welfare. The Owner, on behalf of itself and its heirs, successors and assigns, acknowledge that acceptance of this Agreement does not in any way obligate or provide a limitation on the County.

11. Term. This Agreement is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Agreement is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless released pursuant to paragraph 12 below.

12. Modification, Amendment, Release. This Agreement may be modified, amended or released by a written instrument executed by the then-owners of the Development Property, provided that the same is also approved by the BCC of the County, or such other board or body having jurisdiction over such matters, after public hearing.

Any modification or amendment of this Agreement that would change the use of any portion(s) of the Home Buffer Area which are subject to a Buffer Area Easement or whose fee title has been conveyed to an owner of a Ring Lot Home shall require the signature of the Home Lot Owner and the then-owners of the Development Property, provided that the same is also approved by the BCC of the County, or such other board or body having jurisdiction over such matters, after public hearing.

Notwithstanding the foregoing or anything to the contrary, for all or any portion of the Development Property that has been submitted to an HOA or other collective ownership structure

(“**Submitted Portion**”), in lieu of execution of a written instrument by all the then-owners of the Submitted Portion of the Development Property, the HOA, in its representative capacity on behalf of such owners, shall be the only party required to execute the modification, amendment or release of this Agreement on behalf of such Owners, and any such zoning or public hearing application seeking an amendment, modification or release of this Agreement.

It is further provided, however, that in the event that the Property is annexed to an existing municipality or the Property is incorporated into a new municipality, any modification, amendment, or release shall not become effective until it is also approved by such municipality in accordance with applicable procedures of such municipality.

13. Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants contained in this Agreement. The prevailing party in any action or suit pertaining to or arising out of this Agreement shall be entitled to recover, in addition to fees, costs and disbursements allowed by law, such reasonable attorneys’ fees and costs incurred by the prevailing party (through and including trial and all appellate levels) as the Court may determine. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

14. Authorization for Miami-Dade County to Withhold Permits and Inspections.
In the event the terms of this Agreement are not being complied with by Owner, in addition to any other remedies available, the County is hereby authorized to withhold any further permits to be issued to Owner, and refuse to make any inspections or grant any approvals, until such time as this Agreement is complied with. Notwithstanding the foregoing or anything to the contrary, any violation by an owner of a Ring Lot Home shall only be enforced against such Ring Lot Home owner, and shall not constitute a violation by Owner with respect to the Development Property or

any portion thereof. Likewise, any violation by Owner on the Development Property shall only be enforced against Owner, and shall not constitute a violation by the owner of a Ring Lot Home with respect to the Home Buffer Area.

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

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

17. **Severability.** Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions, which shall remain in full force and effect.

18. **Recording.** This Agreement shall be filed of record in the public records of Miami-Dade County, Florida, at the cost of the Owner following the approval of the Application. This Agreement shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal to the Application is filed (an “**Appeal**”), and the final disposition of such Appeal (after all applicable appellate levels of review) results in the denial of the Application, in its entirety, then this Agreement shall be null and void and of no further effect. In such event, upon written request of Owner, the Director of the Department or the executive officer of the successor of said Department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence (the “Director”), shall forthwith execute a written

instrument, in recordable form, acknowledging that this Agreement is null and void and of no further effect. In the event any other final disposition of an Appeal (after all applicable appellate levels of review) results in requiring modifications to this Agreement (such as tying the Agreement to a new site plan), requiring a replacement agreement in accordance with the requirements of the Appeal, upon acceptance by the County of the replacement agreement in compliance with the Appeal, the Director shall forthwith execute a written instrument, in recordable form, acknowledging that this Agreement is null and void and of no further effect.


19. **Acceptance of Planned Area Development Agreement.** Acceptance of this Agreement does not obligate the County in any manner, nor does it entitle the Owner to a favorable recommendation or approval of any application, zoning or otherwise, and the County retains its full power and authority to deny each such application in whole or in part and to decline to accept any conveyance or dedication.

20. **Owner.** The term Owner shall include the Owner, and its heirs, successors and assigns.

[Execution Pages Follow]

OWNER:

HOME AT 9810, LLC, a Florida limited liability company

By: 
Name: Richard M. Norwalk
Title: Vice President

STATE OF FLORIDA
COUNTY OF ~~BROWARD~~ miami-Dade BSA

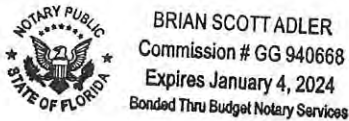
BEFORE me by means of ☒ physical presence or ☐ online notarization, the undersigned authority on this 19th day of October, 2021, personally appeared Richard M. Norwalk, as Vice President of Home at 9810, LLC, a Florida limited liability company, on behalf of said company. She/He is personally known to me.

[NOTARIAL SEAL]


Notary Public


Brian S Adler
Print Notary Name

Notary Public, State of Florida



OWNER:

9800 CALUSA CLUB DRIVE, LLC, a
Florida limited liability company

By: 
Name: Richard M. Norwalk
Title: Vice President


STATE OF FLORIDA
COUNTY OF ~~BROWARD~~ miami-Dade BSA

BEFORE me by means of ☒ physical presence or ☐ online notarization, the undersigned authority on this 19th day of October, 2021, personally appeared Richard M. Norwalk, as Vice President of 9800 Calusa Club Drive, LLC, a Florida limited liability company, on behalf of said company. She/He is personally known to me.

[NOTARIAL SEAL]



BRIAN SCOTT ADLER
Commission # GG 940668
Expires January 4, 2024
Bonded Thru Budget Notary Services


Notary Public
Brian S Adler
Print Notary Name


Notary Public, State of Florida

[Executions and Acknowledgments Continue on Following Page]

OWNER:

KENDALL ASSOCIATES I, LLLP, a
Florida limited liability limited partnership

By: Kendall I Corporation, a Florida
corporation, its general partner

By: 
Name: Richard M. Norwalk
Title: Vice President

STATE OF FLORIDA
COUNTY OF ~~BROWARD~~ Miami-Dade 

BEFORE me by means of ☒ physical presence or ☐ online notarization, the undersigned authority on this 19th day of October, 2021, personally appeared Richard M. Norwalk, as Vice President of Kendall I Corporation, a Florida corporation, the general partner of Kendall Associates I, LLLP, a Florida limited liability limited partnership, on behalf of said corporation and limited liability limited partnership. She/He is personally known to me.

[NOTARIAL SEAL]



BRIAN SCOTT ADLER
Commission # GG 940668
Expires January 4, 2024
Bonded Thru Budget Notary Services


Notary Public

Brian S Adler
Print Notary Name

Notary Public, State of Florida

[Executions and Acknowledgments Continue on Following Page]

EXHIBIT "A"

Legal Description

A portion of Section 2, Township 55 South, Range 39 East, Miami-Dade County, Florida, being more particularly described as follows:

Commence at the southwest corner of the Southeast 1/4 of Section 2, Township 55 South, Range 39 East, Miami-Dade County, Florida; thence run due North along the West line of the Southeast 1/4 of said Section 2 for a distance of 1,170.00 feet to a point on a circular curve, thence run due East for a distance of 180.00 feet to the Point of Beginning of the parcel of land hereinafter described; thence run south and east along a circular curve concave to the northeast, having a radius of 300.00 feet through a central angle of 90° 00' 00" for an arc distance of 471.24 feet to the end of said curve; thence run due East for a distance of 210.00 feet to the beginning of a tangential circular curve; thence run easterly along said circular curve concave to the south, having a radius of 630.00 feet through a central angle of 23° 30' 00" for an arc distance of 258.40 feet to a point of reverse curve; thence run in an easterly direction along a circular curve, concave to the north, having a radius of 1,625.00 feet through a central angle of 26° 00' 00" for an arc distance of 737.40 feet to a point of compound curve; thence run northerly and westerly along said curve, concave to the west, having a radius of 245.00 feet through a central angle of 150° 00' 00" for a distance of 641.41 feet to a point of reverse curve; thence westerly along said curve whose center bears North 27° 30' 00" East having a radius of 470.00 feet through a central angle of 30° 15' 00" for an arc distance of 248.14 feet to a point of reverse curve; thence run in a westerly direction along said curve, concave to the southwest, having a radius of 860.00 feet through a central angle of 46° 19' 49" for an arc distance of 695.41 feet to the end of said curve; the center of the aforesaid circular curve bears South 11° 25' 11" West; thence run northwesterly along a circular curve concave to the northeast, whose center bears North 19° 12' 42" West, having a radius of 170.00 feet through a central angle of 95° 51' 35" for an arc distance of 284.42 feet to a point; thence run South 76° 38' 44" West for a distance of 61.63 feet; thence run North 09° 40' 13" West for a distance of 190.77 feet; thence run North 08° 09' 57" West for a distance of 123.19 feet; thence run North 11° 08' 18" West for a distance of 164.87 feet; thence run North 30° 43' 47" East for a distance of 97.08 feet; thence run North 82° 41' 47" East for a distance of 47.56 feet; thence run South 50° 36' 36" East for a distance of 220.48 feet; thence run South 52° 45' 10" East for a distance of 117.31 feet; thence run South 57° 45' 50" East for 116.93 feet; thence run South 12° 10' 21" West for a distance of 106.45 feet to a point on a circular curve concave to the southwest; thence run southeasterly along said circular curve whose center bears South 12° 10' 21" West and having a radius of 1160.00 feet through a central angle of 45° 34' 40" for an arc distance of 922.76 feet to a point of reverse curve; thence run easterly and northerly along said circular curve concave to the northwest having a radius of 170.00 feet through a central angle of 155° 45' 00" for an arc distance of 462.12 feet to the end of said curve; thence run North 08° 00' 00" West for a distance of 680.00 feet to the beginning of a tangential circular curve; thence run northerly along said circular curve concave to the east having a radius of 350.00 feet through a central angle of 34° 45' 00" for an arc distance of 212.28 feet to a point of reverse curve; thence run northerly along said circular curve, concave to the west, having a radius of 215.00 feet through a central angle of 37° 45' 00" for an arc distance of 141.66 feet to the end of said curve; thence run North 11° 00' 00" West for a distance of 325.00 feet to the beginning of a tangential circular curve; thence run north along said curve concave to

the east, having a radius of 500.00 feet through a central angle of $32^{\circ} 00' 00''$ for an arc distance of 279.25 feet to a point of reverse curve; thence run north along said curve concave to the west, having a radius of 950.00 feet through a central angle of $30^{\circ} 30' 00''$ for an arc distance of 505.71 feet to a point of compound curve; thence run northwesterly along said curve concave to the southwest having a radius of 2,180.00 feet through a central angle of $18^{\circ} 40' 43''$ for an arc distance of 710.69 feet to the end of said curve whose center bears South $61^{\circ} 49' 17''$ West; thence run North $88^{\circ} 00' 00''$ West for a distance of 104.55 feet to the beginning of a tangential circular curve; thence run southwesterly along said curve concave to the southeast, having a radius of 1,130.00 feet through a central angle of $36^{\circ} 30' 00''$ for an arc distance of 719.86 feet to a point of compound curve; thence run southerly along said curve, concave to the southeast having a radius of 880.00 feet through a central angle of $37^{\circ} 00' 00''$ for an arc distance of 568.27 feet to the end of said curve; thence run South $18^{\circ} 30' 00''$ West for a distance of 340.00 feet to a point; thence run North $71^{\circ} 30' 00''$ West for a distance of 300.00 feet to a point; thence run North $18^{\circ} 30' 00''$ East for a distance of 480.00 feet; thence run North $10^{\circ} 30' 00''$ East for a distance of 470.00 feet to a point; thence run South $88^{\circ} 00' 00''$ West for a distance of 255.00 feet to the beginning of a tangential circular curve; thence run southwesterly along said curve concave to the southeast having a radius of 360.00 feet through a central angle of $54^{\circ} 30' 00''$ for an arc distance of 342.43 feet to a point of reverse curve; thence run southwesterly along said curve concave to the northwest, having a radius of 1,215.00 feet through a central angle of $20^{\circ} 45' 00''$ for an arc distance of 440.02 feet to a point of compound curve; thence run westerly along said curve concave to the north having a radius of 470.00 feet through a central angle of $53^{\circ} 45' 00''$ for an arc distance of 440.91 feet to the point of reverse curve; thence run westerly along said curve concave to the south, having a radius of 640.00 feet through a central angle of $21^{\circ} 14' 22''$ for an arc distance of 237.25 feet to a point of compound curve; thence run westerly along said curve concave to the southeast, having a radius of 1,350.00 feet through a central angle of $19^{\circ} 48' 51''$ for an arc distance of 466.86 feet to the end of said curve whose center bears South $23^{\circ} 03' 13''$ East; thence run southerly along a circular curve, whose center bears South $55^{\circ} 30' 00''$ East, having a radius of 275.00 feet through a central angle of $75^{\circ} 00' 00''$ for an arc distance of 359.97 feet to a point of compound curve; thence run southeasterly along said curve concave to the northeast having a radius of 975.00 feet through a central angle of $31^{\circ} 30' 00''$ for an arc distance of 536.03 feet to the end of said curve; thence South $72^{\circ} 00' 00''$ East for a distance of 130.00 feet to the beginning of a tangential circular curve; thence run southeasterly along said curve concave to the southwest having a radius of 590.00 feet through a central angle of $45^{\circ} 15' 00''$ for an arc distance of 465.96 feet to a point of reverse curve; thence run southeasterly along said curve concave to the northeast having a radius of 230.00 feet through a central angle of $41^{\circ} 15' 00''$ for an arc distance of 165.59 feet to a point of a reverse curve; thence run southeasterly along said curve concave to the southwest having a radius of 410.00 feet through a central angle of $24^{\circ} 00' 00''$ for an arc distance of 171.74 feet to a point of compound curve; thence run southerly along said curve concave to the southwest having a radius of 910.00 feet through a central angle of $37^{\circ} 00' 00''$ for an arc distance of 587.65 feet to a point of reverse curve; thence run southerly along said curve concave to the northeast having a radius of 1,800.00 feet through a central angle of $15^{\circ} 00' 00''$ for an arc distance of 471.24 feet to a point of reverse curve; thence run southerly along said curve concave to the west, having a radius of 435.87 feet through a central angle of $45^{\circ} 00' 00''$ for a distance of 342.33 feet; thence run South $23^{\circ} 00' 00''$ West for a distance of 24.13 feet; thence run south along a tangential curve concave to the east having a radius of 300.00 feet through a central angle of $23^{\circ} 00' 00''$ for an arc distance of 120.43 feet to the Point of Beginning.

AND

A portion of the Northeast 1/4 of Section 2, Township 55 South, Range 39 East, being more particularly described as follows:

From the southeast corner of Lot 141, Block 1, of CALUSA CLUB ESTATES, according to the plat thereof, as recorded in Plat Book 100, at Page 41, of the Public Records of Miami-Dade County, Florida, run South 18 degrees 30 minutes 00 seconds West along the production southerly of the easterly line of said Lot 141 for 120.00 feet for Point of Beginning; thence continue South 18 degrees 30 minutes 00 seconds West along the production southerly of the easterly line of said Lot 141 for 120.00 feet to a point; thence run North 71 degrees 30 minutes 00 seconds West at right angles to the last described course for 125.00 feet to a point; thence run North 18 degrees 30 minutes 00 seconds East for 120.00 feet to a point; thence run South 71 degrees 30 minutes 00 seconds East along a line parallel to and 120.00 feet from the southerly line of said Lot 141 for 125.00 feet to the Point of Beginning.

TOGETHER WITH:

Lots 35 and 36, Block 1, "CALUSA CLUB ESTATES," according to the plat thereof, as recorded in Plat Book 100, Page 41, of the Public Records of Miami-Dade County, Florida.

**CONSENT AND JOINDER OF MORTGAGEE TO
PLANNED AREA DEVELOPMENT AGREEMENT**

The undersigned Mortgagee does hereby join in and consent to the execution of the foregoing Planned Area Development Agreement by Kendall Associates I, LLLP, across the lands therein described, and agrees that its Mortgage, Assignment of Rents and Leases and Security Agreement, dated February 16, 2021 and recorded February 18, 2021, in Official Records Book 32356, at Page 4003, of the Public Records of Miami-Dade County, Florida (as same has been or may be amended or modified from time to time), is hereby made subordinate to the foregoing Planned Area Development Agreement.

IN WITNESS WHEREOF, the Mortgagee has hereunto set its hand and affixed its seal as of the date first written above.

Signed, sealed and delivered in
the presence of:

MORTGAGEE:

FORT DALLAS GOLF CLUB, LTD., a Florida
limited partnership

By: Fort Dallas Golf Club, LLC, a Florida
limited liability company, its general
partner

By: Catherine H. Lorie
Catherine H. Lorie, Manager

TORRES WHITE
Print Name: TORRES WHITE

Stephen Nelson
Print Name: Stephen Nelson

NORTHEASTERN GOLF LLC, a Florida limited
liability company

By: Catherine H. Lorie
Catherine H. Lorie, Manager

TORRES WHITE
Print Name: TORRES WHITE

Stephen Nelson
Print Name: Stephen Nelson

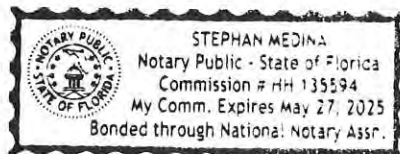
[Notarial Acknowledgments Appear on Following Page]

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

BEFORE me, by means of ☒ physical presence or ☐ online notarization, the undersigned authority on this 18 day of October, 2021, personally appeared Catherine H. Lorie, as Manager of Fort Dallas Golf Club, LLC, a Florida limited liability company, the general partner of FORT DALLAS GOLF CLUB, LTD., a Florida limited partnership, on behalf of said company and partnership. She is personally known to me.

[NOTARIAL SEAL]



A handwritten signature in blue ink, appearing to read "Stephan Medina", written over a horizontal line.

Notary Public

Stephan Medina
Print Notary Name

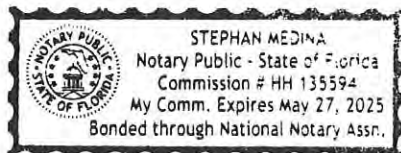
Notary Public, State of Florida

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

BEFORE me, by means of ☒ physical presence or ☐ online notarization, the undersigned authority on this 18 day of October, 2021, personally appeared Catherine H. Lorie, as Manager of NORTHEASTERN GOLF LLC, a Florida limited liability company, on behalf of said company. She is personally known to me.

[NOTARIAL SEAL]



A handwritten signature in blue ink, appearing to read "Stephan Medina", written over a horizontal line.

Notary Public

Stephan Medina
Print Notary Name

Notary Public, State of Florida

This instrument prepared by:

Brian S. Adler, Esquire
Bilzin Sumberg Baena Price & Axelrod LLP
1450 Brickell Avenue
Suite 2300
Miami, Florida 33131-3456

Folio Nos.: 30-5902-000-0010
30-5902-002-0350
30-5902-002-0360

(Space reserved for Clerk)

DECLARATION OF RESTRICTIVE COVENANTS

WHEREAS, the undersigned, Kendall Associates I, LLLP, a Florida limited liability limited partnership, 9800 Calusa Club Drive, LLC, a Florida limited liability company, and Home at 9810, LLC, a Florida limited liability company (collectively, the “**Owner**”), hold the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit “A,” attached hereto (“**Property**”); and

WHEREAS, the Owner has filed an application for public hearing with Miami-Dade County, Public Hearing Application No. Z2021000031 (“**Application**”), to rezone the Property from GU (Interim) and EU-M to PAD (Planned Area Development district).

NOW, THEREFORE, in order to assure Miami-Dade County, Florida (“**County**”) that the representations made during consideration of the Application will be abided by, Owner freely, voluntarily, and without duress makes the following Declaration of Restrictive Covenants (“**Declaration**”) covering and running with the Property.

1. Number of Homes. Notwithstanding the density, housing types and number of residential units that may be permitted by the land use designation, development of the Property shall be limited to and shall not exceed a total of five hundred fifty (550) single-family detached residential homes. Further, notwithstanding other uses permitted by the land use designation or zoning district, development of the Property shall not include any improvements which are not primarily for the use or benefit of residents of the Property or the residents of lots which are adjacent to the Property.

2. Site Plan. Subject to final approval by the County, the Property shall be developed substantially in accordance with the plans previously submitted, consisting of thirty-six (36) sheets prepared by Ballbe & Associates, entitled “Calusa” dated stamped received 8/5/21; and fifty-six (56) sheets prepared by Kendall Associates I, LLLP, consisting of Recreational Pod Landscape Plans, with two sheets labeled LR-1 and one sheet labeled LR-3 with no sheet LR-2 (3 sheets) dated received 4/1/21, Typical Unit Landscape Plans LT-1 to LT-17 (17 sheets) dated revised 9-16-21, Overall Tree Plan and Landscape Legend L-1b consisting of one sheet dated last revised 9-8-21, Single Family Residence Floor Plans (21 sheets), Single Family Residence Elevations (8

sheets), Guardhouse floor plan and elevation with two sheets labeled A1 and A2 (2 sheets), and Clubhouse floor plan, elevations and roof plan with four sheets labeled A1, A2, A3, and A4 (4 sheets) dated stamped received 4/1/21; and, six (6) sheets, prepared by Parker & Yannette Design Group, entitled "Calusa Planting Plans", with five (5) of the sheets dated stamped received 8/5/21, and one (1) of the sheets (LST-1) dated revised 9/8/21, for a total of ninety-eight (98) sheets, (the "**Site Plan**"), said plans being on file with the Miami-Dade County Department of Regulatory and Economic Resources, or such successor governmental body, department or division having jurisdiction over the Property, and by reference made a part of this Declaration. It is expressly provided pursuant to Notes 1 and 2 on Site Plan Sheet EX2 that the plan may be modified administratively in accordance with the Code of Miami-Dade County to address the proposed final lake design based on the final site geometry, grading and stormwater design approved by the Division of Environmental Resources Management. Further, the Site Plan may be modified administratively to address protection of nesting sites for threatened or endangered bird species as may be required by the Division of Environmental Resources Management.

3. Open Space. Owner shall set aside a minimum combined total of 40% of the Property ("**Minimum Open Space Requirement**"), as recreation and/or open space as defined below. Such recreation and/or open space shall be maintained as park, landscape area, water bodies and swimming pools, recreation and/or other open space. For purposes of this Declaration, such recreation and/or open space may include, by way of example but not limitation, a perimeter buffer and adjacent areas, water management tracts, recreation sites, fences, sidewalks, entrance features and associated entrance structures, including access areas, security and other related development uses, and other areas of the Property that were clearly identified on plans for review by Miami-Dade County during the site plan approval and permitting process. Such recreation and/or open space shall also include changes to the Site Plan to address future technological advances generally accepted as part of a residential community (so long as any impacts from such changes are within the area bounded by the Berm Area (defined below) and entries, and shall not reduce the Buffer Area described below), or changes to address local, state or federal requirements, such as electric vehicle charging stations, mailboxes, and meeting flood requirements. To the extent such changes to comply with governmental requirements are required, commercially reasonable efforts shall be made to accomplish such changes outside of the Berm Area. To the extent changes are required to the Berm Area, such changes shall be made to minimize disruption and impact on the adjacent property owners by using commercially reasonable efforts to impact the Berm Area furthest away from the adjacent residences, and shall only be such changes required in order to comply with the subject requirements. For purposes of recreation and/or open space for this Declaration, such space shall, regardless of current or future ownership, specifically include the Perimeter Buffer area along the exterior perimeter of the Property which is hereinafter described and incorporated as part of the Site Plan.

4. Perimeter Buffer Description. The "Perimeter Buffer" will consist of two components, the combination of which will have a minimum width of seventy-five (75) feet. The first component of the Perimeter Buffer (the "**Berm Area**") will be adjacent to the rear of the exterior lots in the Property. The Berm Area will be comprised of an undulating berm at a minimum height of three (3) feet and have a minimum width of twenty-five (25) feet. The specific trees to be included in the Berm Area will be reflected on the landscape plan through the zoning

process; however, the required landscaping to be included in the Berm Area shall be substantially in accordance with the attached Composite Exhibit "B", with the trees reflected on the plan to be a minimum of twelve (12) feet in height at the time of planting. The Berm Area shall be developed substantially in accordance with Composite Exhibit "B". The specific tree species reflected on Composite Exhibit "B" are subject to commercial availability at the time of planting and subject to changes in governmental regulations, including county code landscape requirements, and forced removal (such as was the case of trees requiring removal due to susceptibility to citrus canker), etc. In the event such trees require substitution or replacement, the substitution or replacement shall be of comparable trees meeting the same height requirements as those reflected on Composite Exhibit "B". The trees shall be maintained by the homeowners' association governing the Property (the "**HOA**") or another legal mechanism, which shall provide for financial means to assure maintenance of the open space. The second component of the Perimeter Buffer will be adjacent to and abutting the Berm Area (the "**Open Buffer Area**"). Portions of the Open Buffer Area that are set aside and offered to the owners of certain lots adjacent to the Property for their exclusive use through either a perpetual exclusive easement or by conveyance shall continue to be included in the calculation of recreation and/or open space for purposes of meeting the Minimum Open Space Requirement regardless of the ownership of the Open Buffer Area. Further, the owner of the Open Buffer Area shall not be required to execute applications or provide disclosure of interest for modifications to the Site Plan or this Declaration in accordance with paragraph 8 below, except where such modification specifically includes the Open Buffer Area owned by that adjacent property owner. Only landscaping, pergolas, gazebos, tiki huts, fences and/or other passive uses, including swimming pools, sporting areas or other similar improvements, shall be permitted in the Open Buffer Area. Permanent or enclosed structures, such as sheds, shall not be permitted in the Open Buffer Area. Open space in the Open Buffer Area shall be maintained by the HOA or another legal mechanism, which shall provide for financial means to assure maintenance of the open space; however, for either conveyances or easements that are granted over any portion of the Open Buffer Area in favor of the owner of an adjacent lot, then the owner of such adjacent lot shall be responsible to maintain such portion of the Open Buffer Area.

5. Traffic and Roadway Improvements. In order to alleviate existing or future traffic and roadway conditions, Owner will, subject to Miami-Dade County Department of Transportation and Public Works or such successor department approval, undertake the following steps to address roadway conditions.

A. Traffic Signal Warrant Analysis at SW 97th Street and SW 127th Avenue.

As part of site plan approval, Owner shall provide a traffic signal warrant analysis utilizing the federal guidelines (Manual on Uniform Traffic Control Devices) for each movement at the intersection of SW 97th Street and SW 127th Avenue, Miami-Dade County, Florida, to determine the need for the installation of a traffic signal as a permanent traffic control solution. The traffic signal warrant analysis shall be based on anticipated traffic conditions at full buildout of the approved development on the Property. If the traffic signal warrant analysis certifies that the intersection's traffic movements warrant the installation of a traffic signal, then Owner, subject

to approval by Miami-Dade County, will design and install a traffic signal prior to issuance of a Temporary Certificate of Use ("TCU") and/or Temporary Certificate of Occupancy ("TCO") for the 31st residential dwelling unit. Nothing herein shall be interpreted to preclude Owner from installing the traffic signal as a contribution in-lieu-of roadway impact fees, if warranted, under Chapter 33E of the Code of Miami-Dade County, Florida.

B. Adaptive Signal Program for SW 104th Street.

In order to improve traffic flow, signal synchronization and reduce congestion at the SW 104th Street/SW 137th Avenue and SW 104th Street/SW 127th Avenue intersections, Owner, subject to Miami-Dade County approval, will purchase adaptive traffic signal equipment (cameras and controllers) for both intersections. To effect this improvement, by no later than the issuance of the 31st TCU or TCO for a residential dwelling unit within the Property, Owner shall submit a letter to the Mayor and the Public Works Director of Miami-Dade County expressing a commitment to purchase the equipment. By the later of the 31st TCU or TCO for a residential dwelling unit within the Property, or 90 days after the County adds the project to the Transportation Improvement Program, Owner will pay Miami-Dade County the required amount.

C. Initial Physical Roadway Improvements.

By no later than the issuance of the 31st TCU or TCO for a residential dwelling unit within the Property, Owner, subject to Miami-Dade County approval, shall commence implementation of the following initial physical roadway improvements and Owner shall complete such improvements within one year thereafter:

- (i) In order to increase the capacity at the intersection of SW 88th Street (Kendall Drive) and SW 133rd Avenue, Owner will construct an extension of the turn lanes on the northbound approach.
- (ii) In order to increase capacity at the intersection of SW 104th Street and SW 127th Avenue, Owner will construct an extension of the existing left turn lane on the eastbound approach to the intersection or, in the alternative, provide dual left turn lanes on the eastbound approach to the intersection.
- (iii) In order to improve capacity at the intersection of SW 104th Street and SW 122nd Avenue, Owner will construct an extension of the existing left turn lane on the eastbound approach to the intersection.

- (iv) In order to create a better flow of traffic and improve circulation at the intersection of SW 104th Street and SW 132nd Avenue, Owner will construct a turbo lane on the eastbound approach to the intersection.

D. Traffic Calming/Traffic Flow Improvements.

Owner will implement the traffic calming and traffic flow modifications described below to address the non-destination pass-through traffic emanating from outside of the boundaries of the Calusa neighborhood generally, which is located between SW 127th Avenue and SW 137th Avenue and SW 88th Street and SW 104th Street. Owner shall base the program on Miami-Dade County's "Traffic Flow Modification(s)/Street Closure(s) Procedure." In order to address the flow-thru traffic and to monitor the success of the program, Owner shall use an incremental approach to assess traffic alternatives by first implementing the least restrictive alternatives and gradually increasing into the most restrictive alternatives needed based on traffic flow and traffic patterns, all as more particularly described below. The HOA documents for the Property shall provide for an off-duty police officer to enforce the Stage I Traffic Modifications and Stage II Traffic Modifications hereinafter described during the morning peak period generally defined between 7:00 a.m. and 9:00 a.m. ("**Morning Peak Period**") for a minimum of three days per week and such HOA documents shall provide for financial means to provide such off-duty police enforcement. The providing of an off-duty police officer to enforce the Stage I and Stage II Traffic Modifications may not be discontinued without the consent of the Miami-Dade County Deputy Mayor overseeing the Department of Transportation and Public Works, or the County Deputy Mayor's designee or such other successor County official overseeing such transportation-related issues.

- (i) Stage I Traffic Modifications. By no later than the issuance of the 31st TCU or TCO for a residential dwelling unit within the Property, Owner shall implement the following turn restrictions during the Morning Peak Period on non-holiday weekdays:
 - a. SW 137th Avenue and SW 98th Street: The southbound to eastbound left turn and the northbound to eastbound right turn shall be restricted.
 - b. SW 137th Avenue and 100th Street: The southbound to eastbound left turn and the northbound to eastbound right turn shall be restricted.

- c. SW 132nd Avenue and Calusa Club Drive: The northbound to eastbound right turn onto South Calusa Club Drive shall be restricted.
 - d. SW 128th Place and 104th Street: The eastbound to northbound left turn onto SW 128th Place shall be restricted.
- (ii) Stage II Traffic Modifications. After a period of six months of implementing the Stage I Traffic Modifications described above, Owner will conduct a new traffic study of Morning Peak Period traffic in the Calusa neighborhood. If the traffic study concludes that the Stage I Traffic Modifications have not significantly prevented or reduced cut-through traffic, then, subject to approval of the Miami-Dade County Department of Transportation and Public Works or such successor department, Owner shall commence implementation of the following traffic calming and traffic flow improvements and Owner shall complete such improvements within one year thereafter:
- a. SW 137th Avenue and SW 98th Street: Owner will eliminate the southbound to eastbound left turn from SW 137th Avenue onto SW 98th Street and reconstruct the median to facilitate the westbound to southbound turn from SW 98th Street to SW 137th Avenue as a directional left only. The northbound to eastbound right turn restriction described in the Stage I Traffic Modifications will remain during the Morning Peak Period.
 - b. SW 137th Avenue and SW 100th Street: Owner will eliminate the existing southbound to eastbound left turn from SW 137th Avenue onto SW 100th Street and reconstruct the median to facilitate the westbound to southbound onto SW 137th Avenue directional left only. The northbound to eastbound right turn restriction described in the Stage I Traffic Modifications will remain during the Morning Peak Period.
 - c. SW 132nd Avenue: Owner will modify the east leg of the SW 132nd Avenue/Calusa Club Drive intersection to create a physical restriction (consisting of a raised curb) to the northbound to eastbound right turn onto South Calusa Club Drive.
 - d. SW 128th Place and SW 104th Street: Owner will eliminate the eastbound to northbound left turn lane from SW 104th Street onto SW 128th Place and reconstruct the median to

facilitate the southbound to eastbound directional left onto SW 128th Place.

- (iii) Stage III Traffic Modifications. After a period of six months of implementing the Stage II Traffic Modifications described above, Owner will conduct a new traffic study of Morning Peak Period traffic in the Calusa neighborhood. If the traffic study concludes that the Stage II Traffic Modifications have not significantly prevented or reduced cut-through traffic, then subject to approval of the Miami-Dade County Department of Transportation and Public Works or such successor department, Owner shall commence implementation of the following traffic calming and traffic flow improvements and Owner shall complete such improvements within one year thereafter:
 - a. SW 137th Avenue and SW 98th Street: Owner shall convert SW 98th Street into a partial one way westbound street and construct a semi diverter to prevent the physical northbound to eastbound right turn from SW 137th Avenue onto SW 98th Street.
 - b. SW 137th Avenue and SW 100th Street: Owner shall convert the SW 100th Street into a partial one way westbound street and construct a semi-diverter to prevent physical movement from the northbound to eastbound right turn onto SW 100th Street.
- (iv) In connection with the Application, Calusa Club Drive shall not be widened.

E. Traffic Signal Timing Adjustments.

In order to improve traffic flow and intersection approach delays or reduce back of queue, Owner, subject to Miami-Dade County approval, will make signal timing adjustments for the following intersections by no later than the issuance of the 31st TCU or TCO for a residential dwelling unit within the Property:

- (i) SW 88th Street and SW 122nd Avenue.
- (ii) SW 88th Street and SW 127th Avenue.
- (iii) SW 96th Street and SW 127th Avenue.
- (iv) SW 96th Street and SW 137th Avenue.
- (v) SW 104th Street and SW 122nd Avenue.

(vi) SW 104th Street and SW 127th Avenue.

(vii) SW 104th Street and SW 132nd Avenue.

6. Covenant Running with the Land. This Declaration on the part of Owner shall constitute a covenant running with the land and shall be recorded, at Owner's expense, in the public records of the County and shall remain in full force and effect and be binding upon the undersigned Owner, and its heirs, successors and assigns until such time as the same is modified or released. These restrictions shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the benefit of the County in the exercise of its power to protect the public health, safety and welfare. Owner, and its heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the County.

7. Term. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by the then owner(s) of the Property, in accordance with paragraph 8 below, has been recorded agreeing to change the Declaration in whole, or in part, provided that the Declaration has first been modified or released by the County.

8. Modification, Amendment, Release. This Declaration may be modified, amended or released as to the Property, or any portion thereof, by a written instrument executed by the then owner(s) of the Property, if any, except owners of the Open Buffer Area, provided that the same is also approved by the County's Board of County Commissioners or the Director as provided by the County Code of Ordinances. Notwithstanding the foregoing, if any portion of the Property has been submitted to the condominium form of ownership or another collective ownership structure or is part of a property owners' or homeowners' association ("**Submitted Portion**"), then such consent shall be given by the condominium association, property owners' association, or other entity governing such Submitted Portion rather than the individual unit, parcel, or lot owner or their mortgagees. Notwithstanding the foregoing, except as may otherwise be provided under paragraphs 3 and 4 above, there shall be no modifications to paragraphs 1 and 4 above or the attached Composite Exhibit "B", or the Minimum Open Space Requirement of paragraph 3 above, until March 27, 2067. Further, for any portion of the Open Buffer Area which is either (i) conveyed to an owner of a lot adjacent to the Property; or (ii) over which an exclusive perpetual easement is granted to the owner of a lot adjacent to the Property, then such portion of the Open Buffer Area shall not be subject to modification without the written consent of such adjacent lot owner. Should this Declaration be so modified, amended, or released, the Director of the Department of Regulatory and Economic Resources or the executive officer of a successor department, or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her absence, shall execute a written instrument effectuating and acknowledging such modification, amendment, or release. It is provided, however, in the event the Property is annexed to an existing municipality or the Property is incorporated into a new municipality, any modification, amendment, or release shall not become effective until it is approved by such municipality and is thereafter approved by the Board of County Commissioners, in accordance with applicable procedures.

9. Enforcement. Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of its/their attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

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

11. Authorization for the County (or successor municipality) to Withhold Permits and Inspections. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County (or successor municipality) is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this Declaration is complied with. Notwithstanding the foregoing, if noncompliance relates to prohibited improvements on the portion of the Property subject either to the perpetual exclusive easement or conveyance pursuant to paragraph 4 above, enforcement shall be against the grantee of the easement or title, and shall not preclude permits from being issued on or be subject to enforcement against the remainder of the Property.

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

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

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

15. Recordation and Effective Date. This Declaration shall be filed of record in the public records of the County at the cost of Owner following final approval of the Application by the County's Board of County Commissioners and expiration of the appellate time period. This Declaration shall become effective immediately upon recordation. Upon the final disposition of an appeal or legal challenge that results in the denial of the Application, or quashal of the Resolution, upon written request, the Director of the Department of Regulatory and Economic Resources or the executive officer of the successor of said department, or in the absence of such director or

executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

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

17. Owner. The term Owner shall include the Owner, and its heirs, assigns, and successors in interest.

[EXECUTION PAGES TO FOLLOW]

IN WITNESS WHEREOF, the undersigned have duly executed this Declaration effective as of the 19th day of October, 2021.

WITNESSES:

OWNER:

KENDALL ASSOCIATES I, LLLP, a Florida limited liability limited partnership

By: Kendall I Corporation, a Florida corporation, its general partner

Liana Kozlowski
Signature
Liana Kozlowski
Print Name

By: [Signature]
Name: Richard M. Norwalk
Title: Vice President

Eileen Mehta
Signature
Eileen Mehta
Print Name

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

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 19th day of October, 2021 by Richard M. Norwalk, as Vice President of Kendall I Corporation, a Florida corporation, the general partner of Kendall Associates I, LLLP, a Florida limited liability limited partnership, who is personally known to me or produced a valid driver's license as identification.

[Signature]
Notary Public
Sign Name: [Signature]
Print Name: Brian S Adler

My Commission Expires:



BRIAN SCOTT ADLER
Commission # GG 940668
Expires January 4, 2024
Bonded Thru Budget Notary Services

Serial No. (None, if blank): _____
(NOTARIAL SEAL)

WITNESSES:

OWNER:

9800 CALUSA CLUB DRIVE, LLC, a Florida
limited liability company

Liana Kozlowski
Signature
Liana Kozlowski
Print Name

By: [Signature]
Name: Richard M. Norwalk
Title: Vice President

Eileen Mehta
Signature
Eileen Mehta
Print Name

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

The foregoing instrument was acknowledged before me by means of ☒ physical presence
or ☐ online notarization this 19th day of October, 2021 by Richard M. Norwalk, as Vice President
of 9800 Calusa Club Drive, LLC, a Florida limited liability company, who is personally known to
me or produced a valid driver's license as identification.

[Signature]
Notary Public
Sign Name: Brian S Adler
Print Name: _____

My Commission Expires:

Serial No. (None, if blank): _____
(NOTARIAL SEAL)

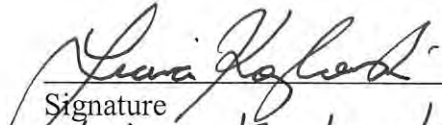


BRIAN SCOTT ADLER
Commission # GG 940668
Expires January 4, 2024
Bonded Thru Budget Notary Services

WITNESSES:


OWNER:

HOME AT 9810, LLC, a Florida limited liability company



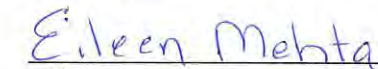
Signature
Liana Kozlowski

Print Name

By: 

Name: Richard M. Norwalk

Title: Vice President




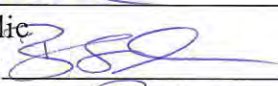
Signature
Eileen Mehta

Print Name

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

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 19th day of October, 2021 by Richard M. Norwalk, as Vice President of Home at 9810, LLC, a Florida limited liability company, who is personally known to me or produced a valid driver's license as identification.



Notary Public
Sign Name: 

Print Name: Brian S Adler

My Commission Expires:

Serial No. (None, if blank): _____
(NOTARIAL SEAL)



BRIAN SCOTT ADLER
Commission # GG 940668
Expires January 4, 2024
Bonded Thru Budget Notary Services

EXHIBIT "A"

A portion of Section 2, Township 55 South, Range 39 East, Miami-Dade County, Florida, being more particularly described as follows:

Commence at the southwest corner of the Southeast 1/4 of Section 2, Township 55 South, Range 39 East, Miami-Dade County, Florida; thence run due North along the West line of the Southeast 1/4 of said Section 2 for a distance of 1,170.00 feet to a point on a circular curve, thence run due East for a distance of 180.00 feet to the Point of Beginning of the parcel of land hereinafter described; thence run south and east along a circular curve concave to the northeast, having a radius of 300.00 feet through a central angle of 90° 00' 00" for an arc distance of 471.24 feet to the end of said curve; thence run due East for a distance of 210.00 feet to the beginning of a tangential circular curve; thence run easterly along said circular curve concave to the south, having a radius of 630.00 feet through a central angle of 23° 30' 00" for an arc distance of 258.40 feet to a point of reverse curve; thence run in an easterly direction along a circular curve, concave to the north, having a radius of 1,625.00 feet through a central angle of 26° 00' 00" for an arc distance of 737.40 feet to a point of compound curve; thence run northerly and westerly along said curve, concave to the west, having a radius of 245.00 feet through a central angle of 150° 00' 00" for a distance of 641.41 feet to a point of reverse curve; thence westerly along said curve whose center bears North 27° 30' 00" East having a radius of 470.00 feet through a central angle of 30° 15' 00" for an arc distance of 248.14 feet to a point of reverse curve; thence run in a westerly direction along said curve, concave to the southwest, having a radius of 860.00 feet through a central angle of 46° 19' 49" for an arc distance of 695.41 feet to the end of said curve; the center of the aforesaid circular curve bears South 11° 25' 11" West; thence run northwesterly along a circular curve concave to the northeast, whose center bears North 19° 12' 42" West, having a radius of 170.00 feet through a central angle of 95° 51' 35" for an arc distance of 284.42 feet to a point; thence run South 76° 38' 44" West for a distance of 61.63 feet; thence run North 09° 40' 13" West for a distance of 190.77 feet; thence run North 08° 09' 57" West for a distance of 123.19 feet; thence run North 11° 08' 18" West for a distance of 164.87 feet; thence run North 30° 43' 47" East for a distance of 97.08 feet; thence run North 82° 41' 47" East for a distance of 47.56 feet; thence run South 50° 36' 36" East for a distance of 220.48 feet; thence run South 52° 45' 10" East for a distance of 117.31 feet; thence run South 57° 45' 50" East for 116.93 feet; thence run South 12° 10' 21" West for a distance of 106.45 feet to a point on a circular curve concave to the southwest; thence run southeasterly along said circular curve whose center bears South 12° 10' 21" West and having a radius of 1160.00 feet through a central angle of 45° 34' 40" for an arc distance of 922.76 feet to a point of reverse curve; thence run easterly and northerly along said circular curve concave to the northwest having a radius of 170.00 feet through a central angle of 155° 45' 00" for an arc distance of 462.12 feet to the end of said curve; thence run North 08° 00' 00" West for a distance of 680.00 feet to the beginning of a tangential circular curve; thence run northerly along said circular curve concave to the east having a radius of 350.00 feet through a central angle of 34° 45' 00" for an arc distance of 212.28 feet to a point of reverse curve; thence run northerly along said circular curve, concave to the west, having a radius of 215.00 feet through a central angle of 37° 45' 00" for an arc distance of 141.66 feet to the end of said curve; thence run North 11° 00' 00" West for a distance of 325.00 feet to the beginning of a tangential circular curve; thence run north along said curve concave to the east, having a radius of 500.00 feet through a central angle of 32° 00' 00" for an arc distance of 279.25 feet to a point of reverse curve; thence run north along said

curve concave to the west, having a radius of 950.00 feet through a central angle of $30^{\circ} 30' 00''$ for an arc distance of 505.71 feet to a point of compound curve; thence run northwesterly along said curve concave to the southwest having a radius of 2,180.00 feet through a central angle of $18^{\circ} 40' 43''$ for an arc distance of 710.69 feet to the end of said curve whose center bears South $61^{\circ} 49' 17''$ West; thence run North $88^{\circ} 00' 00''$ West for a distance of 104.55 feet to the beginning of a tangential circular curve; thence run southwesterly along said curve concave to the southeast, having a radius of 1,130.00 feet through a central angle of $36^{\circ} 30' 00''$ for an arc distance of 719.86 feet to a point of compound curve; thence run southerly along said curve, concave to the southeast having a radius of 880.00 feet through a central angle of $37^{\circ} 00' 00''$ for an arc distance of 568.27 feet to the end of said curve; thence run South $18^{\circ} 30' 00''$ West for a distance of 340.00 feet to a point; thence run North $71^{\circ} 30' 00''$ West for a distance of 300.00 feet to a point; thence run North $18^{\circ} 30' 00''$ East for a distance of 480.00 feet; thence run North $10^{\circ} 30' 00''$ East for a distance of 470.00 feet to a point; thence run South $88^{\circ} 00' 00''$ West for a distance of 255.00 feet to the beginning of a tangential circular curve; thence run southwesterly along said curve concave to the southeast having a radius of 360.00 feet through a central angle of $54^{\circ} 30' 00''$ for an arc distance of 342.43 feet to a point of reverse curve; thence run southwesterly along said curve concave to the northwest, having a radius of 1,215.00 feet through a central angle of $20^{\circ} 45' 00''$ for an arc distance of 440.02 feet to a point of compound curve; thence run westerly along said curve concave to the north having a radius of 470.00 feet through a central angle of $53^{\circ} 45' 00''$ for an arc distance of 440.91 feet to the point of reverse curve; thence run westerly along said curve concave to the south, having a radius of 640.00 feet through a central angle of $21^{\circ} 14' 22''$ for an arc distance of 237.25 feet to a point of compound curve; thence run westerly along said curve concave to the southeast, having a radius of 1,350.00 feet through a central angle of $19^{\circ} 48' 51''$ for an arc distance of 466.86 feet to the end of said curve whose center bears South $23^{\circ} 03' 13''$ East; thence run southerly along a circular curve, whose center bears South $55^{\circ} 30' 00''$ East, having a radius of 275.00 feet through a central angle of $75^{\circ} 00' 00''$ for an arc distance of 359.97 feet to a point of compound curve; thence run southeasterly along said curve concave to the northeast having a radius of 975.00 feet through a central angle of $31^{\circ} 30' 00''$ for an arc distance of 536.03 feet to the end of said curve; thence South $72^{\circ} 00' 00''$ East for a distance of 130.00 feet to the beginning of a tangential circular curve; thence run southeasterly along said curve concave to the southwest having a radius of 590.00 feet through a central angle of $45^{\circ} 15' 00''$ for an arc distance of 465.96 feet to a point of reverse curve; thence run southeasterly along said curve concave to the northeast having a radius of 230.00 feet through a central angle of $41^{\circ} 15' 00''$ for an arc distance of 165.59 feet to a point of a reverse curve; thence run southeasterly along said curve concave to the southwest having a radius of 410.00 feet through a central angle of $24^{\circ} 00' 00''$ for an arc distance of 171.74 feet to a point of compound curve; thence run southerly along said curve concave to the southwest having a radius of 910.00 feet through a central angle of $37^{\circ} 00' 00''$ for an arc distance of 587.65 feet to a point of reverse curve; thence run southerly along said curve concave to the northeast having a radius of 1,800.00 feet through a central angle of $15^{\circ} 00' 00''$ for an arc distance of 471.24 feet to a point of reverse curve; thence run southerly along said curve concave to the west, having a radius of 435.87 feet through a central angle of $45^{\circ} 00' 00''$ for a distance of 342.33 feet; thence run South $23^{\circ} 00' 00''$ West for a distance of 24.13 feet; thence run south along a tangential curve concave to the east having a radius of 300.00 feet through a central angle of $23^{\circ} 00' 00''$ for an arc distance of 120.43 feet to the Point of Beginning.

AND

A portion of the Northeast 1/4 of Section 2, Township 55 South, Range 39 East, being more particularly described as follows:

From the southeast corner of Lot 141, Block 1, of CALUSA CLUB ESTATES, according to the plat thereof, as recorded in Plat Book 100, at Page 41, of the Public Records of Miami-Dade County, Florida, run South 18 degrees 30 minutes 00 seconds West along the production southerly of the easterly line of said Lot 141 for 120.00 feet for Point of Beginning; thence continue South 18 degrees 30 minutes 00 seconds West along the production southerly of the easterly line of said Lot 141 for 120.00 feet to a point; thence run North 71 degrees 30 minutes 00 seconds West at right angles to the last described course for 125.00 feet to a point; thence run North 18 degrees 30 minutes 00 seconds East for 120.00 feet to a point; thence run South 71 degrees 30 minutes 00 seconds East along a line parallel to and 120.00 feet from the southerly line of said Lot 141 for 125.00 feet to the Point of Beginning.

TOGETHER WITH:

Lots 35 and 36, Block 1, of CALUSA CLUB ESTATES, according to the Plat thereof, as recorded in Plat Book 100, Page 41, of the Public Records of Miami-Dade County, Florida.

COMPOSITE EXHIBIT "B"

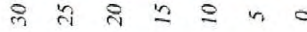
Perimeter Buffer. Developer shall construct on the Perimeter Buffer a berm area that will be adjacent to the rear of the exterior lots on the Property (the "Berm Area") that is not less than twenty-five feet (25') wide and contains a berm not less than three feet (3') high, planted with trees and other plant material on both slopes of the berm (and sod in areas without planting materials or surrounding mulch) to create, as much as reasonably possible, an opaque barrier between the Property and the lots which are adjacent to the Property, together with irrigation facilities to ensure healthy growth of the plant material. The trees and plant material to be planted in the Berm Area are depicted and itemized on graphic attached to this Composite Exhibit "B" (collectively, "the Landscaped Constructed Berm").

There shall be a five foot (5') drainage swale located at the rear of the Open Buffer Area closest to the Berm Area (the "Drainage Swale Area"). The Open Buffer Area will be graded in a manner that will start by matching the existing grade at the rear property line of each such lot adjacent to the Open Berm Area and, from such existing grade, slope downward at a minimum one-half percent (.5%) grade from such rear property line to the Drainage Swale Area. The Drainage Swale Area will be further sloped downward at a minimum one-half percent (.5%) to a designed low point in the Drainage Swale Area where storm water will be collected via a drainage catch basin with surface grate and then discharged via a perforated pipe into an approximately sixty foot (60') long (not deep) below-ground exfiltration trench below the bottom of the catch basin (the "Drainage Facilities"). The low point drainage catch basins shall be spaced no more than five hundred feet (500') from each other. The Drainage Swale Area will collect and discharge storm water from the lots adjacent to the Property and the Open Berm Area. If the County requires changes to the improvements detailed in this paragraph, Developer shall comply with County requirements.

Construction shall be substantially in accordance with the attached graphic to this Composite Exhibit "B." The specific tree species reflected on this Composite Exhibit "B" are subject to commercial availability at the time of planting and subject to changes in governmental regulations, including county code landscape requirements, and forced removal (such as was the case of trees requiring removal due to susceptibility to citrus canker), etc. In the event such trees require substitution or replacement, the substitution or replacement shall be of comparable trees meeting the same height requirements as those reflected on this Composite Exhibit "B".

January 12, 2010

NOT TYPEICAL SECTION


$$\frac{NTS}{\quad}$$


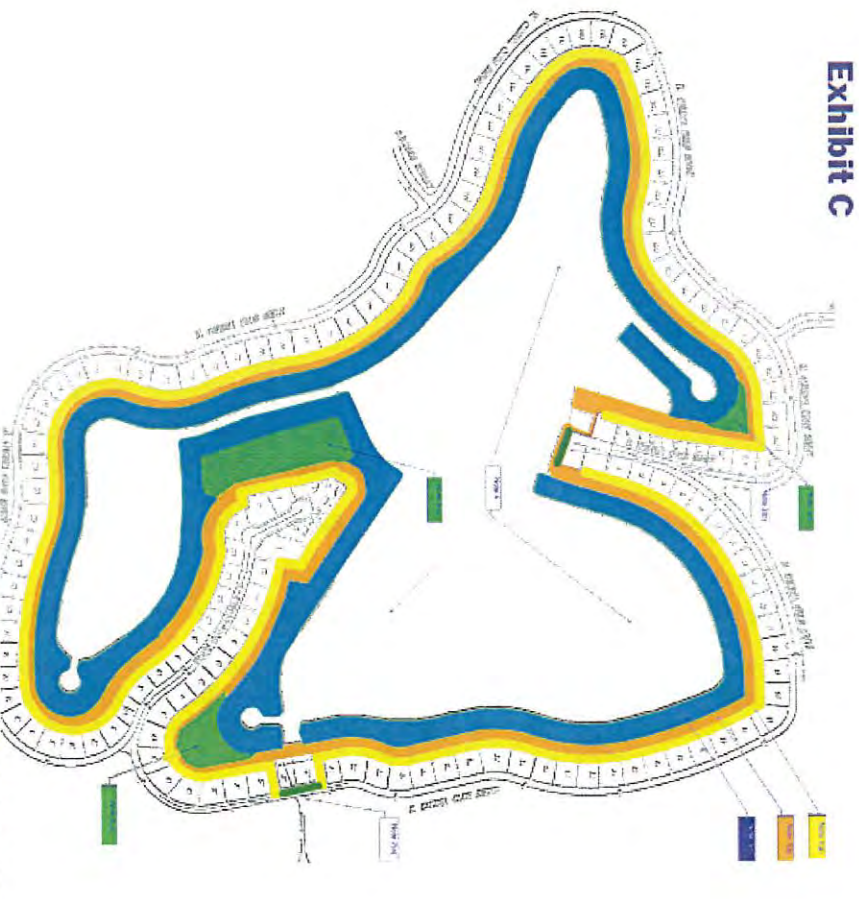
MIAMI 6213609.53 82350/48495

Colusa Typical Buffer
<p> 1. H_2O 2. H_2O 3. H_2O 4. H_2O 5. H_2O 6. H_2O 7. H_2O 8. H_2O 9. H_2O 10. H_2O 11. H_2O 12. H_2O 13. H_2O 14. H_2O 15. H_2O 16. H_2O 17. H_2O 18. H_2O 19. H_2O 20. H_2O 21. H_2O 22. H_2O 23. H_2O 24. H_2O 25. H_2O 26. H_2O 27. H_2O 28. H_2O 29. H_2O 30. H_2O 31. H_2O 32. H_2O 33. H_2O 34. H_2O 35. H_2O 36. H_2O 37. H_2O 38. H_2O 39. H_2O 40. H_2O 41. H_2O 42. H_2O 43. H_2O 44. H_2O 45. H_2O 46. H_2O 47. H_2O 48. H_2O 49. H_2O 50. H_2O 51. H_2O 52. H_2O 53. H_2O 54. H_2O 55. H_2O 56. H_2O 57. H_2O 58. H_2O 59. H_2O 60. H_2O 61. H_2O 62. H_2O 63. H_2O 64. H_2O 65. H_2O 66. H_2O 67. H_2O 68. H_2O 69. H_2O 70. H_2O 71. H_2O 72. H_2O 73. H_2O 74. H_2O 75. H_2O 76. H_2O 77. H_2O 78. H_2O 79. H_2O 80. H_2O 81. H_2O 82. H_2O 83. H_2O 84. H_2O 85. H_2O 86. H_2O 87. H_2O 88. H_2O 89. H_2O 90. H_2O 91. H_2O 92. H_2O 93. H_2O 94. H_2O 95. H_2O 96. H_2O 97. H_2O 98. H_2O 99. H_2O 100. H_2O </p>

* DOMESTIC NATIVE SPECIES
NOTE: FINAL PLANT SPECIES AND SPECIFICATIONS ARE SUBJECT TO AVAILABILITY AND MAY VARY FROM THE LIST ABOVE

LEGEND:
THE ITEMS CONTAINED BELOW ARE FINAL AND NOT SUBJECT TO CHANGE AS PROVIDED IN THE DECLARATION OF RESTRICTIVE COVENANTS.

1. Buffer:	
(a) Open Buffer Area	
(b) Berm Area	
2. Entrances/exits to proposed development:**	
(a) Main entrance	
(b) Secondary entrance	
3. Use Restrictions:	
(a) This area shall only be used as open space, parks, landscape area, lakes and/or storm water retention, or homes.	
(b) Perimeter lots shall have a front footage of 55 feet, except that cul-de-sac or curvilinear lots could have a minimum front footage of 33 feet consistent with the R.U. 191(a) district; provided that if a curvilinear or cul-de-sac perimeter lot has a front footage less than 55 feet, the minimum rear lot dimension must be at least 55 feet and not be a Zero Lot Line Lot.***	
(c) Perimeter lots shall have a rear footage of 55 feet, except that curvilinear lots could have a minimum rear footage of 45 feet provided that if a curvilinear lot has a rear footage of less than 55 feet, the minimum front lot dimension must be at least 55 feet and not be a Zero Lot Line Lot.***	
4. Development Area: Shall include a clubhouse, swimming pool and other amenities.	
5. Capitalized terms not defined in this exhibit have the meanings defined in the Declaration of Restrictive Covenants.	
* Landscaping of Berm Area shall be in substantial compliance with Composite Exhibit B, Graphic Design of Landscaped Constructed Berm. The specific tree species reflected on Composite Exhibit B are subject to commercial availability at the time of planting, and subject to changes in governmental regulations, including county code landscape requirements, and forced removal, etc. In the event such trees require substitution or replacement, the substitution or replacement shall be of comparable trees meeting the same height requirements as those reflected on Composite Exhibit B.	
** 2 entrances allowed. See 2 (a) & (b). In connection with any CDMR application or Zoning Application, Calusa Club Drive shall not be widened and no traffic circles shall be constructed on Calusa Club Drive. Main entrance shall have a minimum of 120 feet between the gate and the right of way line.	
*** Zero Lot Line Lot*, for purposes of this exhibit, shall mean a lot on which one side of the building on such lot is located directly on a side property line of such lot and the other side is set back ten (10) feet from the other side property line.	

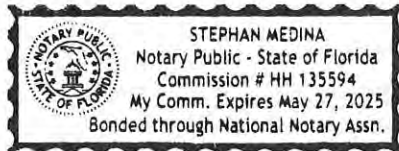


STATE OF FLORIDA

COUNTY OF MIAMI-DADE

BEFORE me, by means of ☒ physical presence or ☐ online notarization, the undersigned authority on this 18 day of October, 2021, personally appeared Catherine H. Lorie, as Manager of Fort Dallas Golf Club, LLC, a Florida limited liability company, the general partner of FORT DALLAS GOLF CLUB, LTD., a Florida limited partnership, on behalf of said company and partnership. She is personally known to me.

[NOTARIAL SEAL]



Notary Public

Print Notary Name

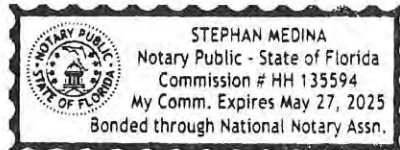
Notary Public, State of Florida

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

BEFORE me, by means of ☒ physical presence or ☐ online notarization, the undersigned authority on this 18 day of October, 2021, personally appeared Catherine H. Lorie, as Manager of NORTHEASTERN GOLF LLC, a Florida limited liability company, on behalf of said company. She is personally known to me.

[NOTARIAL SEAL]



Notary Public

Print Notary Name

Notary Public, State of Florida

Memorandum



Date: November 8, 2021

To: Lourdes M. Gomez, AICP, Director
Department of Regulatory and Economic Resources

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

Subject: Z2021000031
Kendall Associates I, LLLP
9400 SW 130th Avenue - revision
DBC GU & EU-M to PAD for new residential development
(EU-M) (169.274 Acres)
02-55-39

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

The Department of Regulatory and Economic Resources – Division of Environmental Resources Management (DERM) has reviewed the above-referenced zoning application for compliance with the requirements of Chapter 24 of the Miami-Dade County Code (the Code) for potable water service, wastewater disposal, and wellfield protection. Based on the information provided, this zoning application is approved pursuant to Section 24-43.1 and Section 24-43(5) of the Code.

Tree Preservation

An aerial review of the subject properties indicates the presence of tree resources, including specimen trees (a tree with a trunk diameter at breast height of 18 inches or greater). Section 24-49 of the Code provides for the preservation and protection of specimen tree resources whenever reasonably possible. 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 comply with the requirements of Sections 24-49.2 and 24-49.4 of the Code, including the specimen tree standards.

On May 4, 2021, the applicant submitted a tree permit application and supporting information to remove tree resources, including specimen trees. Subsequently, on May 13, 2021, DERM biologists inspected the subject properties and the on-site tree resources with the certified arborist representing the applicant. This inspection determined that 156 specimen trees were in very poor, poor, or fair condition and were not good candidates for preservation. However, DERM identified specimen trees that are in good condition and should be preserved. On August 13, 2021, the applicant submitted revised site plans for the Tree permit application and has agreed to preserve in place or relocate the specimen trees discussed with the applicant's arborist. The applicant will be required to obtain the Tree permit and place a covenant on the specimen trees to be preserved prior to any tree removal or relocation.

In accordance with Section 24-49.9 of the Code, all plants prohibited by Miami-Dade County shall be removed from all portions of the properties prior to development, or redevelopment and developed parcels shall be maintained to prevent the growth or accumulation of prohibited species. Please contact Merlyn Robles at Merlyn.Robles@miamidadecounty.gov for additional information or concerns regarding this review.

Conditions of Approval: Obtain DERM Tree Permit

Wellfield Protection

The subject property is located within the Basic Wellfield Protection Area of the West Wellfield Interim and Southwest Wellfields. Therefore, development on the subject property shall be in accordance with regulations established in Section 24-43 of the Code.

Conditions of Approval: None

Potable Water Service and Wastewater Disposal

Based on the proposed district boundary change for the construction of 550 single-family residences connection of the proposed development to the public water supply system and sanitary sewer system shall be required in accordance with Code requirements. Based on DERM records, WASD agreement No. 31022 and points of connections for water and sewer system have been issued.

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 drawings for the required sewer main extension will need to be approved by Miami-Dade Water and Sewer Department and DERM Water and Wastewater Division prior to the approval of final development orders. All sewer lines serving the property shall comply with the exfiltration standards as applied to development within wellfield protection areas.

Existing public water and sewer facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Please note that some of the collection/transmission facilities, which includes sanitary sewer gravity sewer mains, sanitary sewer force mains, and sanitary sewer pump stations, throughout the County do not have adequate capacity, as defined in the Consent Decree between Miami-Dade County, Florida Department of Environmental Protection and the U.S. Environmental Protection Agency case 1:12-cv-24400-FAM. Under the terms of this Consent Decree, this approval does not constitute an allocation or certification of adequate treatment and transmission system capacity. At the time of building permits, DERM will evaluate and may reserve sanitary sewer capacity, through the DERM sanitary sewer certification process, if the proposed development complies with the provisions of the Consent Decree. Building permits for development in sanitary sewer basins which have been determined not to have adequate capacity cannot be approved until adequate capacity becomes available.

Conditions of Approval: None

Stormwater Management

An Environmental Resource Permit from the South Florida Water Management District (1-800-432-2045) will be required for the construction and operation of the required surface water management system. This permit shall be obtained prior to any future development order approval. It is the applicant's responsibility to contact the above-mentioned agency for further information regarding permitting procedures and requirements.

Stormwater shall be retained on-site utilizing a properly 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.

Site grading and development plans shall comply with the requirements of Chapter 11C of the Code, as well as with all state and federal criteria, and shall not cause flooding of adjacent properties.

Any proposed development shall comply with county and federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the LOS standards for flood protection set forth in the CDMP subject to compliance with the conditions required for this proposed development order.

Pursuant to Sections 24-48.1(1)(b)& 24-48.1(1)(f) of the Code, the applicant is advised that a DERM Class II or Class VI Permit shall be required if the new proposed surface water management system will have an overflow outfall to any water body in Miami-Dade County, including, but not limited to, canals, rivers, lakes and/or tidal water bodies.

Conditions of Approval: None

Pollution Remediation

DERM notes the site plan and lake excavation plan submitted in support of the requested district boundary change show proposed drainage lakes and drainage features. Please be advised that the site has records of environmental site investigation tracked under Former Calusa Golf Course (DERM file AW-209). An environmental site investigation report has not been submitted for DERM review. Please note that drainage features cannot be located in areas that exceed the groundwater clean-up target levels in the code that could cause plume dispersion. DERM notes the applicant has not submitted drainage plans for DERM Pollution Remediation Section review and approval, therefore the location of the proposed drainage features as shown on the site plan and lake excavation plan have not been reviewed or approved by DERM.

All drainage features, inclusive of lakes shown on the site plans submitted with this zoning application are conceptual and subject to a future review and approval of Paving and Drainage Plans by DERM.

Based on the past golf course use of the site, DERM requires that a Phase 1 and Phase 2 Environmental Site Assessment prepared in accordance with ASTM standards be conducted at the site prior to site development and prior to the submittal of site development plans through the building department review process.

DERM review and approval of an environmental site investigation report shall be required. Further, all construction plans (inclusive of drainage) and dewatering plans shall require review and approval from the DERM Environmental Monitoring and Restoration Division as it relates to environmental contamination issues. Any contaminated portion of the site that is proposed to be sold, transferred, or dedicated (including, but not limited to, for public right-of-way) to any public entity shall be identified on the tentative and final plat plans for this development. If any contaminated portion of the site is proposed to be sold, transferred, or dedicated to the County, please note that all soil, groundwater, or surface water contaminants, solid waste, and methane must be disclosed to the applicable County department at the earliest stage possible. The applicable County departments would include all departments that would receive or manage the proposed property, and for example, would include PROS for a park and DTPW

for road right-of-way. Please note that the presence of any such contamination, solid waste, or methane or a delay by the applicant in disclosing such contamination or impacts to the applicable County departments could result in the county declining to accept the proposed dedication. This may in turn result in the need for the developer to reconfigure or change previously approved site plans, or make other changes to the proposed development, which may require approval after a public hearing.

If an applicant elects to address soil contamination, groundwater contamination, solid waste, and methane via a No Further Action with Conditions, each individual property owner will be required to execute a restrictive covenant.

Please note that nothing stated herein may be interpreted to limit or restrict an engineer's or other professional's responsibility to prepare plans accurately and completely for proposed rights-of-way as well as any other projects or plans. Please contact Thomas Kux, P.G. at Thomas.kux@miamidade.gov if you have any questions.

Conditions of Approval:

All drainage features, inclusive of lakes, are conceptual and subject to a future review and approval of Paving and Drainage Plans by the Miami-Dade County Division of Environmental Resources Management.

Pollution Regulation

Fill material to be used to fill the on-site lakes shall be limited to clean fill as defined in Section 24-5 of the Code that is free of contamination. The petitioner is advised that the use of clean fill materials originating from any source other than a rock mining quarry located in Miami-Dade County requires pre-approval from DERM, which may also involve the completion of analytical testing of the fill material in accordance with the published DERM Soil Reuse Guidance.

A Resource Recovery and Management Facility Limited to Lakefill Operating Permit issued by DERM in accordance with the provisions of Section 24-18 of the Code may also be required prior to commencement of lake filling activities. At least ninety (90) days prior to commencement of lakefill activities, the petitioner shall contact the DERM Environmental Permitting Section to obtain further guidance regarding the applicability of the aforementioned permitting provisions and to provide the sources, types and quantities of fill material intended to be used and approximate commencement date and duration of filling activities. For further assistance on this matter, please contact Johnny Vega, P.E. of the DERM Pollution Regulation Division at (305) 372-6600 or via email at vegajo@miamidade.gov.

Conditions of Approval: None

Comprehensive Development Master Plan- Conservation, Aquifer Recharge and Drainage Element

Objective CON-9

Objective CON-9 of the CDMP states that "Freshwater fish, wildlife and plants shall be conserved and used in an environmentally sound manner and undeveloped habitat critical to federal, state or County designated endangered, threatened, or rare species or species of special concern shall be preserved."

Although the subject property is not undeveloped, it was previously developed as a golf course, the first part of the objective continues to apply and is relevant to the analysis below.

In addition, Policy CON-9B states that “All nesting, roosting and feeding habitats used by federal or State designated endangered or threatened species, shall be protected and buffered from surrounding development or activities and further degradation or destruction of such habitat shall not be authorized.”

In addition, Policy CON-9C states, “Rookeries and nesting sites used by federal or State designated endangered or threatened species shall not be moved or destroyed.”

Federally endangered and State threatened species

As part of this zoning application, the applicant submitted the “Calusa Country Club Environmental Assessment Report” and the “Calusa Country Club Florida Bonneted Bat Acoustic Survey Report” prepared by Passarella and Associates and dated February 2021 and April 2021, respectively. Subsequently, the applicant submitted a follow-up report on September 29, 2021. These reports document that two species listed as state threatened by the Florida Fish and Wildlife Conservation Commission were observed on-site, the little blue heron (*Egretta caerulea*) and the tri-colored heron (*Egretta tricolor*). The reports do not indicate how these species were utilizing the site.

On September 29, 2021, the applicant submitted a report indicating that a rookery was identified on the southern portion of the site and the birds that were observed “consisted predominantly of cattle egrets (*Bubulcus ibis*) with snowy egrets (*Egretta thula*), great egrets (*Ardea alba*), and anhingas (*Anhinga anhinga*) in lesser numbers”. None of the identified birds are federal or state listed threatened or endangered species. Furthermore, only the snowy egret is a County designated endangered, threatened, rare or special concern fauna species. Staff further notes, that the statement that a rookery is present on-site was based on observations by representatives of the applicant that some of the birds were fledglings and too young to be able to fly. No active nests were directly observed. DERM confirmed this observation during an inspection on October 4, 2021. The applicant has agreed to conduct site inspections once every other month, during the Florida Fish and Wildlife Conservation Commission’s recommended wading bird survey period for Florida’s South Zone. DERM recommends that the applicant conduct monthly surveys between March 2022 and August 2022, which is the wading bird survey period for Florida’s South Zone. Further, based on the Florida Fish and Wildlife Commission’s Species Conservation Measures and Permitting Guidelines (attached) DERM recommends that prior to obtaining a soil improvement permit, building permit, or tree removal permit within 330 feet of the documented rookery, the applicant submit these surveys to DERM, demonstrate how the nesting, feeding, and roosting habitat of the little blue heron, the tricolored heron, and any other Federal or state threatened, or endangered species will be protected and buffered from the proposed development and to ensure further degradation of such habitat is not authorized, and a plan for DERM’s review and approval demonstrating how County designated species shall be conserved.

In addition, the Acoustic Survey Report documents that the Florida bonneted bat (*Eumops floridanus*), a species listed as federally endangered by the U.S. Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission was identified on-site. This report identified 2,048 Florida bonneted bat calls that indicated roosting is likely occurring nearby, but also identified social calls within the subject application area. While the acoustic survey was conducted over 28 nights for multiple hours each night, the environmental assessment documenting the other listed species was conducted on one day from 9:45 am to 3:00 pm.

County listed species

The "Calusa Country Club Environmental Assessment Report" also documented three species listed as County Endangered, Threatened, Rare, and Special Concern Flora In Miami-Dade County as described in Appendix B of the Conservation, Aquifer Recharge and Drainage Element of the CDMP. These are the Osprey (*Panidon haliaetus*), the Snowy Egret (*Egretta thula*) and the White Ibis (*Eudocimus albus*).

On June 10, 2021, the applicant submitted a letter to DERM proposing six best management practices (BMPs) consistent with the guidance from the U.S. Fish and Wildlife Service for how the applicant will preserve the roosting and social behaviors of the Florida bonneted bat. DERM is working with the applicant to supplement and implement these BMPs.

Condition of Approval: Prior to obtaining the earlier of a soil improvement permit, building permit, or tree removal permit within 330 feet of the documented rookery, the Applicant shall submit to DERM: (i) the results of six (6) site inspections to be conducted every month between March 2022 and August 2022, during the Florida Fish and Wildlife Conservation Commission's recommended wading bird survey period for Florida's South Zone; and (ii) a plan for DERM's review and approval demonstrating how the nesting, feeding, and roosting habitat of the little blue heron, the tricolored heron, and any other Federal or state threatened, or endangered species will be protected and buffered from the proposed development and to ensure further degradation of such habitat is not authorized; (iii) a plan for DERM's review and approval demonstrating how County designated species shall be conserved and (iv) agreement to implement the Florida bonneted bat best management practices (BMPs) that have been approved by DERM. The applicant has acknowledged that compliance with this condition could result in the permitted scope of the development being reduced.

DISCLOSURE RELATED TO CRITICAL HABITAT FOR ENDANGERED SPECIES.

PLEASE BE ADVISED THAT IF THE FEDERAL GOVERNMENT DESIGNATES ALL OR A PART OF THE SUBJECT PROPERTY AS CRITICAL HABITAT FOR ONE OR MORE ENDANGERED SPECIES. YOU ARE NOT AUTHORIZED TO COMMENCE ANY WORK OR ACTIVITIES PURSUANT TO THIS APPROVAL UNTIL YOU OBTAIN ANY AND ALL APPROVALS OR PERMITS, IF NECESSARY, FROM THE FEDERAL GOVERNMENT PURSUANT TO THE ENDANGERED SPECIES ACT. PLEASE BE ADVISED THAT, EVEN AFTER WORK COMMENCES, IF MIAMI-DADE COUNTY IS ADVISED BY THE FEDERAL GOVERNMENT, THE STATE OF FLORIDA, OR A COURT THAT AN ACTIVITY ON THE SUBJECT PROPERTY IS IN VIOLATION OF THE ENDANGERED SPECIES ACT, IN VIOLATION OF FLORIDA LAW ON ENDANGERED SPECIES, OR IN VIOLATION OF A PERMIT OR APPROVAL GRANTED BY THE FEDERAL GOVERNMENT PURSUANT TO THE ENDANGERED SPECIES ACT, SUCH VIOLATION MAY RESULT IN AN IMMEDIATE STOP WORK ORDER OR OTHER COUNTY ACTION.

YOU ARE STRONGLY ADVISED TO CONSULT WITH THE UNITED STATES FISH AND WILDLIFE SERVICE AND ANY OTHER NECESSARY FEDERAL OR STATE AGENCIES BEFORE CONDUCTING ANY WORK OR ACTIVITIES ON THE PROPERTY. THE VERO BEACH OFFICE OF THE UNITED STATES FISH AND WILDLIFE SERVICE MAY BE REACHED AT (772)562-3909. PLEASE BE AWARE THAT THE FEDERAL GOVERNMENT MAY REQUIRE CERTAIN ACTIONS OR PROTECTIONS ON THE PROPERTY, AND THIS MAY RESULT IN THE NEED TO FILE COUNTY APPLICATIONS TO MODIFY THE PLANS FOR THE PROPERTY. THEREFORE, IT IS RECOMMENDED THAT YOU CONSULT WITH THE UNITED STATES FISH AND WILDLIFE SERVICE AT AN EARLY STAGE IN THE PROCESS. IN THE EVENT THAT THE UNITED STATES FISH AND WILDLIFE SERVICE ADVISES THAT YOUR PLANS FOR THE SUBJECT PROPERTY MAY RESULT IN A "TAKE" OF ENDANGERED

OR THREATENED SPECIES, YOU ARE STRONGLY RECOMMENDED TO INFORM MIAMI-DADE COUNTY IN WRITING AT THE EARLIEST STAGE POSSIBLE.

Enforcement History

The subject property has no open and three (3) closed enforcement records for violations of Chapter 24 of the Code. Please contact the Enforcement Section if you require additional information. There are no outstanding DERM liens or fines for the subject property.

Concurrency Review Summary

A concurrency review has been conducted for this application and DERM has determined that the same meets all applicable LOS standards for an initial development order as specified in the adopted CDMP for potable water supply, wastewater disposal, and flood protection. This concurrency approval is valid only for this initial development order. Pursuant to Chapter 33G of the Code, a final concurrency statement will be issued at the time of final development order.

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

cc: Nathan Kogon, Department of Regulatory and Economic Resources