

RESOLUTION NO. Z10-08

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING A MODIFICATION TO PARAGRAPH 2(b) OF THE DECLARATION OF RESTRICTIONS RECORDED IN MIAMI-DADE COUNTY OFFICIAL RECORDS, BOOK 17216, PAGE 0835, AS MODIFIED BY THAT CERTAIN MODIFICATION OF DECLARATION OF RESTRICTIONS RECORDED IN MIAMI-DADE COUNTY OFFICIAL RECORDS BOOK 18163, PAGE 0187 AND A MODIFICATION OF PARAGRAPH 1(a) OF DECLARATION OF RESTRICTIONS RECORDED IN MIAMI-DADE COUNTY OFFICIAL RECORDS BOOK 17944, PAGE 1273; PROVIDING FOR RECORDATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Growinvest, LLC and MD International Inc., owners and applicants have requested approval of: (1) modification of Paragraph 2 (b) of Declaration of Restrictions recorded at Official Records Book 17216, Page 0835 of the Public Records of Miami-Dade County, Florida, as modified by that certain Modification of Declaration of Restrictions recorded at Official Records Book 18163, Page 0187 and (2) modification of Paragraph 1 (a) of Declaration of Restrictions recorded at Official Records Book 17944, Page 1273 of the Public Records of Miami-Dade County; and

WHEREAS, the requested modifications would allow the properties to incorporate permitted uses under the "Business" Land Use Designation; and

WHEREAS, on October 13, 2010 the City Council held a public hearing and after careful review and deliberation, including a review of staff's recommendation, determined that it is in the best interests of the citizens of the City of Doral to approve the above referenced requests; subject to the conditions set forth below;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA THAT:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Resolution upon adoption hereof.

Section 2. Subject to the conditions outlined below, the City Council of the City of Doral hereby approves the modification of Paragraph 2 (b) of Declaration of Restrictions recorded at Official Records Book 17216, Page 0835 of the Public Records of Miami-Dade County, Florida, as modified by that certain Modification of Declaration of Restrictions recorded at Official Records Book 18163, Page 0187 of Miami-Dade County as outlined below:

From:

2(b) Those areas of the Property that are now designated on the Land Use Plan map of the County's Comprehensive Development Master Plan for Office/Residential development, which are more particularly described as Lots 1 and 2 of Block 3, as depicted on the Plans, may be used only for one or more of the following purposes or uses: (1) hotels; (2) offices (including ancillary warehouse/storage, display and repair of products being distributed from or through the office building, which ancillary uses may occupy up to a maximum of forty percent of the total gross area of the building); (3) banks; and (4) restaurants.

To:

(2)(b) Those areas of the Property that are now designated on the Land Use Plan map of the City's Comprehensive Plan for Business development, which are more particularly described as Lots 1 and 2 of Block 3, as depicted on the Plans, may be used only for one or more of the following purposes or uses: (1) hotels; (2) offices (including ancillary warehouse/storage, display and repair of products being distributed from or through the office building, which ancillary uses may occupy up to a maximum of forty percent of the total gross area of the building); (3) banks; (4) restaurants; and (5) all other uses consistent with the City's Business land use designation.

Section 3. Subject to the conditions outlined below, the City Council of the City of Doral hereby approves the modification of Paragraph 1 (a) of Declaration of Restrictions recorded at Official Records Book 17944, Page 1273 of the Public Records of Miami-Dade County as outlined below:

From:

1(a) The Owner shall not apply to rezone the Property to either the IU-2 or IU-3 zoning districts, nor request approval for any use similar to the uses authorized solely in the IU-2 or IU-3 zoning districts classifications. Furthermore, notwithstanding the IU-1 zoning classification of the Property, the Property may be used only for one or more of the following purposes or uses: (1) hotels; (2) offices (including ancillary warehouse/storage, display and repair of products being distributed from or through the office building, which ancillary uses may occupy up to a maximum of forty percent of the total gross area of the building); (3) banks; and (4) restaurants.

To:

(1)(a) Those areas of the Property that are now designated on the Land Use Plan map of the City's Comprehensive Plan for Business development, which are more particularly described as Lots 1 and 2 of Block 3, as depicted on the Plans, may be used only for one or more of the following purposes or uses: (1) hotels; (2) offices (including ancillary warehouse/storage, display and repair of products being distributed from or through the office building, which ancillary uses may occupy up to a maximum of forty percent of the total gross area of the building); (3) banks; (4) restaurants; and (5) all other uses consistent with the City's Business land use designation.

Section 4. The above listed approvals are subject to the following conditions:

1. Applicants shall obtain the signatures of the adjacent property owners as indicated pursuant to both covenants.
2. That all conditions outlined in the previous Covenants, copies of which is attached hereto, remain in full force and effect unless herein modified.

Section 5. This Resolution shall be recorded in the Public Records of Dade County, Florida, with the Applicant to pay the costs thereof.

Section 6. This resolution shall become effective upon its passage and adoption by the City Council.

The foregoing resolution was offered by Councilwoman Ruiz, who moved its adoption. The motion was seconded by Councilman Cabrera and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	yes
Vice Mayor Robert Van Name	yes
Councilman Peter Cabrera	yes
Councilman Michael DiPietro	yes
Councilwoman Sandra Ruiz	yes

PASSED AND ADOPTED this 13th day of October, 2010



JUAN CARLOS BERMUDEZ, MAYOR
ATTEST.



BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



JIMMY MORALES, ESQ., CITY ATTORNEY

OFF: 17944M1273
REC:

98R020353 1998 JAN 15 11:23

This Instrument was Prepared by:

Name: Juan J. Mayol, Jr., Esquire
Address: Greenberg, Traurig, Hoffman, Lipoff,
Rosen & Quentel, P.A.
1221 Brickell Avenue
Miami, Florida 33131

(Space Reserved for Clerk of the Court)

DECLARATION OF RESTRICTIONS

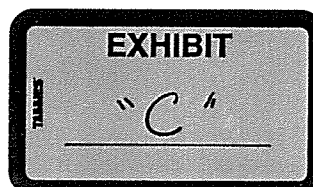
WHEREAS, the undersigned, West Dade Investment Group, Ltd., a Florida limited partnership (the "Owner"), is the owner of that certain property located in Miami-Dade County, Florida, more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Property"); and

WHEREAS, the Owner has filed Application No. 1 (the "Application"), May, 1997 Cycle, Applications to Amend the Miami-Dade County Comprehensive Development Master Plan ("CDMP"), requesting the redesignation of the Property from "Office/Residential" to "Industrial and Office" on the CDMP's Land Use Plan map.

NOW, THEREFORE, in order to assure the Miami-Dade County Board of County Commissioners, its agencies, boards, and councils that representations made to them during their consideration of the Application will be abided by, the Owner freely, voluntarily and without duress, makes the following Declaration of Restrictions covering and running with the title to the Property:

1. **Use Restrictions.**

- (a) The Owner shall not apply to rezone the Property to either the IU-2 or IU-3 zoning districts, nor



5/100

request approval for any use similar to the uses authorized solely in the IU-2 or IU-3 zoning district classifications. Furthermore, notwithstanding the IU-1 zoning classification of the Property, the Property may be used only for one or more of the following purposes or uses: (1) hotels; (2) offices (including ancillary warehouse/storage, display and repair of products being distributed from or through the office building, which ancillary uses may occupy up to a maximum of forty percent of the total gross area of the building); (3) banks; and (4) restaurants.

(b) No loading area shall face N.W. 41st Street and all loading areas shall be screened from any existing, zoned or planned residential development adjacent to, or adjoining, the Property.

(c) A minimum of fifty percent (50%) of the total acreage of the Property shall be developed exclusively with hotels and/or offices (including ancillary warehouse/storage, display and repair of products being distributed from or through the office building, which ancillary uses may occupy up to a maximum of forty percent of the total gross area of the building) or other uses that are consistent with the Office/Residential category of

the CDMP.

- (d) Any free standing sign shall be of a monument type and shall not exceed six feet (6') in height.
- (e) No outside repair, service or storage of products or equipment shall be allowed on the Property (except for storage of construction equipment during the construction of improvements on the Property).
- (f) The appearance of any building (other than buildings used for restaurants, hotels or banks) shall be that of an office building or other uses that are consistent with the Office/Residential category of the Comprehensive Development Master Plan, as determined by the Director of the Department of Planning, Development & Regulation.

2. Authorization for Department of Planning, Development and Regulation (or its successor) to Withhold Permits and Inspections.

In the event the Owner does not comply with the terms of this Declaration, in addition to any other remedies available, the Miami-Dade County Department of Planning, Development and Regulation (or its successor) 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.

3. Miscellaneous.

A. 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.

B. Inspection. It is hereby understood and agreed that any official inspector of the Miami-Dade County Department of Planning, Development and Regulation (or its successor) , or its agents duly authorized, has the privilege at any time during normal working hours of entering and investigating the use of the premises to determine whether the requirements of the Building and Zoning regulations and the conditions of this Declaration are being complied with.

C. Application of Declaration. 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 public welfare.

This Declaration on the part of the Owner shall constitute a covenant running with the land, shall be recorded in the public records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the undersigned, their heirs, successors and assigns.

D. Term of Declaration. This declaration on the part of the Owner shall run with the land and shall be binding upon the undersigned, heirs, successors and assigns for an initial period

of thirty (30) years from the date this Declaration is recorded in the Public Records of Miami-Dade County, Florida, and shall be extended automatically for successive periods of ten (10) years each, thereafter, unless an instrument executed by the, then, fee-simple owner(s) of the Property has been recorded agreeing to change the covenants in whole, or in part, provided that the Declaration has first been modified, amended or released as set forth in Paragraph E below.

E. Release, Modification or Amendment. This Declaration may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of all of the Property, ~~provided that the same is also approved after public hearing by the Board of County Commissioners in accordance with State and County procedures for amending the Comprehensive Development Master Plan.~~

Should this Declaration of Restrictive Covenants be so modified, amended or released, the Director of the Miami-Dade County Department of Planning, Development and Regulation, or of its successor agency, shall forthwith execute a written instrument in recordable form effectuating and acknowledging such modification, amendment or release.

F. Enforcement. Enforcement shall be by action against any parties or persons 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 an attorney. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.

G. 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 Declaration.

H. Severability. Invalidity of any one of these covenants by judgment of Court in no way shall affect any of the other provisions which shall remain in full force and effect.

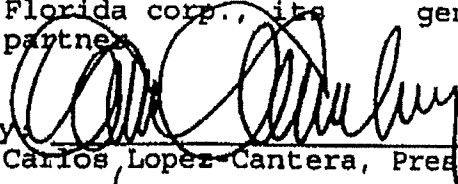
I. Recording. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner following the approval of the Application by the Miami-Dade County Board of County Commissioners.

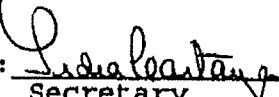
Signed, witnessed, executed and acknowledged on this 24 day of NOVEMBER, 1997.

IN WITNESS WHEREOF, West Dade Investment Group, Ltd., has caused these presents to be signed in his name.

LTD. WEST DADE INVESTMENT GROUP,

By: West Dade Investment Group, Inc., a Florida corp., its general partner


By: Carlos Lopez-Cantera, Pres.

Attest: 
Its Secretary

[Seal]



STATE OF FLORIDA)
)
COUNTY OF DADE)

OFF. REC. 17944PC1280

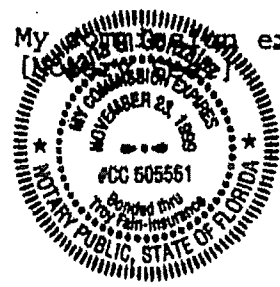
SS:

The foregoing instrument was acknowledged before me this 24 day of NOVEMBER, 1997 by Carlos Lopez-Cantera and Lidia Cantera, as president and ___ secretary, respectively, of West Dade Investment Group, Inc., a Florida corporation, who executed the foregoing instrument on behalf of said corporation. They personally appeared before me, are personally known to me or produced _____ as identification, and did not take an oath.

Florida

Notary M. Luis Gonzalez
Print Name: M. Luis Gonzalez
Notary Public, State of

My commission expires: 11-23-99



JOINDER BY MORTGAGEE

TO: METROPOLITAN DADE COUNTY

GENTLEMEN:

The undersigned, John McQuagge, as Vice-President of Suntrust Bank, Miami, N.A., as Mortgagee (the "Mortgagee") under that certain purchase money first mortgage from West Dade Investment Group, Ltd., a Florida limited partnership (the "Owner") in favor of Wallace H. Coulter as Trustee under Agreement dated August 2, 1993, recorded in Official Records Book 17246, Page 4563, as assigned to Mortgagee pursuant to that certain Assignment of Note and Mortgage, recorded on March 4, 1997 in Official Records Book 17548, Page 3545, and as modified by that certain Future Advance Note and Mortgage Modification Agreement recorded in Official Records Book 17548, Page 3552, all in the Public Records of Dade County, Florida, covering all of the property described therein (the "Property"), Mortgagee does hereby join with the Owner in the foregoing Declaration of Restrictions which affects a portion of the Property.

IN WITNESS WHEREOF, these presents have been executed this 24th day of November, 1997.

WITNESSES:

SUNTRUST BANK, MIAMI, N.A.

[Signature]
Name: Ruben Leon

By: [Signature]
John McQuagge, Vice-President
777 Brickell Avenue
Miami, Florida 33131

[Signature]
Name: EDUARDO KATZ

STATE OF FLORIDA

COUNTY OF DADE

The foregoing instrument was acknowledged before me this 24th day of November, 1997 by John McQuagge as Vice-President of Suntrust Bank, Miami, N.A., on behalf thereof. He is personally known to me or has produced _____ as identification.

My Commission Expires:



MIRTHA M. LEGRA CALZADA
My Commission GC507572
Expires Nov. 02, 1999

MAHARREALD10800754011.DOC/112497

[Signature]
Notary Public
State of Florida at Large

OFF. REC. 17944PB1282

LEGAL DESCRIPTION

A parcel of land lying in the West 2/5 of Section 30, township 53 South, range 40 East, Dade County, Florida, being more particularly described as follows

Commence at the Northwest corner of said Section 30; thence N89°34'41"E along the North line of said Section 30, as a basis of bearings, for 1351.63 feet to the POINT OF BEGINNING; thence, continue, N89°34'41"E for 757.32 feet; thence S01°44'50"E for 451.72 feet; thence S89°34'41"W for 757.31 feet; thence N01°44'54"W for 451.72 feet to the POINT OF BEGINNING. Containing 342003 sf (or) 7.85 acres more or less.

I HEREBY CERTIFY: that the LEGAL AND SKETCH of the property described hereon was made under my supervision and that the LEGAL AND SKETCH meets the Minimum Technical Standards set forth by the Florida Board of Professional Land Surveyors and Mappers in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes. And, that the sketch hereon is true and correct to the best of my knowledge and belief. Subject to notes and notations shown hereon. This sketch does not represent a land survey.

Ludovici and Orange Consulting Engineers Inc. L.B. #1012

Arturo A. Sosa 5/17/97

by:

Arturo A. Sosa
Reg. Surveyor and Mapper #2629
State of Florida

LEGAL DESCRIPTION



LUDOVICI & ORANGE

CONSULTING ENGINEERS INC.

329 PALERMO AVE CORAL GABLES, FL 33134
TEL: (305)448-1600 FAX: (305)448-3676

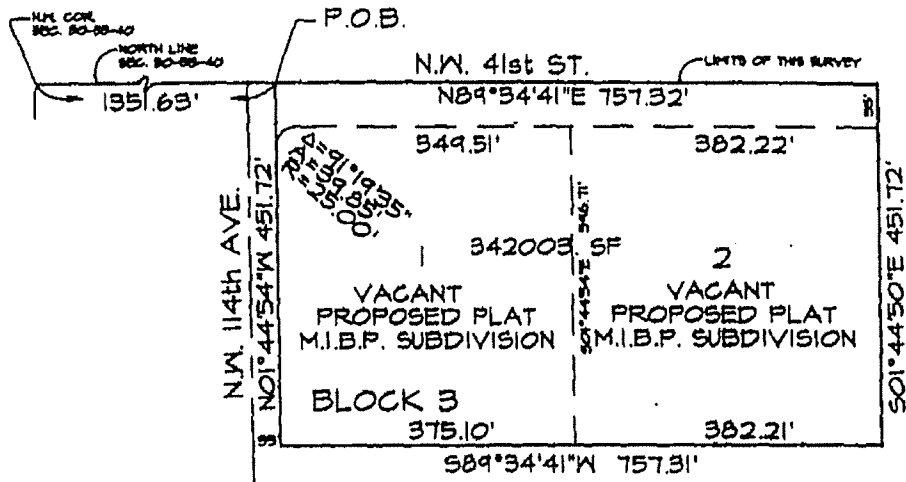
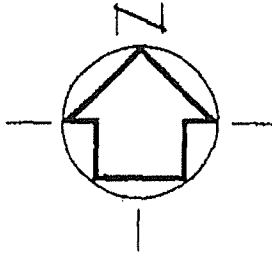
Date: 05-16-97	Drawn: SC
Proj. 9507A	Checked

M.I.B.P.
SUBDIVISION

SHEET 1 OF 2

EXHIBIT A

OFF. REC. 17944PG1283

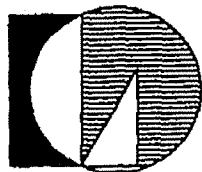


RECORDED IN PUBLIC RECORDS BOOK
 OF DALLAS COUNTY, FLORIDA
 RECORD NUMBER
HARVEY RUVIN
 DALLAS COUNTY COURT

SCALE: 1"=200'

Not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION



LUDOVICI & ORANGE

CONSULTING ENGINEERS INC.

329 PALERMO AVE. CORAL GABLES, FL. 33134

TEL: (305)448-1600 FAX: (305)446-3876

Date: 05-16-97 Drawn: SC

Proj. 9507A Checked:

M.I.B.P. SUBDIVISION

SHEET 2 OF 2

ACAD12/SC/DATA/9507A

OFF. REC. 1816310187

98R308782 1998 JUN 25 16:02

This instrument prepared by:

(Space reserved for Clerk of Court)

Name: Juan J. Mayol, Jr., Esquire
Address: Greenberg, Traurig, Hoffman,
Lipoff, Rosen & Quentel, P.A.
1221 Brickell Avenue
Miami, Florida 33131-3261

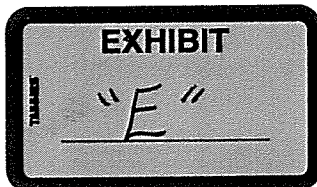
**MODIFICATION OF DECLARATION OF RESTRICTIONS RECORDED AT
OFFICIAL RECORDS BOOK 17216, PAGES 835 to 843**

THIS Modification of Declaration of Restrictions is made this 8th day of May, 1998, by West Dade Investment Group, Ltd. (the "Owner"), in favor of Miami-Dade County, a political subdivision of the State of Florida (the "County").

W I T N E S S E T H:

WHEREAS, the Owner holds fee simple title to certain property in Miami-Dade County, Florida, which is particularly described in Exhibit "A" attached hereto and made a part hereof, hereinafter referred to as the "Property"; and

WHEREAS, a Declaration of Restrictions (which as modified, as described below, is hereinafter referred to as the "Declaration") in favor of Miami-Dade County, was recorded in the Public Records of Miami-Dade County in Official Records Book 17216, at Pages 835 to 843, which placed certain restrictions and conditions on the use of the Property; and



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WHEREAS, a public hearing was held before the Miami-Dade County Community Zoning Appeals Board 9 (the "Board") on April 23, 1998, at which hearing the Board modified Paragraph #2 of the Declaration approved by Miami-Dade County Resolution Z-57-96, which Declaration was recorded at Official Records Book 17216, Pages 835 to 843, as following:

FROM:

"2. Use Restrictions. Notwithstanding the IU-1 zoning classification of the Property, the following use restrictions will apply to the development and use of the Property.

- (a) Those areas of the Property that are now designated on the Land Use Plan map of the County's Comprehensive Development Master Plan for Business and Office development, which are more particularly described as Lots 1 and 2 of Block 1 and Lots 1, 2 and 19 of Block 2, as depicted on the Plans, shall only be used for the following uses: hotels, offices, salesroom and storage showrooms (as permitted by Section 33-259(61) and 33-259(62) of the Dade County Code), restaurants and banks.
- (b) Those areas of the Property that are now designated on the Land Use Plan map of the County's Comprehensive Development Master Plan for Office/Residential development, which are more particularly described as Lots 1 and 2 of Block 3, as depicted on the Plans, shall only be used for the following uses: hotels and offices.

Notwithstanding anything in this Declaration to the contrary, only one (1) hotel shall be permitted on the Property."

To: "2. Notwithstanding the IU-1 zoning classifications of the Property, the following use restrictions will apply to the development and use of the Property.

(a) Those areas of the Property that are now designated on the Land Use Plan map of the County's Comprehensive Development Master Plan for Business and Office development, which are more particularly described as Lots 1 and 2 of Block 1, and Lots 1, 2, and 19 of Block 2, as depicted on the Plans, shall only be used for the following uses: hotels, offices, salesroom and storage showrooms (as permitted by Section 33-259(61) and 33-259(62) of the Miami-Dade County Code), restaurants and banks.

(b) Those areas of the Property that are now designated on the Land Use Plan map of the County's Comprehensive Development Master Plan for Office/Residential development, which are more particularly described as Lots 1 and 2 of Block 3, as depicted on the Plans, may be used only for one or more of the following purposes or uses: (1) hotels; (2) offices (including ancillary warehouse/storage, display and repair of products being distributed from or through the office building, which ancillary uses may occupy up to a maximum of forty percent of the total gross area of the building); (3) banks; and (4) restaurants.

Notwithstanding anything in this Declaration to the contrary, only one (1) hotel shall be permitted on the Property."

NOW, THEREFORE, the parties agree as follows:

1. Except as hereby amended, all other restrictions in the Declaration shall remain in full force and effect.

2. Paragraph #2 of the Declaration, as modified, hereby reads as follows:

"2. Notwithstanding the IU-1 zoning classifications of the Property, the following use restrictions will apply to the development and use of the Property.

(a) Those areas of the Property that are now designated on the Land Use Plan map of the

OFF. REC. 1816310190

County's Comprehensive Development Master Plan for Business and Office development, which are more particularly described as Lots 1 and 2 of Block 1, and Lots 1, 2, and 19 of Block 2, as depicted on the Plans, shall only be used for the following uses: hotels, offices, salesroom and storage showrooms (as permitted by Section 33-259(61) and 33-259(62) of the Miami-Dade County Code), restaurants and banks.

- (b) Those areas of the Property that are now designated on the Land Use Plan map of the County's Comprehensive Development Master Plan for Office/Residential development, which are more particularly described as Lots 1 and 2 of Block 3, as depicted on the Plans, may be used only for one or more of the following purposes or uses: (1) hotels; (2) offices (including ancillary warehouse/storage, display and repair of products being distributed from or through the office building, which ancillary uses may occupy up to a maximum of forty percent of the total gross area of the building); (3) banks; and (4) restaurants.

Notwithstanding anything in this Declaration to the contrary, only one (1) hotel shall be permitted on the Property."

OFF. REC. 1816310191

Signed, witnessed, executed and acknowledged on this ___ day of April, 1998.

IN WITNESS WHEREOF, West Dade Investment Group, Ltd., has caused these presents to be signed in his name.

WITNESSES:

[Handwritten Signature]
Name:

[Handwritten Signature]
Name:

WEST DADE INVESTMENT GROUP, LTD.

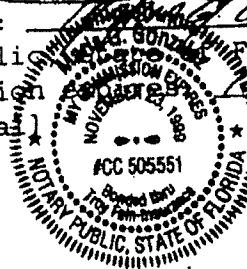
By: West Dade Investment Group, Inc., a Florida corp., its general partner

[Handwritten Signature]
By: Carlos Lopez-Cantera, Pres.

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

The foregoing instrument was acknowledged before me this 15th day of April, 1998 by Carlos Lopez-Cantera, as president of West Dade Investment Group, Inc., a Florida corporation, who executed the foregoing instrument on behalf of said corporation. He personally appeared before me, is personally known to me or produced _____ as identification, and did not take an oath.

Notary: *[Handwritten Signature]*
Print Name: Michael S. Gonzalez
Notary Public, State of Florida
My commission expires 11-23-99
[Notary Seal]



OFF. REC. 1816310192

EXHIBIT "A"

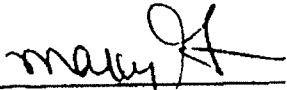
Lots 1 and 2, Block 5 of Miami International Business Park Section 3, according to the plat thereof, as recorded in Plat Book 151, Page 71 of the public records of Dade County, Florida.

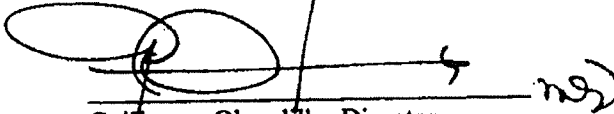
OFF. REC. 1816310193


The Director of Miami-Dade County Planning, Development and Regulation does hereby effectuate and acknowledge the above Modification to the Declaration of Restrictive Covenants recorded in Official Records Book 17216, Pages 835 to 843.

WITNESSES:

MIAMI-DADE COUNTY PLANNING,
DEVELOPMENT, AND REGULATION


Name: Marcy Gordon


Guillermo Olmedillo, Director


Name: SELENAP WILLIAMS

RECORDED IN OFFICIAL RECORDS BOOK
OF DADE COUNTY, FLORIDA
RECORD VERIFIED
HARVEY RUVIN
CLERK CIRCUIT COURT