

STATE OF FLORIDA
ADMINISTRATION COMMISSION

THE VIZCAYANS, INC., a Florida not-for-profit corporation; GROVE ISLE ASSOCIATION, INC., a Florida not-for-profit corporation; CONSTANCE STEEN; JASON E. BLOCH; and GLENCOE NEIGHBORHOOD ASSOCIATION, INC., a Florida not-for-profit corporation,

Petitioners,

vs.

CITY OF MIAMI,

Respondent,

AC Case No. ACC-08-004
DOAH Case Nos. 07-2498GM
07-2499GM

and

TRG-MH VENTURE, LTD., and MERCY HOSPITAL, INC., a not-for-profit Florida corporation,

Intervenors.

FILED
2010 FEB 22 P 1:33
DIVISION OF ADMINISTRATIVE HEARINGS

FINAL ORDER CLOSING FILE

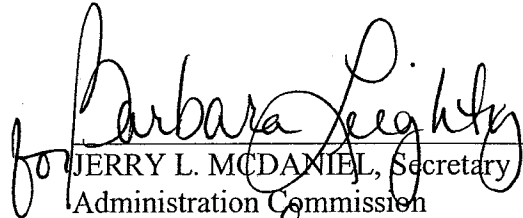
This cause came for consideration by the Secretary of the Administration Commission ("Commission") through the City of Miami's Amended Notice of Remedial Measures, filed with the Commission on May 4, 2009, and a subsequent letter with enclosures dated November 3, 2009, from Julie O. Bru, City of Miami Attorney. Ms. Bru advises the Commission that "the City of Miami has fully complied with the Commission's Final/Order . . . and lawfully rescinded Ordinance No. 12911." City of Miami Ordinance No. 12911 was the subject of the instant proceeding. Based on documentation provided by the City of Miami and Ms. Bru's statement

that the City of Miami has lawfully rescinded Ordinance No. 12911, the Commission hereby closes the file. A copy of the Amended Notice of Remedial Measures and the November 3, 2009 letter, both with enclosures, are attached hereto and incorporated as Exhibit A.

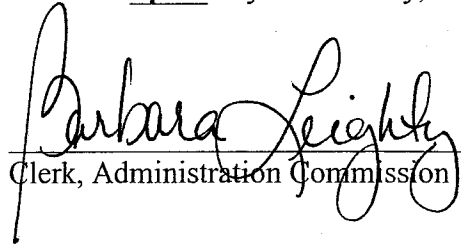
NOTICE OF RIGHTS

Any party to this Order has the right to seek Judicial review of the Final Order pursuant to section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Commission, Office of Policy and Budget, Executive Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001; and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the appropriate District Court of Appeal. Notice of Appeal must be filed within 30 days of the day this Order is filed with the Clerk of the Commission.

DONE AND ORDERED this 18th day of February, 2010.

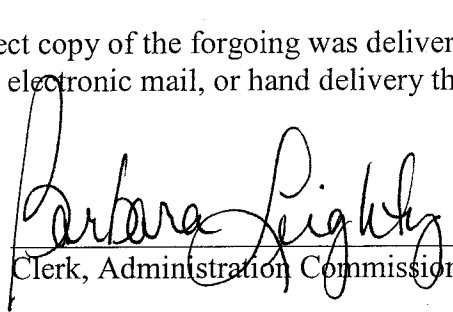

JERRY L. MCDANIEL, Secretary
Administration Commission

FILED with the Clerk of the Administration Commission this 18th day of February, 2010.


Clerk, Administration Commission

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing was delivered to the following persons by United States Mail, facsimile, electronic mail, or hand delivery this 18th day of February, 2010.


Clerk, Administration Commission

Honorable Charlie Crist
Governor
The Capitol
Tallahassee, Florida 32399

Honorable Alex Sink
Chief Financial Officer
The Capitol
Tallahassee, Florida 32399

Honorable Bill McCollum
Attorney General
The Capitol
Tallahassee, Florida 32399

Honorable Charles H. Bronson
Commissioner of Agriculture
The Capitol
Tallahassee, Florida 32399

Carly A. Hermanson, Esquire
Governor's Legal Office
Room 209, The Capitol
Tallahassee, Florida 32399-0001

Thomas G. Pelham, Secretary
Shaw P. Stiller, General Counsel
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Honorable J. Lawrence Johnston
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Florida Administrative Law Reports
Post Office Box 385
Gainesville, Florida 32602

Darrell W. Payne, Esquire
Stephen J. Darmody, Esquire
Daniel B. Rogers, Esquire
Shook, Hardy & Bacon, LLP
Miami Center – Suite 2400
201 South Biscayne Boulevard
Miami, Florida 33131-4339

John Charles Lukacs, Esquire
John C. Lukacs, P.A.
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Suite 305
Coral Gables, Florida 33134-6616

Patrick J. Goggins, Esquire
Patrick J. Goggins, P.A.
Sun Trust Building
Suite 850
777 Brickell Avenue
Miami, Florida 33131-2811

Julie O. Bru, City Attorney
Rafael Suarez-Rivas, Assistant City Attorney
Office of the City of Miami Attorney
444 Southwest 2nd Avenue
Suite 945
Miami, Florida 33130-1910

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Shubin & Bass, P.A.
46 Southwest First Street
Third Floor
Miami, Florida 33130-1610

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Dianne Triplett, Esquire
Carlton Fields, P.A.
Post Office Box 3239
Tampa, Florida 33601-3239

Lewis W. Fishman, Esquire
Lewis W. Fishman, P.A.
Two Datan Center
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9130 South Dadeland Boulevard
Miami, Florida 33156-7848

City of Miami

JULIE O. BRU
City Attorney



Telephone: (305) 416-1800
Telecopier: (305) 416-1801
E-MAIL: Law@ci.miami.fl.us

November 3, 2009

Jerry L. McDaniel, Secretary
Office of the Governor
The Capitol
Tallahassee, FL 32399-0001

Re: The Vizcayans, Inc. et al v. City of Miami, et al
AC Case No. ACC-08-004
DOAH Case No. 07-2498GM & 07-2499GM
Matter No. 07-1124

Dear Mr. McDaniel:

Please be advised that the City of Miami has fully complied with the Commission's Final/Order dated March 31, 2009, and lawfully rescinded Ordinance No. 12911. Enclosed, for your information and records, is a two (2) page excerpt from the City of Miami's Legistar Program which is our official public and online compilation of City Commission legislation. We enclose Master Report 12911 which indicates the legislative history of Ordinance No. 12911. You will note two separate entries in the title which indicate Ordinance 12911 was rescinded based upon the Final Order of the State of Florida Administration AC-09-002 and a further official notation by the City Clerk on April 3, 2009, noting this ordinance was rescinded by Administrative Order. Moreover, the City's Amended Notice of Remedial Measures filed on May 1, 2009 included an Affidavit from City Clerk Priscilla A. Thompson dated April 2, 2009, indicating the ordinance had been rescinded.

Further, we are enclosing a copy of the original and current land use map of the City which is on file with the Planning Department of the City. This is the City of Miami 2020 Future Land use map (FLUM) as amended through September 2009. The FLUM shows the Vizcaya Hospital Campus including the property involved in this FLUM amendment to the mapped and designated as Major Institutional, Public Facilities Transportation and Utilities. We do not recognize the map supplied to you by Mr. Stephen Darmody as a City Map or any official document of the City of Miami. We do not know the origin of that document. Moreover, one of my assistants, Rafael Suarez-Rivas, Assistant City Attorney, and Harold Ruck, Senior Planner and Head of the Comprehensive Planning Section, both confirmed on line that the "Major Institutional" designation is what appears for the Mercy Hospital Property on the Official City of Miami Website.

Exhibit A

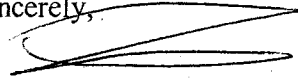
Jerry L. McDaniel, Secretary

November 3, 2009

Page - 2 -

Please do not hesitate to contact me if I can be of further assistance.

Sincerely,



Julie O. Bru
City Attorney

RAR

JOB/RSR/yei

Enclosures

cc: Rafael Suarez-Rivas, Assistant City Attorney
Ms. Barbara Leighty, Clerk, Administration Commission
Jason Gonzalez, Esquire, General Counsel, Office of the Governor
Shaw Stiller, Esquire, General Counsel, Department of Community Affairs
Harold Ruck, Senior Planner and Head of Comprehensive Planning Section



City of Miami

Master Report

City Hall
3500 Pan American Drive
Miami, FL 33133
www.miamigov.com

Enactment Number: 12911

File Number: 06-01060lu	File Type: Ordinance	Status: Mayor's Office for Signature
Version: 2	Reference:	Controlling Body: Office of the City Clerk
File Name: Land Use Change - 3663 S Mia Av		Introduced: 6/9/2006
Requester:	Cost:	Final Action: 4/26/2007

Title: (RESCINDED ON MARCH 27, 2009 BY FINAL ORDER NO. AC-09-002 ISSUED BY STATE OF FLORIDA ADMINISTRATIVE COMMISSION.)
AN ORDINANCE OF THE MIAMI CITY COMMISSION, WITH ATTACHMENT(S), AMENDING ORDINANCE NO. 10544, AS AMENDED, THE FUTURE LAND USE MAP OF THE MIAMI COMPREHENSIVE NEIGHBORHOOD PLAN BY CHANGING THE LAND USE DESIGNATION OF THE PROPERTY LOCATED AT APPROXIMATELY 3663 SOUTH MIAMI AVENUE, MIAMI, FLORIDA, FROM "MAJOR INSTITUTIONAL, PUBLIC FACILITIES, TRANSPORTATION AND UTILITIES" TO "HIGH DENSITY MULTIFAMILY RESIDENTIAL"; MAKING FINDINGS; DIRECTING TRANSMITTALS TO AFFECTED AGENCIES; CONTAINING A REPEALER PROVISION AND A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

Sponsors:

Notes:

Indexes:

Attachments: 06-01060lu - RESCISSION of Ordinance 12911 documentation.pdf,06-01060lu - PAB Fact Sheet.pdf,06-01060lu - Analysis.pdf,06-01060lu - Concurrency Report.pdf,06-01060lu - Comp Plan Map.pdf,06-01060lu - PAB Zoning Map.pdf,06-01060lu - Aerial Photo.pdf,06-01060lu - PAB Legislation.pdf,06-01060lu - PAB Application Documents.pdf,06-01060lu PAB Reso.PDF,06-01060lu CC 03-27-07 Application & Supporting Docs.pdf,06-01060lu CC Legislation (Version 2).pdf,06-01060lu & 06-01060zc CC Exhibit A (Old).pdf,06-01060lu CC FR Fact Sheet.pdf,06-01060lu Submittal Letter Lapin & Leichtling.pdf,06-01060lu Submittal Letter Levine & Partners, P.A..pdf,06-01060lu Submittal Letter Luft Consulting, Inc..pdf,06-01060lu Submittal Letter Tucker Gibbs P.A..pdf,06-01060lu Submittal Letters of Support.pdf,06-01060lu Submittal Map.pdf,06-01060lu Submittal Opposition Memo.pdf,06-01060lu Submittal Petition.pdf,06-01060lu Submittal Presentation.pdf,06-01060lu Submittal Presentation Grove Bay.pdf,06-01060zc, 06-01060lu & 06-01060mu CC Zoning Map - Updated.pdf,06-01060lu CC SR 03-22-07 Fact Sheet.pdf,06-01060lu, 06-01060zc & 06-01060mu CC Exhibit A (Revised Legal).pdf,06-01060lu CC 04-26-07 Application & Supporting Docs.PDF,06-01060lu Submittal - News Article.pdf,06-01060lu Submittal E-mail John Lukacs.pdf,06-01060lu Submittal Grove Bay Residences Motion.pdf,06-01060lu Submittal Grove Bay Residences MUSP.pdf,06-01060lu Submittal Illustration of Devp. Site.pdf,06-01060lu Submittal Jack Luft, Luft Consulting.pdf,06-01060lu Submittal Letter Hadley Williams.pdf,06-01060lu Submittal Letter-Natioanal Trust for Historic Preservation.pdf,06-01060lu Submittal Letter- US Dept of the Interior National Park Serv..pdf,06-01060lu Submittal Photos- Lucia Dougherty.pdf,06-01060lu Submittal presented by Goggins.pdf,06-01060lu Submittal presented by Henry Iler.pdf,06-01060lu Submittal presented by John Lukacs.pdf,06-01060lu Submittal Report on the Impact by Shubin.pdf,06-01060lu Submittal Report on the Impact by Subratabasu.pdf,06-01060lu Submittal Resolution presented by Ivan Rodriquez.pdf,06-01060lu Submittal Richard J. Heisenbottle.pdf,06-01060lu Submittal Shoreline Devp. Review Committee Reso..pdf,06-01060lu Submittal Size Comparison - Ellie Haydock.pdf,06-01060lu Submittal transcripts.pdf,06-01060lu Submittal viewshed impact assessmentpdf,06-01060lu CC SR Fact Sheet 04-26-07.pdf,06-01060lu Submittal Comm. Sarnoff Letter.pdf,06-01060lu E-mail Mayor's



City of Miami

Master Report

City Hall
3500 Pan American Drive
Miami, FL 33133
www.miamigov.com

Enactment Number: 12911

Response to Comm. Sarnoff.pdf,06-01060lu Comm Sarnoff Response to Mayor's Letter.pdf,06-01060lu
Mayor's Response to Comm. Sarnoff- Grove Bay Residences.pdf,06-01060lu-City of Miami's Notice of
Remedial Measures - State of Florida Admin Commission Final Order No AC-09-002.pdf,

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Advisory Board	7/19/2006	CONTINUED				Pass
1	Planning Advisory Board	9/20/2006	Recommended Approval	Planning & Zoning - - City Commission			Fail
2	City Commission	1/25/2007	PASSED ON FIRST READING				Pass
2	City Commission	1/25/2007	DENIED				Fail
2	City Commission	3/27/2007	CONTINUED				Pass
2	City Commission	3/27/2007	DENIED				Fail
2	Office of the City Attorney	4/25/2007	Reviewed and Approved				
2	City Commission	4/26/2007	DENIED				Fail
2	City Commission	4/26/2007	ADOPTED				Pass
2	Office of the Mayor	5/7/2007	Signed by the Mayor	Office of the City Clerk			
2	Office of the City Clerk	5/10/2007	Signed and Attested by City Clerk				
2	Office of the City Clerk	4/3/2009	RESCINDED BY ADMINISTRATIVE ORDER				

Action Note: Rescinded on March 27, 2009 by Final Order No. AC-09-002 issued by State of Florida Administrative Commission

INTER-OFFICE MEMORANDUM

TO : Rafael Suarez-Rivas, Esq.
Assistant City Attorney

DATE : November 3rd, 2009

FILE :

SUBJECT : Mercy Hospital – City of Miami

FROM : Harold Ruck *HRuck*
Chief of Community Planning,
Planning Department

REFERENCES :

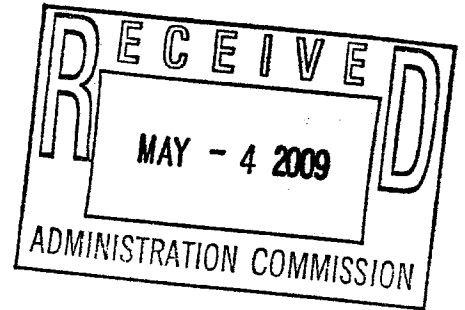
ENCLOSURES:

Please be advised that after a review of the City's Zoning Application that depicts Zoning as well as Future Land Use designations for the City of Miami, the property for Mercy Hospital including the portion recently proposed for residential condo development is currently designated Major Institutional, Public Facilities, Transportation, and Utilities. The following link to the City's web site can verify this interpretation.

<http://mapprod.riverside.cmgov.net/cityofmiamive/>

In addition, I am not familiar with the origin of the graphics provided by Mr. Darmody. I have no knowledge as to where it came from. It does not depict the correct designation of the subject property.

STATE OF FLORIDA
ADMINISTRATION COMMISSION



THE VIZCAYANS, INC., a Florida not-for-profit corporation; GROVE ISLE ASSOCIATION, INC., a Florida not-for-profit corporation; CONSTANCE STEEN; JASON E. BLOCH; and GLENCOE NEIGHBORHOOD ASSOCIATION, INC., a Florida not-for-profit corporation,

Petitioners,

v.

CITY OF MIAMI,

AC CASE No. ACC08-004

DOAH Case Nos. 07-2498GM

07-2499GM

Respondent,

and

TRG-MH VENTURE, LTD., and MERCY HOSPITAL, INC., a not-for-profit Florida corporation,

Intervenors.

CITY OF MIAMI'S AMENDED* NOTICE OF REMEDIAL MEASURES

The City of Miami files this Amended Notice of Compliance with Remedial Measures as directed by the Administration Commission ("Commission") set forth in the Conclusion of the March 27, 2008 Final Order entered in the above captioned cause:

1. Affidavit of Miami City Clerk Priscilla A. Thompson dated April 2, 2009, indicating that Ordinance No. 12911 has been rescinded.
2. Interoffice Memorandum of Harold Ruck, Chief of Community Planning, City of Miami Planning Department dated March 31, 20089 and its Exhibit, an extract from the City of

***Amended as to add names to Certificate of Service ONLY.**

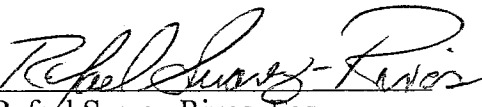
Miami Future Land Use Map ("FLUM") pertaining to the Property involved in this cause indicating that it is designated as "Major Institutional/ Public Facilities".

This Notice constitutes the City's report to the Commission pursuant to the Conclusion of this Final Order.

Respectfully submitted,

JULIE O. BRU, City Attorney
RAFAEL SUAREZ-RIVAS
Assistant City Attorney
Miami Riverside Center, Suite 945
444 S.W. 2nd Avenue
Miami, Florida 33130
Tel.: (305) 416-1800
Fax: (305) 416-1801
Email: Rsuarez-rivas@miamigov.com

By:


Rafael Suarez-Rivas, Esq.
Fla. Bar No. 0293881

AMENDED CERTIFICATE OF SERVICE

I certify that a copy of this Amended Notice of Remedial Measures was sent via U.S regular mail on this 1st day of May, 2009, to:

J. Lawrence Johnston
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Honorable Charlie Crist
Governor
The Capitol
Tallahassee, Florida 32399

Honorable Bill McCollum
Attorney General
The Capitol
Tallahassee, Florida 32399

Carly A. Hermanson, Esquire
Governor's Legal Office
Room 209, The Capitol
Tallahassee, Florida 32399

Honorable Alex Sink, Chief Financial Officer
The Capitol
Tallahassee, Florida 32399

Honorable Charles H. Bronson
Commissioner of Agriculture
the Capitol
Tallahassee, Florida 32399

Thomas G. Pelham, Secretary
Shaw P. Stiller, General Counsel
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399

Florida Administrative Law Reports
Post Office Box 385
Gainesville, Florida 32602

Jeffrey L. McDaniel, Secretary
Administration Commission
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Barbara Leighty, Clerk
Transportation and Economic
Development Policy Unit
The Capitol, Room 1801
Tallahassee, Florida 32399-001

Jason Gonzalez, General Counsel
Office of the Governor
The Capitol, Suite 209
Tallahassee, Florida 32399-0001

Patrick J. Goggins, Esquire
Patrick J. Goggins, P.A.
Sun Trust Building, Suite 850
777 Brickell Avenue
Miami, Florida 33131-2811

John Charles Lukacs, Esquire
John C. Lukacs, P.A.
201 Sevilla Avenue, Suite 305
Coral Gables, Florida 33134

Stephen J. Darmody, Esquire
Shook, Hardy & Bacon, LLP
Miami Center, Suite 2400
201 South Biscayne Boulevard
Miami, Florida 33131

H. Ray Allen, II, Esquire
Carlton, Fields, P.A.
4221 West Boy Scout Boulevard, Suite 1000
Tampa, Florida 33607

Lewis W. Fishman, Esquire
Lewis W. Fishman, P.A.
Two Datran, Suite 1121
9130 South Dadeland Boulevard
Miami, Florida 33156

John K. Shubin, Esquire
Shubin & Bass, P.A.
46 Southwest First Street, Third Floor
Miami, Florida 33130-1610

By: 

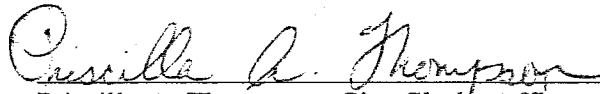
RAFAEL SUAREZ-RIVAS
Assistant City Attorney

2. I have been instructed by the Office of the City Attorney to rescind City of Miami Ordinance 12911 ("Ordinance 12911") that changed the land use designation of certain property identified in Ordinance 12911 from Major Institutional/ Public Facilities to High Density Multifamily Residential.


3. Per the instruction of the Office of the City Attorney, I have rescinded Ordinance 12911.

4. Ordinance 12911 appears as being rescinded in the Official records of the City of Miami including the legistar system, which is the City's records management system for legislation.

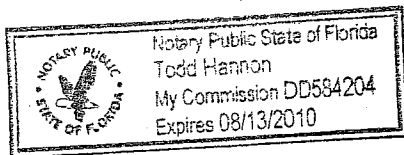
FURTHER AFFIANT SAYETH NAUGHT


Priscilla A. Thompson, City Clerk, Affiant

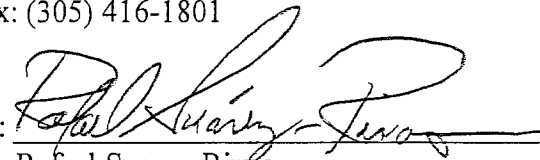
SWORN TO AND SUBSCRIBED before me by Priscilla A. Thompson, who is personally known to me or has presented personally known as identification, on this 2nd day of April, 2009.


Notary Public
State of Florida at Large

My Commission Expires:



JULIE O. BRU, CITY ATTORNEY
RAFAEL SUAREZ-RIVAS
ASSISTANT CITY ATTORNEY
Attorneys for **CITY OF MIAMI**
444 S.W. 2nd Avenue, Suite 945
Miami, FL 33130-1910
Tel.: (305) 416-1800
Fax: (305) 416-1801

By: 
Rafael Suarez-Rivas,
Assistant City Attorney
Florida Bar No. 0293881

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the
below listed by mail this 24th day of April, 2009:

Barbara Leighty, Clerk
Transportation and Economic
Development Policy Unit
The Capitol, Room 1801
Tallahassee, Florida 32399-0001

Jason Gonzalez, General Counsel
Office of the Governor
The Capitol, Suite 209
Tallahassee, Florida 32399-0001

Patrick J. Goggins, Esquire
Patrick J. Goggins, P.A.
Sun Trust Building, Suite 850
777 Brickell Avenue
Miami, FL 33131-2811

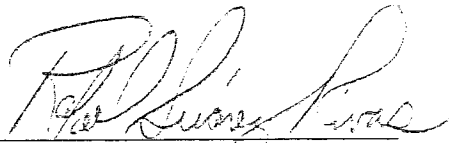
John C. Lukacs, Esquire
John C. Lukacs, P.A.
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Coral Gables, FL 33146

Darrell W. Payne, Esq.
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Shook, Hardy & Bacon, LLP
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Miami, FL 33131

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Carlton Fields, P.A.
4221 West Boy Scout Blvd.
Suite 1000
Tampa, Fl 33607

John K. Shubin, Esq.
Shubin & Bass, P.A.
46 S.W. 1st Street, Third Floor
Miami, Florida 33130

Lewis W. Fishman, Esq.
Lewis W. Fishman P.A.
Two Datan Center, Suite 1121
9130 South Dadeland Boulevard
Miami, FL 33156

By: 
RAFAEL SUAREZ-RIVAS,
Assistant City Attorney
TFB # 0293881

CITY OF MIAMI, FLORIDA

INTER-OFFICE MEMORANDUM

TO: Rafael Suarez-Rivas, Esq.
Assistant City Attorney

DATE:

March 31ST, 2009

FILE

SUBJECT:

Mercy Hospital – City of Miami
Ordinance 12911

FROM:

Harold Ruck *HR*
Chief of Community Planning,
Planning Department

REFERENCES:

ENCLOSURES:

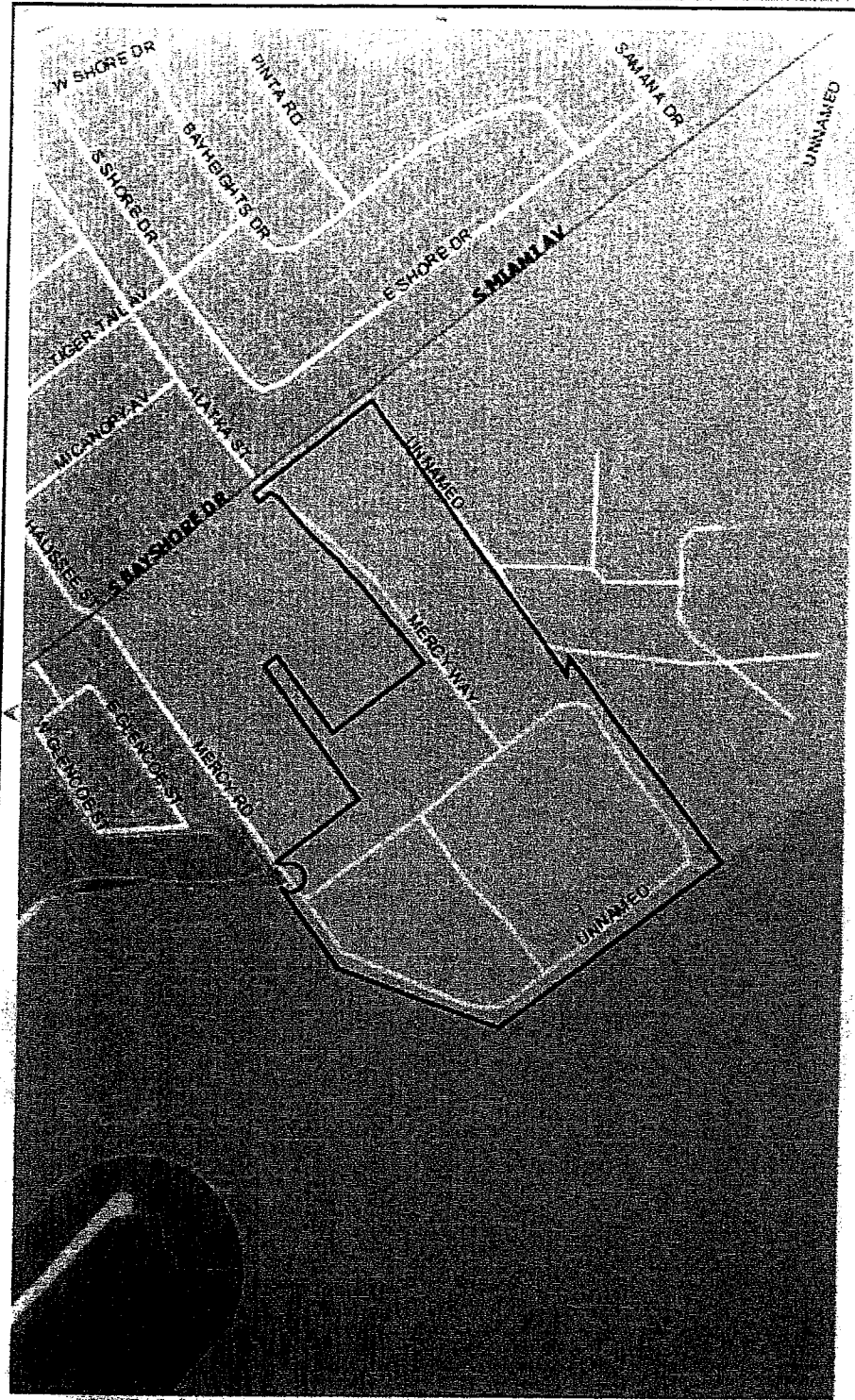
Please be advised that per the direction of the Law Department, the subject Mercy Hospital property identified in Ordinance 12911, and further identified in DOAH Case Nos. 07-2498GM and 07-2499GM between The Vizcayans, Inc. etc. and the City of Miami, etc., has been reverted back to its original designation of Major Institutional, Public Facilities, Transportation, and Utilities Future Land Use. Please see attach graphics from the City's GIS application validating this change.

AG/CS/HR

LAYERS

Update Map

- Identified Feature
- Expressways
- Major Rds
- Streets Labels
- Other Streets
- Parcels**
- NET Areas
- Special Overlay District (See m
- Special Overlay District (See m
- Neighborhood Conservation Dis
- Neighborhood Conservation Dis
- Primary Zoning
- Future Land Use
- Single Family - Residential
- Duplex - Residential
- Medium Density - Multifamily Residential
- High Density - Multifamily Residential
- Office
- Restricted Commercial
- General Commercial
- Central Business District
- Major Institutional - Public Facilities - Transportation and Utilities
- Industrial
- Recreation
- Conservation
- Fixed - Guideway Rapid Transit Development District
- Existing Land Use
- Commission Districts
- City_Boundary
- Water



x: 913216.913 y: 514262.206