

RESOLUTION NO. R-2008-1357

RESOLUTION APPROVING ZONING APPLICATION Z2008-296  
(CONTROL NO. 2007-378)  
OFFICIAL ZONING MAP AMENDMENT (REZONING)  
WITH A CONDITIONAL OVERLAY ZONE (COZ)  
APPLICATION OF HOMES BY DESIGN INC  
BY MILLER LAND PLANNING, AGENT  
(PALM CENTER CAR WASH)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application Z2008-296 was presented to the Board of County Commissioners at a public hearing conducted on July 24, 2008; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the stated purpose, intent and requirements of the Palm Beach County Unified Land Development Code. The rezoning request is also consistent with the requirements of all other applicable local land development regulations;
3. This official zoning map amendment (rezoning) is compatible and generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. The applicant has demonstrated that there are sufficient changed conditions or circumstances that require an amendment;
5. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
6. This official zoning map amendment (rezoning) will result in a logical, orderly and timely development pattern; and,
7. This official zoning map amendment is consistent with applicable Neighborhood Plans.

8. This official zoning map amendment (rezoning) complies with Article 2.F (CONCURRENCY - Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application Z2008-296 the application of Homes By Design Inc by Miller Land Planning, agent, for an Official Zoning Map Amendment from the Neighborhood Commercial and Single Family Residential Zoning District to the General Commercial Zoning District with a CONDITIONAL OVERLAY ZONE on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on July 24, 2008, subject to the conditions of the CONDITIONAL OVERLAY ZONE described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

The motion was seconded by Commissioner Aaronson and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	- Aye
Jeff Koons, Vice Chair	- Aye
Karen T. Marcus	- Aye
Robert J. Kanjian	- Aye
Mary McCarty	- Absent
Burt Aaronson	- Aye
Jess R. Santamaria	- Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 24, 2008.

Filed with the Clerk of the Board of County Commissioners on July 29, 2008.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY:

  
COUNTY ATTORNEY

BY:

SHARON R. BOCK,  
CLERK & COMPTROLLER

  
DEPUTY CLERK  
FLORIDA

EXHIBIT A

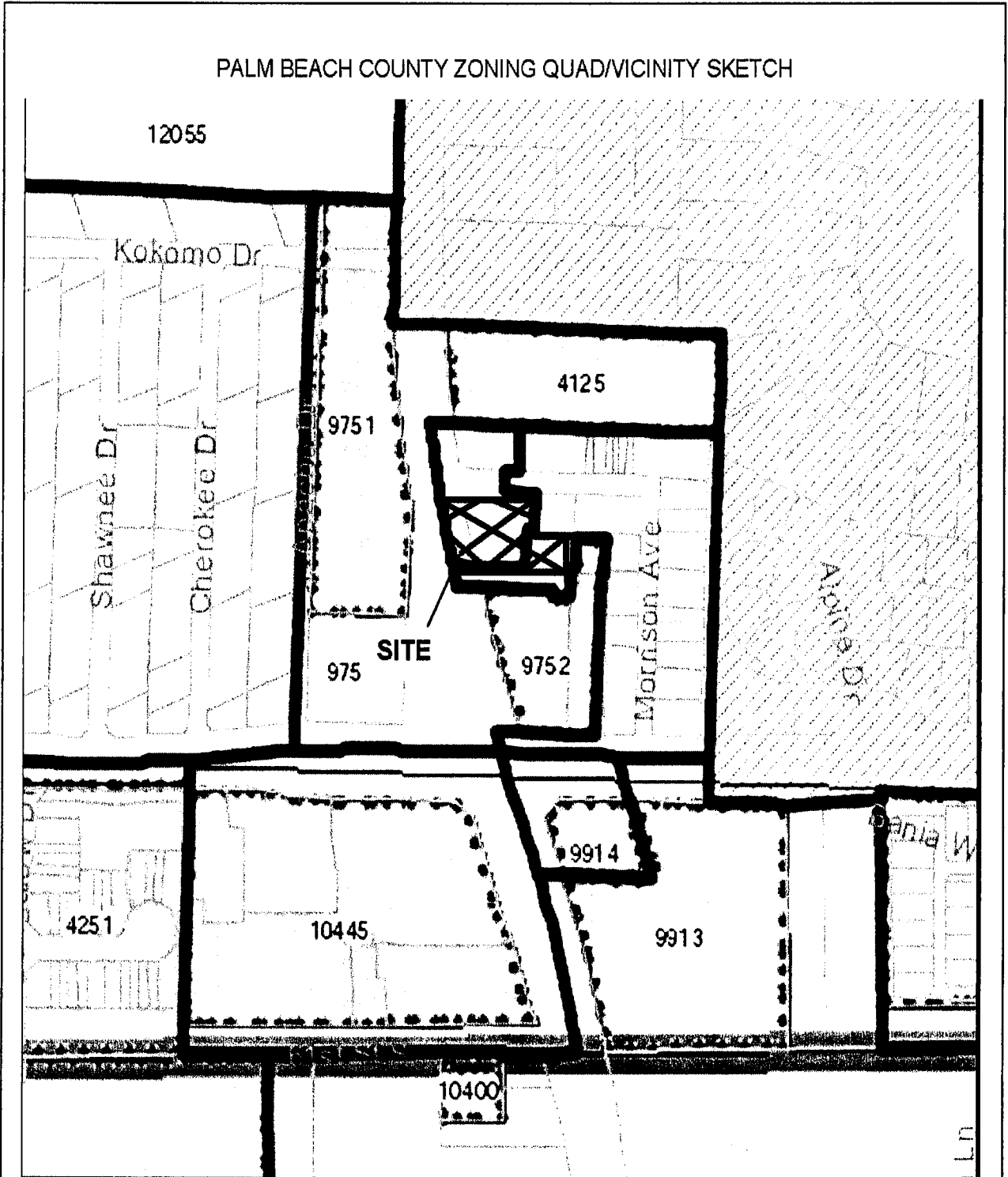
LEGAL DESCRIPTION

LOTS 95 TO 101 INCLUSIVE, REPLAT OF ARCANUM, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 23, PAGES(S) 33, AS RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. TOGETHER WITH THE 10 FOOT STRIP LYING NORTH OF AND ADJACENT TO THE NORTH LINE OF LOTS 95 TO 101 INCLUSIVE, AND A 3 FOOT STRIP LYING SOUTHERLY OF AND ADJACENT TO THE SOUTHERLY LINE OF LOT 95.

TOGETHER WITH:

LOTS 102 THROUGH 107, INCLUSIVE, OF RE-PLAT OF ARCANUM, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 23, PAGE 33, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; TOGETHER WITH THAT PORTION OF THE ABANDONED 20 FOOT PLATTED ALLEY; LESS AND EXCEPT THAT PORTION OF THE ABOVE DESCRIBED PROPERTY SET FORTH IN OFFICIAL RECORD BOOK 7368, PAGE 924, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B  
VICINITY SKETCH



Application No. 2008-296  
Zoning Quad 33  
Date July 3, 2008



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated May 14, 2008. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: MONITORING - Zoning)

#### ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for car wash building shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

2. The exterior elevations of all buildings shall include exterior colors that shall be neutral, pastel, or earth tone colors. Building colors shall be varied by providing contrasting, but complimentary, colors for the building trims and massing. Roof, trim, awning and canopy colors shall be coordinated with base colors. (DRO: ARCH REVIEW - Zoning)

3. Similar architectural character and treatment, including but not limited to color, material, fenestration and roofline, shall be provided on all sides of the building. (DRO: ARCH REVIEW - Zoning)

#### ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after July 24, 2009. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

#### 2. Landscape Within the Median of Military Trail

A. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Military Trail. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph D below. (ONGOING)

B. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

C. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

D. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING:ENG - Eng)

E. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the

Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Military Trail. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING:ENG - Eng)

3. Prior to issuance of a Building Permit, the Property Owner shall plat the subject property into one legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. A recorded plat waiver is also acceptable, provided this property is eligible for a plat waiver in accordance with the provisions of the ULDC as determined by the County Engineer. (BLDG PERMIT: MONITORING-Eng)

4. The Property owner shall construct a restricted median opening on Military Trail at Morrison Avenue to prohibit left turns from the east approach.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

#### LANDSCAPE - STANDARD

1. Prior to the issuance of the first building permit, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)

2. A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:

- a. tree height: Fourteen (14) feet;
- b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
- c. canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
- d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT:LANDSCAPE-Zoning)

3. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation, unless otherwise indicate herein:

- a. palm heights: twelve (12) feet clear trunk;
- b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANSCAPE-Zoning)

4. A group of three (3) or more palm trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE-Zoning)

5. Field adjustment of wall and plant material location may be permitted to provide pedestrian sidewalks and bike paths, and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)

#### VARIANCE

1. Prior to the submittal for final approval by the Development Review Officer (DRO), the approved variance request (ZV/CB/Z 2008-296) shall be reflected on the site plan. (DRO:ZONING-Zoning)

2. The development order for the approved reduction in parking variance shall lapse one year from the approval date, July 3, 2009. (DATE: MONITORING Zoning)

#### ZONING LANDSCAPING ALONG THE NORTH AND WEST PROPERTY LINES (FRONTAGES OF MORRISON AVENUE AND MILITARY TRAIL)

1. In addition to the code requirements, landscaping and or buffer width on the north and west property lines shall be upgraded to include:

a. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE-Zoning)

#### ZONING- LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF ORANGE AVENUE)

1. a. Landscaping and buffering along the south property line shall be installed pursuant to the compatibility buffer requirements. (BLDG PERMIT:LANDSCAPE Zoning)

#### ZONING-LANDSCAPING ALONG THE NORTH AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the north and west property lines abutting residential properties shall be upgraded to include:

a. a six (6) foot high concrete panel wall. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color of the principal structure. Height of the wall shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of height shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent properties. (BLDG PERMIT:LANDSCAPE Zoning)

#### COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or

b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or

d. Referral to code enforcement; and/or

e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)



DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Jason Bibi, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [ ] individual or [ ] JASON BIBI <sup>Pres.</sup> ~~Position~~  
e.g., president, partner, trustee of Homes By Design [name and type of  
entity—e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership  
interest in real property legally described on the attached Exhibit "A" (the "Property").  
The Property is the subject of an application for Comprehensive Plan amendment or  
Development Order approval with Palm Beach County.

2. Affiant's address is: 5659 Via Dela Plata in  
Delray Beach, FL 33484

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.


4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.

5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.

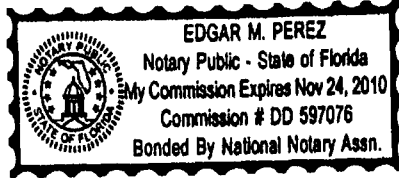
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

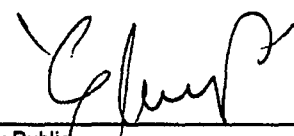
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

  
JASON BIBI Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 7 day of August, 2007 by JASON BIBI, [ ] who is personally known to me or [ ] who has produced FL Drivers Lic as identification and who did take an oath.



  
Notary Public  
EDGAR M PEREZ  
(Print Notary Name)  
NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: NOV 24, 2010

