

**ORDINANCE NO. 2008-07**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE REZONING OF 2.492± ACRES GENERALLY LOCATED NORTH OF NW 58<sup>TH</sup> STREET BETWEEN NW 104<sup>TH</sup> AND 102<sup>ND</sup> AVENUE FROM GU (GENERAL USE) TO I-C (INDUSTRIAL COMMERCIAL); AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Doral Sunshine 104, LLC, ("Applicant"), has requested approval of a rezoning of approximately 2.492 acres generally located generally located North of Northwest 58<sup>th</sup> Street between Northwest 104<sup>th</sup> Avenue and 102<sup>nd</sup> Avenue, Doral, Florida, from GU (General Use) to I-C (Industrial Commercial); and

**WHEREAS**, after careful review and deliberation, staff has determined that this application has complied with the Code; and

**WHEREAS**, on May 28, 2008 the City Council held a quasi-judicial hearing and received testimony and evidence related to the Application from the Applicant and other persons and found that the rezoning is consistent with the Comprehensive Plan and is in the best interest of the citizens of Doral;

**NOW, THEREFORE, BE IT ORDAINED 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 Ordinance upon adoption hereof.

**Section 2.** A rezoning of approximately 2.492 acres generally located generally located North of Northwest 58<sup>th</sup> Street between Northwest 104<sup>th</sup>

Avenue and 102<sup>nd</sup> Avenue, Doral, Florida, from GU (General Use) to I-C (Industrial Commercial); is hereby approved; subject to the following restrictions proffered by the applicant:

1. The Declaration of Restrictions (Exhibit "A") proffered to the City Council and incorporated herein is recorded in the Public Records of Miami-Dade County.

**Section 4.** This ordinance shall become effective upon its passage and adoption by the City Council.

WHEREAS, a motion to approve the Ordinance was offered by Councilwoman Ruiz who moved its adoption. The motion was seconded by Councilman Van Name and upon being put to a vote, the vote was as follows:

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

PASSED AND ADOPTED upon first reading the 23<sup>rd</sup> day of April 2008.

PASSED AND ADOPTED upon second reading the 28<sup>th</sup> day of May 2008.

  
\_\_\_\_\_  
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:

  
\_\_\_\_\_  
BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE CITY OF DORAL:

  
\_\_\_\_\_  
JOHN J. HEARN, CITY ATTORNEY

This instrument was prepared by:

Name: Felix M. Lasarte, Esq.  
Address: The Lasarte Law Firm, LLP.  
5835 Blue Lagoon Drive  
Suite 100  
Miami, Florida 33126

(Space Reserved for Clerk of the Court)

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### **DECLARATION OF RESTRICTIONS**

***WHEREAS***, the undersigned, LAND TRUST SERVICE CORPORATION TRUST, a Florida Corporation (the "Owner"), holds the fee simple title to that certain parcel of land, which is legally described in Exhibit "A" to this Declaration (hereinafter the "Property"); and

***WHEREAS***, the Owner has heretofore submitted an application for site plan approval (the "Application") to the City of Doral (the "City") to facilitate the development of the Property.

***NOW, THEREFORE***, in order to assure the City that the representations made by the Owner during 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 Property:

1. **Use Restrictions.** The Owner agrees that the only uses permitted on the Property shall be Professional and Medical Offices, Restaurants, Retail, Hotel (with a maximum density of 75 units an acre) Educational, Recreational, Daycare Facilities, and Flex Space.

2. **Site Plan Approval.** The Owner agrees to submit a public hearing application to the City of Doral to approve a site plan for the development of the Property prior to the issuance of a building permit.

3. **Miscellaneous.**

(Public Hearing)

A. **City Inspection.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of the City, 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.

B. **Covenant Running with the Land.** This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at the Owner's expense, in the Public Records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the undersigned Owner, its heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

C. **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 that 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 has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by the City and the Owner has secured the consent of the adjacent property owners as described below.

D. **Modification, Amendment, Release.** This Declaration of Restrictions 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 such portion of the Property that is covered under such modification, amendment or release, including joinders of all mortgagees, if

any, provided that the same is also approved by the City Council, or other procedure permitted under the City of Doral Code, whichever by law has jurisdiction over such matters.

Should this Declaration of Restrictions be so modified, amended or released, the Planning Director, or the executive officer of the successor of the Community Development Department Planning Division, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

**E. 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 his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

**F. Authorization for the City 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 City 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.

**G. 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.

**H. Presumption of Compliance.** Where construction has occurred on the Property, or any portion thereof, pursuant to a lawful permit issued by the City, and inspections

(Public Hearing)

**Declaration of Restrictions**

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made and approval of occupancy given by the City, 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.

I. **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.

J. **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 adoption by the City Council of a resolution approving the Application.

**[Signature Pages Follow]**

IN WITNESS WHEREOF, we have hereunto set our hands and seal this 28 day of May, 2008.

WITNESSES

Land Trust Service Corporation Trust, a Florida Corporation

[Signature]  
Signature

By: [Signature]  
Albert Vivas, Authorized Signatory

Felix M. Casimiro  
Printed Name

[Signature]  
Signature

JORGE L. NAVARRO  
Printed Name

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

The foregoing instrument was acknowledged before me by Albert Vivas, in his capacity as Authorized Signatory of the Land Trust Service Corporation Trust, for the purposes stated herein. He is personally known to me or has produced FLORIDA ID# V620-024-67457 as identification.

Witness my signature and official seal this 28<sup>th</sup> day of May, 2008, in the County and State aforesaid.

My Commission Expires 

[Signature]  
Notary Public - State of Florida at Large

Rosa Cliva  
Printed Name

**EXHIBIT "A"**

**LEGAL DESCRIPTION:**

**The East 1/2 of the East 1/2 of the West 1/2 of Tract 39, of Section 17, Township 53 South, Range 40 East, of the Florida Fruit Lands Company's Subdivision, as per plat thereof, recorded in Plat Book 2, Page 17, of the Public Records of Miami-Dade County, Florida..**