BERGER SINGERMAN
FLORIDA'S BUSINESS LAW FIRM

LAND USE & ZONING

Our Land Use & Zoning attorneys understand land use issues from both the governmental and the client perspectives. The group's proven ability to work effectively with local elected officials and staff provides clients with an unmatched level of service and efficient results. The team also assists clients in resolving disputes, with or without litigation, between the clients and government, or when third parties challenge government decisions that benefit our clients. Our Land Use and Zoning attorneys also regularly deals with South Florida's unique challenges, including the scarcity of developable land between the Atlantic Ocean and the Everglades and the increasing constraints upon development of municipal water and sewer capacities. The group innovates and leads clients through identifying and optimizing client opportunities for urban infill sites, including New Urbanism mixed-use developments.

The team has assisted clients with:

- Comprehensive Plan Amendments
- Zoning Code Amendments & Appeals
- Acquisition of Local, Regional, State and Federal Government Permits for Development
- Developments of Regional Impact ("DRI")
- Development Agreements
- Site Plans
- Platting
- Variances, Special Use and other Discretionary Permits
- Historic Property Redevelopment
- Adult Entertainment Uses
- Water Management and Water Supply Permits
- Water and Wastewater Permitting
- Environmental Mitigation
- Mobile Home Park Closure
- Rock Mining Permitting
- Inclusionary Zoning Issues
- Impact Fee and Special Assessment Analysis
- Linkage Fees
- Land Banking

Representative Matters

AB AT HIDDEN LAKE
Berger Singerman represented AB at Hidden Lakes in a land-use amendment application before the Miami-

Dade County Commission. The application for zoning was approved from office and industrial to medium density residential. This allowed our client to begin a 130 unit residential development.

ADOPTION OF ORDINANCE FOR CITY OF CORAL GABLES

Berger Singerman successfully represented the City of Coral Gables in the writing and adoption of an ordinance providing for standards and an accelerated approval process within the Zoning Code in furtherance of settlement of ongoing disputes and other ongoing governmental proceedings. This ordinance was utilized for the settlement of the ongoing litigation with Astor Trolley LLC and settlement of the ongoing Title VI complaint before the Federal Transit Authority.

APPROVAL FOR DEVELOPMENT OF FIRST OF KIND SOCCER ACADEMY IN FLORIDA FOR SOCCER DEVELOPMENT GROUP LLC

Berger Singerman successfully represented Soccer Development Group in the unanimous approval of an agreement with the City of North Miami Beach establishing a public/private partnership for the development and operation of the Boca Juniors Soccer Academy at Mishcon Park, the first of its kind in Florida.

APPROVAL OF REDUCED PARKING FOR METRO 1

Client purchased a 60-year old building with no onsite parking in a blighted urban core neighborhood in Ft. Lauderdale. Because the requirements for providing off-street parking have substantially increased in the past 30 years and because the building has been vacant for about 10 years, the building could not be occupied until parking for 28 vehicles was provided. Berger Singerman secured an architect to design the maximum number of spaces that could be provided on property. The design provided five spaces. Because the property is in a blighted area, the two on-street spaces were counted toward the parking requirement. That left 21 spaces to be identified. Berger Singerman secured a planning firm to provide a parking survey of the surrounding neighborhood to count the number of vacant on-street and public parking lot spaces actually available over a 12-hour period on a weekday and a weekend day. Berger Singerman secured a reduction of 21 parking spaces based on arguments for repurposing an existing building in a blighted neighborhood and documenting the availability of empty public parking spaces sufficient to meet the parking required by code.

CITY OF PEMBROKE PINES V. CORRECTIONS CORPORATION OF AMERICA

Berger Singerman serves as counsel to CoreCivic, f/k/a Corrections Corporation of America ("CCA"), a company in the business of designing, building, managing, and operating correctional facilities on behalf of various federal and state agencies, including Immigration and Customs Enforcement ("ICE") throughout the United States. In connection with this representation, Berger Singerman helped CCA locate a prime location for a jail site in Western Broward County and assisted with the acquisition of the undeveloped property. Berger Singerman then represented CCA in procuring water, sewer, and utility service for the undeveloped property which is located directly next to the City of Pembroke Pines ("City") in the Town of Southwest Ranches. Services would be provided by the City because the City's pipes were directly adjacent to the property. In connection with procuring the services, Berger Singerman represented CCA in front of various local and state bodies including the South Florida Water Management District, the Florida Department of Environmental Protection, Broward County Environmental Protection Department, and other regional and local governmental and regulatory authorities. In 2011, Immigration & Customs Enforcement (ICE) notified the Town of Southwest Ranches that it had selected the CCA site as the location for a new ICE detention center consistent with the Town's and CCA's joint proposal to ICE. When CCA was awaiting final approval to "hook up" to the City's services, the City abruptly shifted gears and voted to sue CCA and seek a declaratory judgment that the City did not have to provide water and sewer services. On behalf of CCA, Berger Singerman defended the City's lawsuit and counterclaimed against the City for various claims including for tortious interference with its relationship with ICE. The trial court ruled against CCA after a weeklong trial so CCA appealed. Berger Singerman developed the argument that the City held itself out as a public utility with respect to the property. While the City conceded that it had capacity to provide both water and sewer service to the property, the City essentially argued that it did not have to provide such service if it does not want to. This argument was inconsistent with Broward County and State of Florida environmental regulations, the Florida Supreme Court's decision in *Allen's Creek Properties, Inc. v. City of Clearwater*, 679 So. 2d 1172, 1176 (Fla. 1996), and Florida law on estoppel. The Fourth District Court of Appeal agreed with CCA, and on April 12, 2017, issued a ten

page appellate opinion in CCA's favor. The City subsequently sought rehearing, rehearing en banc and certification.

CONDITIONAL USE PERMIT FOR SOUTH FLORIDA SCHOOL OF EXCELLENCE

Berger Singerman obtained unanimous approval of a Conditional Use Permit, before the Miami Lakes Town Council, for the opening of South Florida School of Excellence, a first of its kind private school, grade Pre-K4 through 12, to serve the Miami Lakes community, with special attention.

FLORIDA EAST COAST INDUSTRIES

Berger Singerman represented Florida East Coast Industries, owner of industrial and office properties in South Florida, before the City Council of Hialeah and secured approval of a historic agreement for the development of 504 acres. The agreement includes a matrix of improvements and dedications including a 30-acre parcel to the City of Hialeah for a passive park and a fire station. This development agreement paves the way for over 7M sq. ft. of commercial and industrial development on a former landfill which is ready for development.

HARBOURSIDE PLACE LLC V. TOWN OF JUPITER, ET AL.

Berger Singerman represents the owner and operator of Harbourside Place in litigation against the Town of Jupiter, Florida and the Jupiter Community Redevelopment Agency in the U.S. District Court for the Southern District of Florida. The dispute relates to the Town's regulation of musical performances at Harbourside Place which was envisioned by the Town to be its entertainment center. Since completion of Harbourside Place, a small group of homeowners that live across the Intracoastal Waterway from Harbourside Place have complained about the musical performances at the outdoor amphitheater located on the water. In response, the Town began requiring Harbourside Place to apply for and obtain special event permits for each of these musical performances. Through this permitting process, the Town began to limit the musical performances in a manner not contemplated by the owner, when Harbourside Place was approved by the Town. Harbourside Place sued the Town under 42 U.S.C. §1983 and alleged that the Town's permitting process for outdoor musical performances and the conditions imposed on musical performances violate the First Amendment. Harbourside Place also sued the Jupiter CRA, which is comprised of the members of the Town Council, for outstanding tax increment payments, which the Jupiter CRA has withheld under the guise that Harbourside Place is in violation of the standard "compliance with all applicable laws" covenant of its Economic Development Agreement as a result of alleged violations of the Town's Noise Ordinance. The Court held an evidentiary hearing on Harbourside Place's Motion for Temporary Injunction, but has not yet ruled.

LARGE NEW URBANISM DEVELOPMENT IN DOWNTOWN MIAMI

Berger Singerman served as land use counsel to Falcone Group, LLC which is developing Miami Worldcenter on a blighted eight block area of downtown Miami. The development plan is based on the principles of the new urbanism, a mixed use, walkable development that is being promulgated by the City of Miami in its new land development code called "Miami 21." The complexity and size of this downtown redevelopment project is unparalleled in Florida. The client studied the great urban places in the world as models for the project. To lay the foundation for a project of this magnitude, Berger Singerman worked closely with the City of Miami and its consultant, the renowned Duany/Plater-Zyberk urban planning firm. Berger Singerman, working with the client's urban design firm, tested the Miami Worldcenter code against the land development codes from existing great urban places and recommended numerous code improvements that were incorporated by the city in Miami 21. The Miami Worldcenter code was adopted into the award-winning Miami 21 code, as Appendix D and can be viewed at http://www.miami21.org/final_code_April2012.asp

MIAMI GARDENS PARK LLC

Berger Singerman represented Miami Gardens Park LLC before the Miami-Dade Community Zoning Appeals Board and successfully obtained the rezoning of an 8.2 acre vacant property from Industrial to Residential to allow for the construction of 178 garden style apartments. Although the vote was unanimous, an appeal was filed with the County. Following weeks of discussions with the appellants, a private settlement agreement was finalized and executed allowing for the appeal to be withdrawn**.**

MOUNT SINAI MEDICAL CENTER HIALEAH

Berger Singerman successfully represented Mount Sinai Medical Center before the Hialeah City Council,

which granted approval of a Rezoning and Conditional Use Permit to permit a three-story, state of the art, free-standing emergency department/medical office facility.

OAK TREE LANDING, LTD.

Berger Singerman represented Oak Tree Landing in connection with securing State of Florida and Gilchrist County Florida approvals of amendments to Gilchrist County's comprehensive plan to allow development of an authentic rural destination/second home village in a forest and farmland setting. The plan amendments were vigorously reviewed by surrounding counties and cities and NGO interest groups. The plan amendments set aside more than 70% of the property in recreation, agricultural and open space uses, while increasing the residential density on the 850-acre property from 1 unit per 5 acres to 1unit per acre. The Oak Tree Landing design is patterned after historic rural Florida towns and villages, and includes 100,000 square feet of commercial use and 100,000 square feet of lodging use to the property.

PALMCORP DEVELOPMENT GROUP

Berger Singerman successfully represented Palmcorp Development Group, a residential developer in Miami Dade County, in the rezoning of approximately 50 acres for the development single family estate homes. Berger Singerman also negotiated a settlement agreement with opposing neighbors who appealed the rezoning approvals. The settlement cleared the way for Palmcorp to build 117 single family homes.

PUBLIC PRIVATE PARTNERSHIP

Berger Singerman represented Downtown 56 LLC in obtaining City of Miami approval of a 53-story mixed use building with 440 residential units in downtown Miami. The project is a public/private partnership with the Miami Parking Authority.

REPRESENTED LEISURE RESORTS LLC IN SECURING APPROVAL OF CHANGES TO THE SITE PLAN FOR EXISTING 196-SLIP MEGA-YACHT PALM HARBOR MARINA IN DOWNTOWN WEST PALM BEACH

In order to accommodate the relocation of the Flagler Memorial Bridge connecting West Palm Beach to Palm Beach, slips for six mega-yachts had to be relocated from the north side to the south side of Palm Harbor Marina. This change required amending the city zoning code to add marinas as a permitted use on the adjacent uplands, amending the zoning code to reduce the amount of parking required for marinas, and obtaining city site plan approval of the reconfigured marina. Despite numerous objections from a neighboring condominium and several hearings and appeals, the changes to the marina were made in time to accommodate visiting yachts during the economically critical winter season.

REVISION OF LAND DEVELOPMENT CODE IN MIAMI-DADE COUNTY

Berger Singerman successfully represented a food supply business with a large cold storage facility in a traditionally industrial district in unincorporated Miami-Dade County. In an effort to encourage redevelopment of the area in a more intense, urban development pattern, the County rezoned the district to mixed use residential/commercial uses. This change made the client's cold storage use and building non-conforming, which caused client's lenders to refuse to consider the valuable assets as collateral for working capital loans for client's national operations. Berger Singerman worked with the County planners and County Attorney to prepare revisions to the zoning code that allows the use and structure to continue, even if an event such as a fire or hurricane causes a total loss of the facility. The code change was unanimously approved by the County Commission in two public hearings.

REVISION OF LAND DEVELOPMENT CODE IN WEST PALM BEACH

Berger Singerman defended zoning approval of a 108-room waterfront hotel in downtown West Palm Beach for client Palm Harbor Hotel LLC. An appellate court overturned this approval by the City of West Palm Beach City Commission ruling that the Mayor did not allow representatives of the adjacent Waterview Towers residential condominium sufficient time to present their objections to the hotel. The hotel was approved under the Planned Development provisions of the City Code. As a Planned Development, the City Commission exercised its authority to approve substantial reductions in building setback and parking requirements, reductions that the Waterview Condominium opposed. Instead of resubmitting under the Planned Development provisions, Berger Singerman worked with City staff to prepare specific changes to the City's land development

regulations to permit more urban building setbacks and parking standards, consistent with the requirements of the zoning districts adjacent to the proposed hotel. The revised code was unanimously approved by the City Planning Board.

REVISIONS TO ZONING CODE IN TOWN OF DAVIE

Berger Singerman was retained by U-Pull-It of Broward, Inc. to prepare amendments to the Davie land development regulations to allow an existing non-conforming automobile and scrap metal recycling business to become a conforming use. The client wanted to construct new buildings on property to improve recycling operations, but could not obtain building permits because the use was non-conforming. The Town was concerned that allowing the existing use to continue would jeopardize town plans to encourage redevelopment in the industrial park district to provide mixed uses, including workforce housing adjacent to a planned transit rail line. Berger Singerman worked with Town of Davie staff to prepare amendments to the Town code that allowed the recycling business to become a conforming use while requiring buildings, walls and landscaping be placed to insure that the facility would not adversely impact Town plans for long term redevelopment of the district. The amendments were approved in a series of public meetings before the Davie Local Planning Agency and ultimately won Town Council Approval.

REZONING OF APPROXIMATELY 20 ACRES IN SOUTH MIAMI-DADE COUNTY FROM AGRICULTURAL TO MODIFIED ESTATE DENSITY

Berger Singerman represented DR Horton and secured unanimous approval from the Miami-Dade Community Zoning Appeals Board for Area 14, for the rezoning of approximately 20 acres in South Miami-Dade County from Agricultural to Modified Estate Density, for the development of 46 single family homes by our client.

SPORTS LEADERSHIP AND MANAGEMENT ACADEMY

Berger Singerman successfully represented Sports Leadership and Management Academy (“SLAM”) by obtaining a 6-1 vote from the North Miami Beach City Council approving an unsolicited proposal for the opening and operation of a charter school at Allen Park in North Miami Beach.

UPTOWN FT. LAUDERDALE REDEVELOPMENT

The City of Ft. Lauderdale and the business leaders of an area of the city where software, education and bio medical employment centers are established are transforming the area into a mixed-use urban core to attract a millennial workforce. A Berger Singerman attorney co-chaired an Urban Land Institute Technical Advisory Panel (“TAP”) to work with the city and business leaders to prepare a physical vision plan for this transformation from highway oriented suburban office parks into a dense, walkable urban core of residential, retail and civic space to complement the high-tech jobs base. The city commission approved the vision plan prepared by the TAP.

ZONING APPROVAL IN CITY OF MIAMI NEIGHBORHOOD OF ALLAPATTAH. BERGER SINGERMAN OBTAINS CONTENTIOUS ZONING APPROVAL FOR A SEDANO’S SUPERMARKET

The approval of a Sedano’s Supermarket in Miami’s Allapattah community was the culmination of several months of work. The Sedano’s application for zoning approval initially carried a staff recommendation of denial based on staff’s opinion that the proposed store was infringing on the established residential perimeters of the area. There was significant opposition from immediately impacted residential neighbors who felt that the traffic and the overall impact of a supermarket operation would negatively impact the value of their homes and their quality of life. The Zoning Appeals voted against the application. Later, the City Commission voted in favor of the application and asked the client to meet with neighbors to address their concerns before coming back on second reading. After meeting several times with the neighbors and after an impasse on the issues they raised, the City Commission deferred the matter and once again asked client to meet with the neighbors. A revision to the proposed plan was made and offered to the neighbors as a final gesture and attempt to find resolution. Said revision provided for the closure of one of the access drives to and from the store. The neighbors did not accept the proposed change and the matter once again came before the Commission. The Commissioner of the District, explained to the neighbors that the supermarket chain had satisfied their concerns and made a motion to approve the application, which was approved unanimously.