



# MEMORANDUM

Agenda Item No. 11(B) 1

**To:** Honorable Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

**Date:** December 16, 2003

**From:** George M. Burgess  
County Manager

**Subject:** Report – Omnipoint  
and the Zoning Code

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## RECOMMENDATION

It is recommended that the Board accept the attached report pertaining to the status of the zoning code after the Supreme Court decision in Omnipoint Holdings, Inc. v. Miami-Dade County.

## BACKGROUND

Commissioner Seijas requested the Department of Planning and Zoning prepare this report on the status of the zoning code after the Supreme Court decision in Omnipoint Holdings, Inc. v. Miami-Dade County.

Attachment

  
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Assistant County Manager



## MEMORANDUM

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**To:** Honorable Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

**Date:** November 14, 2003

**From:** George M. Burgess  
County Manager

**Subject:** Report – Omnipoint  
and the Zoning Code

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During the pendency of the Omnipoint Holdings v. Miami-Dade County lawsuit, the County adopted 35 ordinances and/or resolutions related to the litigation. This legislation falls into a number of different categories, including those dealing with permitted uses, the alternative site development options (an alternative to non-use variances), modifications, telecommunications, site plan requirements and Downtown Kendall.

The Department has met with the county attorney's office, industry representatives and homeowners regarding these "fixes". The consensus is that the majority of the ordinances serve a useful purpose and should be retained. They were included in the zoning code as additional regulations. Now that the code has been redeemed we believe that these fixes should continue to be utilized together with the older procedures which have evolved since the 1950's. A number of the ordinances were to be addressed in the zoning code re-write project. These are instances where a use is now permitted as of right in a particular zoning district provided the conditions in the ordinance are met. As of the date of this writing the only ordinance which is still in question for the department is the telecommunications ordinance (#03-163). This ordinance deals with the standards for a particular use in different zoning categories and is the only one of it's type. The department has been and will continue to meet with concerned citizens and the industry concerning this ordinance in order to make a recommendation to the commission. In the event that the alternative site development option ordinances are retained, an additional ordinance will be proposed for townhouse developments to keep them in line with the remainder of the code.

The zoning code re-write is a separate project, not related to the Omnipoint litigation. The purpose of the re-write project is to modernize the zoning code and it was never to encompass the rewriting of the standards and procedures for boards to utilize in making decisions on requests for relief from the zoning code. The changes being proposed are to the portion of the code containing the zoning districts and underlying district regulations. It is being reformatted to make it more readable and to add zoning districts to further new urbanism and urban design principles. Additionally, all of the previous directors'

memorandums and interpretations are being codified and made a part of the zoning code as part of the re-write project. It is anticipated that the re-write project will be presented to the commission by the end of this year.

As a whole the Omnipoint fixes have been well received and are working to forward the purposes of the zoning code and the county. Applicants now will have the option of requesting relief from the zoning code under the "old" standards of compatibility and other enumerated standards in the code or under the "new" standards including alternative site development options and legal zoning hardship.

The majority of development in the county complies with the code and is not required to apply for any type of hearing or relief. They simply apply for the appropriate building permits. When all of the standards of the code are not met for any development activity, relief from the provisions of the zoning code is sought. This is accomplished either through an administrative action or through a zoning hearing process. Applicants will have additional paths toward relief, however, it will not take any additional time as a result of Omnipoint.