MEMORANDUM

Substitute
Agenda Item No. 4(A)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: January 25, 2007

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance relating to murals, signs and billboards

The accompanying ordinance was prepared and placed on the agenda at the request of Chairman Bruno A. Barreiro.

The substitute differs from the original version in that it: (1) provides that in the event that the number of requests for mural permits exceeds the number permitted by the ordinance that the recipients of the mural permits be determined by lot, (2) provides that the City of Miami Zoning Administrator submit documentation that applicants for mural permits are not parties to existing agreements with municipalities authorizing billboards or murals in violation of the County's sign code and, (3) clarifies that the thirty-day deadline to review an application for a sign permit applies only to the review by the Department of Planning and Zoning.

for: Murray A. Greenberg
County Attorney

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MEMORANDUM
(Revised)

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Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

✓ **6 weeks required between first reading and public hearing**

✓ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

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Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No. 4(A)
1-25-07

ORDINANCE NO._____

ORDINANCE PERTAINING TO ZONING REGULATION OF SIGNS; PROVIDING DEFINITIONS; CREATING LIMITED EXEMPTION FOR CERTAIN MURAL SIGNS WITHIN THE CITY OF MIAMI DOWNTOWN CORE; AUTHORIZING SIGNS WITH NONCOMMERCIAL MESSAGES WHERE COMMERCIAL MESSAGES ARE PERMITTED; PROVIDING TIME LIMITATION TO ISSUE SIGN PERMIT; PROVIDING APPEAL PROCEDURES; RESTRICTING APPLICATION FOR BILLBOARDS OR MURALS UNDER CERTAIN CIRCUMSTANCES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, the downtown core of Miami-Dade County's largest city would be aesthetically enhanced by the display of mural signs on certain blank walls within the City of Miami Downtown Core; and

WHEREAS, the City of Miami desires that, subject to conditions, Class C mural signs be allowed within the City of Miami Downtown Core; and

WHEREAS, Chapter 33 of the Code of Miami-Dade County regulates the placement and size of Class C signs within the incorporated and unincorporated areas of Miami-Dade County; and

WHEREAS, the City of Miami has requested that Chapter 33 of the Code of Miami-Dade County be amended to permit the placement of mural signs within the City of Miami Downtown Core,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 33-83 of the Code of Miami-Dade County, Florida is hereby amended to read as follows: [1]

Sec. 33-83. Purposes.

* * *

>>(c) The purpose of this article is also to protect noncommercial speech such that any sign authorized herein may contain, in lieu of any other message or copy, any lawful noncommercial message, so long as such sign complies with the size, height, area and other requirements of this article.<<

* * *

Section 2. Section 33-84 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-84. Definitions.

For the purposes of this article the following words or phrases are hereby defined as provided in this section, unless the context clearly indicates otherwise. Where there is a question as to the correct classification or definition of a sign [[~~, it shall be the prerogative of~~]] the Director [[~~to~~]] >>shall<< place said sign in the strictest category and/or classification.

* * *

(h) *Class C (commercial advertising signs):* Any sign which is used for any purpose other than that of advertising to the public the legal or exact firm name of business >>or other

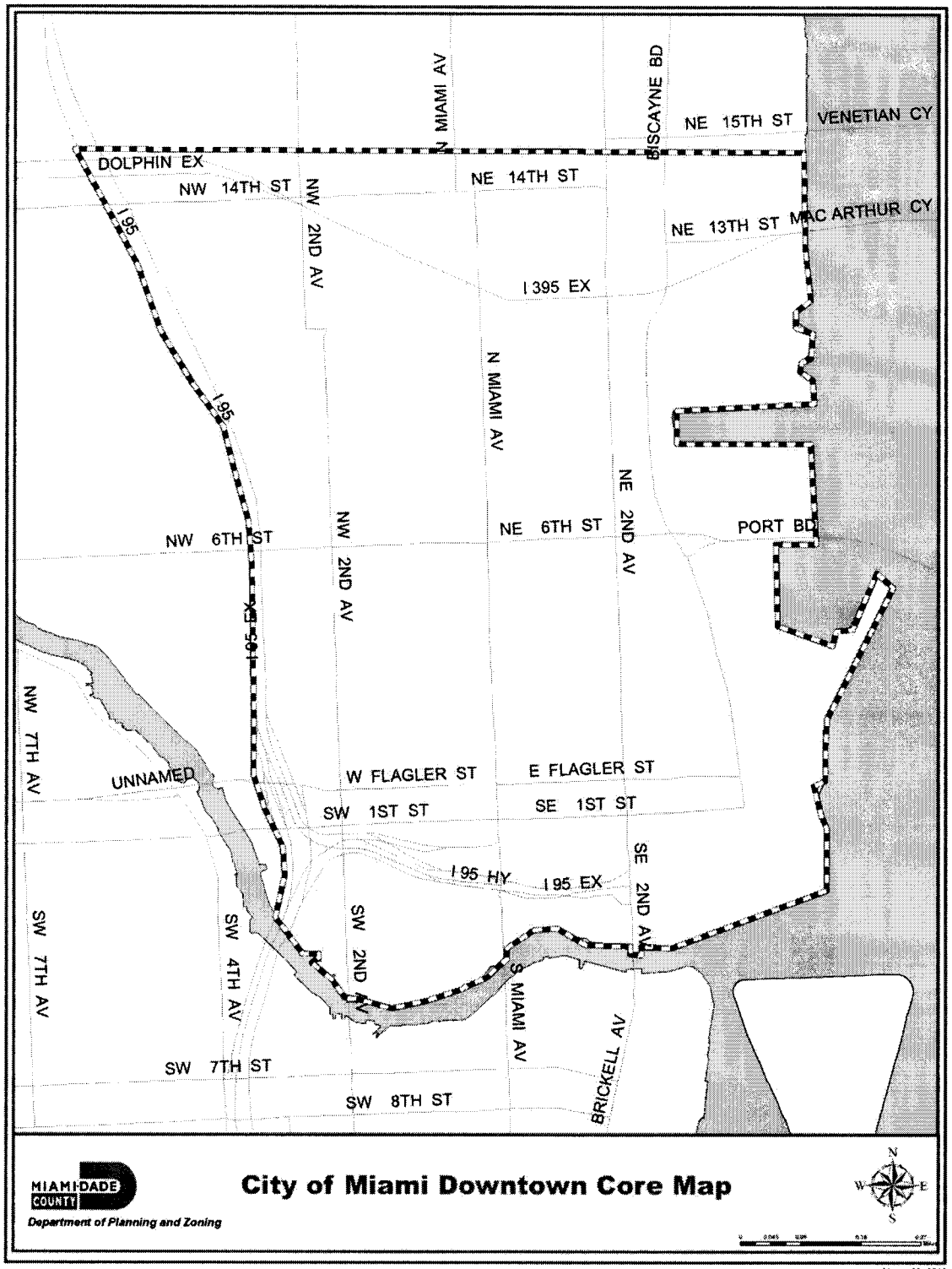
[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

activity<< carried on the premises, or for advertising any service or product or products actually and actively being offered [[~~for sale~~]] on the premises, or which is designed and displayed solely to offer for sale or rent the premises>>,<< or to advertise construction being done, or proposed to be done, on the premises, or >>to<< advertis[[~~ing~~]]>>e<< special events>>,<< [[~~approved by the Department~~]] shall constitute a class C sign.

Class C signs may be in the form of a billboard, bulletin board, >>mural,<< or poster board, or may be affixed flat to a building or painted thereon.

* * *

>>(y) *City of Miami Downtown Core* shall mean the geographic area bounded on the North by NE/NW 15th Street, bounded on the South by the Miami River, bounded on the East by Biscayne Bay and bounded on the West by east side of the I-95 expressway, as shown below.



City of Miami Downtown Core Map

March 20, 2006

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(z) *Mural.* Any Class C wall sign painted on, or affixed or secured flat to the façade of a building.

(aa) *Blank wall.* A blank wall means the wall of a building that is free of windows, balconies, railings, articulated façade, decorative grills or gratings, or other architectural elements. Walls constructed on rooftops or as part of a parapet shall not be considered blank walls for the purposes of this article.<<

Section 3. Section 33-85 of the Code of Miami-Dade County, Florida is amended to read as follows:

Sec. 33-85. Interpretation.

Only those signs that are specifically authorized by the sign code shall be permitted. Those that are not listed or authorized shall be deemed prohibited. >>It is provided, however, that any sign authorized herein may contain, in lieu of any other message or copy, any lawful noncommercial message, so long as such sign complies with the size, height, area and other requirements of this article.<<

Section 4. Section 33-86 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-86. Permits required.

* * *

>>(e) *Review of the application.* The Department shall complete its review of a sign permit application for the unincorporated area within 30 calendar days after filing, and shall render a decision either for approval or denial within that time. Failure by the Department to render a decision within 30 calendar days shall be deemed a denial, appealable as provided herein. If the permit is denied based upon grounds set forth in this article, the applicant may file an appeal to the appropriate Community Zoning

Appeals Board. Such appeal shall be heard at the next regular meeting of such board after notice pursuant to the requirements of Section 33-310(c) of this code. Further appeal shall be as authorized pursuant to the Florida rules of court. It is provided that the procedures for the review of a sign permit application pursuant to this section shall be limited to the Department of Planning and Zoning and shall not apply to other county departments' review of a sign permit application pursuant to the Florida Building Code.

(f) *Restrictions on Certain Class C Sign Permits.*

(1) No permit shall be issued for a billboard or mural on property where a civil violation notice pursuant to Chapter 8CC of this code has been issued for an unauthorized billboard or mural and such civil violation notice remains unresolved.

(2) No permit shall be issued for a billboard or mural to an erector or affiliate of such erector who has been issued a civil violation notice pursuant to Chapter 8CC of this code for erecting an unauthorized billboard or mural and such civil violation notice remains unresolved.

(3) No permit shall be issued to a property owner or owner of a billboard or mural or affiliate thereof who has been issued a civil violation notice pursuant to Chapter 8CC of this code for erecting an unauthorized billboard or mural, and such civil violation notice remains unresolved.

(4) No permit shall be issued for an existing billboard or mural in violation of this article if authorization for such billboard or mural was obtained from a municipality.

(5) No permit for a billboard or mural shall be issued to an owner, erector or affiliate thereof, if such owner, erector or affiliate has an existing agreement with a municipality purporting to allow the establishment or continuation of a billboard or mural upon payment of fines, penalties or other payments to the

municipality, if such billboard or mural is not in compliance with the requirements of this article.

(6) For purposes of this subsection, the term "affiliate" shall mean (i) a person, corporation, partnership or other business organization ("entity"), directly controlling, controlled by, or under common control with, another entity, or (ii) any entity owning or controlling ten percent or more of the ownership interest of another entity.<<

Section 5. Section 33-107 of the Code of Miami-Dade County is hereby amended to read as follows:

Sec. 33-107. Class C commercial signs.

Type of signs permitted: Billboard; bulletin board; poster board >>mural in locations specified herein<<.

* * *

Zones/districts permitting use. Class C commercial advertising signs shall be permitted in the following zones: (a) In BU-3, IU-1, IU-2 and IU-3 Zones. (b) In BU-1A and BU-2 Zones subject to the following conditions: (1) Cantilever construction. Detached class C signs in these zones must be of cantilever type construction (double-faced sign, both faces of the same size, secured back to back on the same set of vertical supports with no supporting bracing) with a minimum of 5 feet clearance between grade and bottom of board surface. Second face of sign will not be required if the rear of sign is properly and adequately concealed or hidden. (2) Sites for signs. Sites for location of each detached class C sign in these zones must conform to the same minimum lot requirements as to size and frontage as required for erection of commercial buildings, and such sites cannot be improved with buildings or other structures.

In a BU-1A or BU-2 Zone, any class C signs erected on a site shall be immediately removed from such site at the time the first building permit is issued for permanent building to be erected thereon if the sign is within 300 feet of the proposed building.

If a building exists on property, no permits for erection of class C signs thereon shall be issued if the sign is within 300 feet of an existing building.

In addition, unless approved as result of a public hearing, no class C signs shall be erected on any property zoned BU-1A, BU-2, BU-3, IU-1, IU-2 or IU-3 unless the street frontage on the opposite side of the street is zoned commercial or industrial.

Landscaping requirements. Landscaping shall be required where appropriate, as determined by the Director.

>>*Murals.* Notwithstanding the Class C sign limitations contained in this section, mural signs located within the City of Miami Downtown Core shall be permitted, subject to the following conditions:

(1) Prior to permit issuance, the City of Miami Zoning Administrator shall refer all mural sign permit applications to the Director of the Miami-Dade County Department of Planning and Zoning to determine compliance with this article, including but not limited to Divisions 5 and 6 of this article (Commercial Signs on Expressway Right-of-Way and Commercial Signs on Rapid Transit System Right-of-Way).

(2) The City of Miami Zoning Administrator shall prepare a statement indicating that the proposed mural sign complies with all applicable City of Miami regulations, and that the applicant has demonstrated that it is not a party to an existing agreement with a municipality purporting to allow the establishment or continuation of a billboard or mural upon payment of fines, penalties or other payments to the municipality, if such billboard or mural is not in compliance with the requirements of this article. Such statement shall be submitted to the Director of the Department of Planning and Zoning, together with the city-approved mural application, related plans, and Miami-Dade County application review fee.

(3) No more than 25 mural signs shall be permitted at any one time within the entire City of Miami Downtown Core.

(4) No mural sign shall be placed closer than 100 feet to any single-family residential zoning district boundary or single-family residential use.

(5) Mural sign shall be placed only on blank walls as defined in the article.

(6) No mural sign shall be placed closer than 300 feet to another mural sign oriented toward the same street. The 300-foot spacing requirement shall be measured in a straight line from the closest edge of the mural sign on one building to the closest edge of the mural sign on the other building.

(7) A mural sign shall be permitted to cover the entire blank portion of a wall of a building.

(8) No more than 2 mural signs shall be placed on any one building, and any two such mural signs shall be placed on opposite walls of the building rather than on adjacent walls.

(9) Mural signs may be illuminated only in accordance with the provisions of Sections 33-96 and 33-107. Illumination of mural signs shall be limited to the hours of 6 p.m. to midnight.

(10) No permit for a mural shall be issued less than thirty days from the effective date of this ordinance. In the event that the initial number of requests for mural permits exceeds the maximum number of murals authorized by this ordinance, the City of Miami Zoning Administrator shall determine the award of mural permits by lot which shall be held no later than ninety days from the effective date of this ordinance. <<

Maintenance. In addition to the general maintenance requirements for this section, the owner and/or the erector of the sign shall be responsible for maintaining [[~~the~~]] >>any<< landscaping >>required by this article<< and the signs concerned in good condition and appearance>>.<< [[~~and~~]] >>Ground mounted Class C sign sites<< [[~~the site~~]] >>shall be maintained<< free from trash or debris. Failure to do so shall constitute cause for cancellation of the permit and removal of the sign, if owner and/or erector fails to

correct same within 10 days after written notice of nonconformance.

* * *

Section 6. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 7. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 8. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency:

Prepared by:

JAC/CHC

Joni Armstrong Coffey/Craig H. Coller

Sponsored by Chairman Bruno A. Barreiro