Memorandum

MIAMI-DADE COUNTY

(Second Reading 5-6-08)

Date: March 4, 2008

Agenda Item No. 7(H)

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

From: George M. Burgess
County Manager

Subject: Ordinance Relating to Regulation of the GU (Interim) Zoning District; Amending Section 33-196 of the Code of Miami-Dade County, Florida

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Recommendation
It is recommended that the Board of County Commissioners adopt the attached ordinance relating to the regulation of the GU (Interim) Zoning District, which provides for two different trend determination processes for GU District properties inside and outside the Urban Development Boundary (UDB) in order to promote agriculture.

Scope
This item has a countywide impact.

Fiscal Impact/Funding Source
There is no fiscal impact to the County.

Track Record/Monitor
This section regarding vendors does not apply.

Background
The Zoning Code of Miami-Dade County was created in 1938. Zoning designations were assigned to properties based on the use existing at that time. The GU Zoning District was created for all properties that were not assigned a specific zoning classification. Hundreds of undeveloped square miles within unincorporated Miami-Dade County were zoned GU, which meant they were awaiting specific zoning. Since the inception of the zoning code, thousands of GU zoned properties have been rezoned through the public hearing process. Most of the remaining GU zoned lands lie outside the Urban Development Boundary (UDB) however, some GU zoning does exist within the UDB.

The GU regulations stipulate that the Director of the Department of Planning and Zoning, when requested in writing, shall make a trend of development determination. This request requires the Director to evaluate the use or uses of the contiguous properties in the neighborhood and determine, based on compatibility criteria, the most appropriate use for the GU property(ies). For instance, agricultural use has been established when a majority of an area has been planted for row crops or residential use has been established if a majority of a neighborhood has been developed for housing. Based on the Director's trend determination, specific zoning development regulations are then applied to development of the particular GU zoned property. However, this determination does not constitute a rezoning of the property, it only permits a limited compatible use.

Currently one trend determination process is used for all properties in the GU Zoning District regardless of location. Trended properties within the GU District must abide by the standard zoning regulations for the use(s) that the Director has deemed compatible and consistent with the neighborhood in which the property is located. If no trend of development has been determined, then the default minimum zoning standards for the EU-2 (5 Acre Single Family Estate) Zoning District apply. This zoning district allows one house per five-acres and does not allow agricultural uses as permitted in the AU, Agricultural District.

The proposed ordinance seeks to better link trend determination for GU zoned properties with land use designations on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP). The ordinance also aims to promote agriculture by requiring untrended GU District properties outside the UDB to default to uses and regulations outlined in the Agricultural zoning district when they are designated Agriculture on the LUP map of the CDMP. The AU zoning will allow a full range of agricultural activities to occur on the property, thus helping to retain agriculture in this County. Once adopted, this ordinance will enable a majority of GU zoned property owners located in Agriculture designated lands outside the UDB to utilize the AU development regulations without the necessity of making a written request to the Department of Planning and Zoning for a trend of development determination. It should be noted that this ordinance does not preclude the construction of a residential unit on a 5-acre parcel of untrended GU land outside the UDB.

The ordinance will bifurcate Section 33-196 into parts (A) and (B) in order to separately address GU District properties inside and outside the UDB. Part (A) addresses GU District properties inside the UDB and outlines the same trend determination process that currently exists. The default zoning of EU-2, which requires a residence, will continue to be used for untrended GU zoned properties inside the UDB. Part (B) addresses properties outside the UDB, and requires all untrended GU District properties designated Agriculture on the LUP map of the CDMP to comply with the requirements of the Agricultural Zoning District.

Lands that are outside the UDB and are designated Open Land or Environmental Protection on the LUP map, will continue to follow the trending determination process outlined in Part (A) so that land clearing and agricultural uses in environmentally sensitive areas is discouraged. Also, properties within the Areas of Critical Environmental Concern, East Everglades Area boundaries or the Rockmining Overlay Zoning Area are subject to the development requirements outlined in either Chapter 33B or Article XLI of the Chapter 33 and are therefore not subject to the trend determination process.

The Agricultural Practices Study Advisory Board has issued a resolution in support of the attached ordinance with an objection to the language referring to the exemption of the properties within the East Everglades Area.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: May 6, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 7(H)

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**

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 7(H)
5-6-08

ORDINANCE NO. _____

ORDINANCE RELATING TO REGULATION OF THE GU (INTERIM) ZONING DISTRICT; MODIFYING CRITERIA FOR ESTABLISHING TREND OF DEVELOPMENT FOR GU ZONED PROPERTY; AMENDING SECTION 33-196 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 33-196 of the Code of Miami-Dade County, Florida is hereby amended as follows: [1]

Sec. 33-196. Standard>>s<< for determining >>zoning<< regulations to be applied >>to GU property<<.

>>(A) All properties in the GU District, which are inside the Urban Development Boundary, as shown on the Land Use Plan Map of the Comprehensive Development Master Plan, and which have not been previously trended or otherwise approved through the public hearing process for a specific use, shall be subject to the following trend determination process:<<

If a neighborhood in the GU District is predominantly one (1) classification of usage, the Director shall be governed by the regulations for that class of usage in determining the standard zoning regulations to be applied, including setbacks, yard areas, type of structures, height, limitations, use, etc. For the purposes of this section, "trend of development" shall mean the use or uses which predominate in adjoining properties within the GU District which because of their geographic proximity to the subject parcel make for a compatible use. The Director shall be guided in determining what constitutes a neighborhood by limiting [[~~his~~]] >>the<< evaluation to separate geographic areas, which may be designated by natural boundaries (rivers, canals, etc.) and/or man-made boundaries (roads, full- and half-section lines, etc.). The Director's decision shall be subject to appeal pursuant to the provisions of Section 33-311 of the Code. If no trend of development has been established in the GU neighborhood, minimum standards of the EU-2 District shall be applied. >>All lots subject to compliance with the standards of the EU-2 District shall contain

[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.

a minimum land area of five (5) acres gross, unless a larger minimum lot size is required by the Comprehensive Development Master Plan.<<

Notwithstanding the foregoing, certain platting activity occurring prior to April 12, 1974, which created lots meeting the minimum requirements of the EU-1 District on April 12, 1974, shall qualify such lots for those uses permitted in the EU-1 District. Those lots shall include only those lots indicated on:

[[~~(a)~~]] >>(1)<< plats recorded prior to April 12, 1974; and

[[~~(b)~~]] >>(2)<< tentative plats approved as of April 12, 1974, and finally approved and recorded within ninety (90) days after such approval; and

[[~~(c)~~]] >>(3)<< a tentative plat for single family residential lots approved prior to April 12, 1974, if each lot in the approved tentative plat met the minimum standards of the EU-1 District, provided that no final plat or other tentative plat for the subject property was approved after April 12, 1974, and that as of December 31, 2003, a majority of the lots indicated on the tentative plat had been improved with residences pursuant to building permit in accordance with the tentative plat's provisions; and

>>(4) waivers of plat approved prior to April 12, 1974; and<<

Parcels, other than the aforementioned platted lots or tentatively approved plat lots, that prior to April 12, 1974 were purchased under a contract for deed or deeded and met the minimum requirements of the EU-1 District shall be qualified for those uses permitted in the EU-1 District. However, if such deeded parcels were contiguous to and under the same ownership on April 12, 1974, and such deeded contiguous parcels are less than the five acre minimum site size of the EU-2 District, but exceed the minimum standards of the EU-1 District, such property shall be considered as one parcel of land and cannot be divided or used except as one lot.

>>(B) All properties in the GU District, which are outside of the Urban Development Boundary as shown on the Land Use Plan Map of the Comprehensive Development Master Plan and which have not been previously trended by the Department or otherwise approved through the public hearing process for a specific use, shall be governed by the following regulations:

(1) All properties designated Agriculture on the Land Use Plan Map of the Comprehensive Development Master Plan shall comply with the regulations of the AU (Agricultural) District. Exceptions to this requirement are those properties designated Agriculture on the Land Use Plan Map of the Comprehensive

Development Master Plan lying within the Areas of Critical Environmental Concern pursuant to Chapter 33B of this code. Such properties shall comply with the regulations applicable under Chapter 33B.

(2) All properties designated Open Land or Environmental Protection on the Land Use Plan Map of the Comprehensive Development Master Plan shall be subject to the trend determination process outlined in Section 33-196(A). Exceptions to this requirement are those areas lying within the East Everglades Area Boundaries pursuant to Section 33B-13, which shall comply with the regulations applicable under the East Everglades Zoning Ordinance pursuant to Chapter 33B, and those areas within the Rockmining Overlay Zoning Area, which shall comply with the regulations contained in Article XLI of this code.<<

Section 2. 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 3. 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 4. This ordinance shall be come effective ten (10) days after the enactment unless vetoed by the Mayor, and if vetoed, shall be come effective only upon an override of this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency: APW

Prepared by: MLM
M. Leigh Macdonald

RESOLUTION NO. AG-04-07

RESOLUTION OF THE MIAMI-DADE COUNTY AGRICULTURAL PRACTICES STUDY ADVISORY BOARD ACCEPTING THE PROPOSED ORDINANCE RELATING TO THE GU (INTERIM) ZONING DISTRICT, AMENDING SECTION 33-196 OF THE CODE OF MIAMI-DADE COUNTY

WHEREAS, Sections 2-931, 2-932 and 2-933 of the Code of Miami-Dade County provide for the creation, composition, terms, purpose and duties of the Agricultural Practices Study Advisory Board (APSAB); and

WHEREAS, in order to fulfill its purpose as defined in Section 2-931 of the Code, the APSAB shall provide recommendations to the Board of County Commissioners regarding the regulation of agriculture, and for eliminating or modifying regulatory activities that create unique burden or hardship on the agricultural industry in Miami-Dade County, Florida; and

WHEREAS, at its December 5, 2007 meeting the APSAB discussed the implications of the proposed ordinance relating to the GU (Interim) Zoning District;

NOW, THEREFORE, BE IT RESOLVED that the Miami-Dade County Agricultural Practices Study Advisory Board accepts the proposed ordinance as written with a strong objection to the language referring to the East Everglades Area in Part (B) of Section 33-196.

The foregoing resolution was offered by Bill Losner, who moved its adoption. The motion was seconded by Ivonne Alexander, and upon being put to a vote, the result was as follows:

Jorge Abreu - Absent
Ivonne Alexander - Yes
Teena Borek - Yes
John DeMott - Yes
Danny Helms - Yes
James Humble, Vice Chair - Yes
Bill Losner - Yes
Reed Olszack - Absent
Paul Radice - Yes
Dave Romney - Absent
Peter Schnebly - Yes
Robert Thompson - No

Ron Weeks, Chair - Yes

The Chair thereupon declared the resolution adopted this 5th day of December, 2007. I hereby certify the above information reflects the action of the Board.

Paula Church, Coordinator