

MEMORANDUM

Alternate
Agenda Item No. 4(H)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

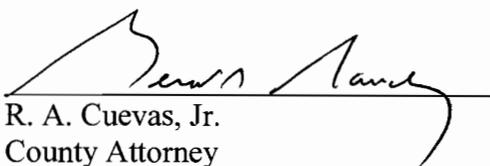
DATE: September 15, 2009

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

SUBJECT: Ordinance relating to
Community Councils/Community
Zoning Appeals Boards; creating a
single Zoning Appeals Boards;
eliminating Community Councils;
providing jurisdiction; providing
term and method of appointment
and filing of vacancies

This alternate differs from the original in that it eliminates Community Councils and provides for one Zoning Appeals Board rather than four Community Zoning Appeals Boards.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Vice-Chairman Jose "Pepe" Diaz.

for 
R. A. Cuevas, Jr.
County Attorney

RAC/jls



MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: September 15, 2009

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

SUBJECT: Agenda Item No.

Please note any items checked.

- "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
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Alternate
Agenda Item No. 4(H)
9-15-09

ORDINANCE NO. _____

ORDINANCE RELATING TO COMMUNITY COUNCILS/COMMUNITY ZONING APPEALS BOARDS; CREATING A SINGLE ZONING APPEALS BOARD RATHER THAN MULTIPLE COMMUNITY ZONING APPEALS BOARDS; ELIMINATING COMMUNITY COUNCILS; PROVIDING JURISDICTION; PROVIDING TERM AND METHOD OF APPOINTMENT AND FILING OF VACANCIES; 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 2-11.1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 2-11.1. Conflict of Interest and Code of Ethics Ordinance.

* * *

(b) *Definitions.* For the purposes of this section the following definitions shall be effective:

* * *

(3) The term "quasi-judicial personnel" shall refer to the members of the ~~[[Community]]~~ Zoning Appeals Board and such other boards and agencies of the County as perform quasi-judicial functions.

* * *

Section 2. Section 2-11.38 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 2-11.38. Membership on boards.

* * *

No member of any County board shall become a candidate for elective political office during his or her term. Should any member of a County board qualify as a candidate for elective political office, such qualification shall be deemed a tender of resignation from such board. No person shall serve on more than two (2) County boards simultaneously, unless the Commission has by unanimous vote approved the appointment after being advised of all other County board(s) upon which the person sits, provided, however, a person serving on any one of the following boards shall not serve on any other County board simultaneously except as provided by ordinance: ~~[[Community Council; Community]]~~ Zoning Appeals Board; Planning Advisory Board; Citizens' Independent Transportation Trust; Housing Finance Authority; Independent Review Panel; Industrial Development Authority; Health Facilities Authority; Educational Facilities Authority; Commission on Ethics and Public Trust; Environmental Quality Control Board; The Children's Trust; and the Public Health Trust. Notwithstanding the foregoing, a person is prohibited from serving on a County board where such service would violate federal or state law, the Miami-Dade County Home Rule Charter or county ordinance.

Section 3. Section 2-114 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 2-114. Adoption of Comprehensive Development Master Plan--Legal status of plan; relationship to neighborhood, area, and functional studies; legislative intent; definitions.

- (a) *Legal status.* The Comprehensive Development Master Plan is hereby declared to be the official long-range and comprehensive guide for the orderly growth and development of Miami-Dade County, Florida, and is adopted to direct and achieve coordinated and harmonious development and land use in a manner which will permit the planning for adequate community facilities and protect the ecological balance of the environment, in order to promote the public health, safety, convenience, prosperity

and general welfare of Miami-Dade County's citizens and visitors. In furtherance hereof, this Commission hereby declares its policy and intent to evaluate and consider all its public actions involving development orders or land development regulations as defined by Section 163.3164(6), (7), and (22), Florida Statutes (1987) or affecting land use or development, including action on applications for zoning relief, to be in conformity with and consistent with the Comprehensive Development Master Plan, as provided by Section 163.3194(3)(a), Florida Statutes (1987), and to determine whether such action or actions will better serve the community. Pursuant hereto, all County actions, including, but not limited to, those for capital improvements, transportation, housing, health, parks, recreation, culture and libraries shall be coordinated and rendered consistent with the Comprehensive Development Master Plan. In recognition that developmental actions and orders have been and shall continue to be a major tool for the implementation of land use and development policies, it shall henceforth be required that applicants for developmental actions or orders shall be determined to further the attainment of the intent of this plan, which embodies the essence of the community's development policy. Any deviations from the plan shall be approved only if the provisions of subsection 2-114(c) are applicable, and further may only be approved by not less than a majority of the total membership of the Board of County Commissioners on applications for development orders pending before it [~~or by not less than a majority of the total membership a Community Zoning Appeals Board on applications for development orders pending before it~~]. It shall be the responsibility of the Department of Planning and Zoning or other appropriate Miami-Dade County Boards, departments and agencies to formulate recommendations for the resolution of any conflicts in the interpretation or application of the Comprehensive Development Master Plan in a manner which will best serve the spirit and intent of the Comprehensive Development Master Plan. Any decisions relating to such conflict shall contain specific findings by the board, department or agency making said decisions.

5

Section 4. Section 2-114.1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 2-114.1. Administrative review of takings and vested rights claims.

* * *

(c) *Invocation of administrative remedy.*

* * *

(2) Any applicant alleging that the action of the Board of County Commissioners or a ~~[[Community]]~~ Zoning Appeals Board upon an application for a zoning action under Chapter 33 would constitute a temporary or permanent taking of private property or an abrogation of vested rights shall file a complete sworn statement with the Developmental Impact Committee Coordinator not later than forty-five (45) days before the first hearing on the developmental resolution. No oral testimony or written reports or documents in support of any argument that the denial of the developmental resolution would constitute a temporary or permanent taking of private property or would abrogate vested rights shall be considered as evidence at the public hearing unless the complete sworn statement has been timely filed pursuant to this paragraph; provided, however, that where an applicant has failed to timely file a sworn statement pursuant to this paragraph, the Board of County Commissioners, Environmental Quality Control Board, or any other board taking action on a developmental resolution may defer the hearing on an application for a developmental resolution to avoid a manifest injustice and to provide adequate time for review of the sworn statement by the Developmental Impact Committee or, in the event of an application initiated by a party other than the affected property owner, to provide adequate time for the property owner to invoke the administrative

remedy and to adhere to the time schedules provided herein.

* * *

Section 5. Section 2-115.11 of the Code of Miami-Dade County is hereby amended to read as follows:

Sec. 2-115.11. Biscayne National Park Buffer Development Review Committee; intent and purpose; establishment; membership; qualifications; appointment; term; duties; staff support.

* * *

(2) *Biscayne National Park Buffer Development Review Committee.*

* * *

(e) After January 2002 and until the Watershed Plan is implemented, the Review Committee shall apply the following interim measures to the Board of County Commissioners to further the purposes of the Plan and to assist in the heightened scrutiny required by this section. These measures are as follows:

* * *

ii. For each application involving a telecommunications tower in the Review Area, the applicant shall provide the Review Committee and the ~~[[applicable community]]~~ zoning appeals board with a regional map showing the location of existing and permitted telecommunication towers and available data on the impact of existing towers on birds, in areas comparable to the Review Area. Further, the applicant shall document that co-location opportunities, existing public structures and already developed public lands have been utilized to the maximum extent feasible and

that design aesthetics have been incorporated. Assessment of feasibility shall include consideration of the technical requirements of differing types of telecommunications providers. The County shall review all documentation submitted by the applicant pursuant to the above requirements for technical accuracy. The Committee and the [[applicable community]] zoning appeals board shall defer or deny actions on applications for telecommunications towers in the Review Area until the above listed items are provided.

* * *

Section 6. Article IV Section 20-40-through 20-45 of the Code of Miami-Dade County, Florida relating to Community Councils are hereby deleted in their entirety.

Section 7. Section 24-48.2 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 24-48.2. Permit application forms; procedures.

* * *

(II) *Standard Form Permit Application:*

* * *

(B) *Obtaining approval from the Board of County Commissioners:*

(1) The Director shall review the permit application for the proposed work and shall make a recommendation to the Board of County Commissioners of approval, denial, or approval subject to conditions, limitations or restrictions for the proposed work. The Director's recommendation shall be based upon the applicable evaluation factors set forth in Section 24-48.3 of this Code. The Board of County Commissioners or

[[Community]] Zoning Appeals Board pursuant to Section 33-13 shall hold a public hearing concerning the proposed work. A notice of the time and place of said public hearing shall be published in a newspaper of general circulation in Miami-Dade County a minimum of seven (7) days prior to the public hearing. Said notice shall include a brief description of the proposed work and the location of the proposed work. A courtesy notice containing substantially the same information set forth in said published notice shall be mailed to those parties whose names appear on the application as the owners of all riparian or wetland property within three hundred (300) feet of the proposed work. Failure to mail or receive said courtesy notice shall not affect any action or proceeding taken thereunder. The Board of County Commissioners or [[Community]] Zoning Appeals Board pursuant to Section 33-13 shall, after holding the public hearing, approve, deny, or approve subject to conditions, limitations or restrictions, the work proposed under the permit application based upon the applicable evaluation factors set forth in Section 24-48.3 of this Code.

- (2) If the Board of County Commissioners or [[Community]] Zoning Appeals Board pursuant to Section 33-13 approves a permit application, the Department of Environmental Resources Management shall issue the permit subject to the conditions, limitations or restrictions required by the [[Community]] Zoning Appeals Board[[s]] or Board of County Commissioners. The Department of Environmental Resources Management, in its discretion, may require additional conditions, limitations and restrictions as part of the permit only if said additional conditions, limitations or restrictions are consistent with the action of the Board of County Commissioners or

[[Community]] Zoning Appeals Board with respect to the permit.

- (3) At the request of a permit applicant, a conclusive list of permit conditions, limitations, and restrictions, which may not be amended or modified by the Department of Environmental Resources Management except as provided in Section 24-48.2(II)(B)(3)(b), below, shall be prepared prior to the public hearing and shall be submitted to the Board of County Commissioners or [[Community]] Zoning Appeals Board pursuant to Section 33-13 as part of the Director's recommendation of approval, provided that the permit application includes the following:
 - (a) All requirements set forth in Section 24-48.5(2)(a) and (b).
 - (b) A verified statement by the permit applicant that the proposed work shall commence within three (3) months of approval of said permit by the Board of County Commissioners or [[Community]] Zoning Appeals Board pursuant to Section 33-13 and that if the work does not commence within three (3) months of the date of approval of said permit by the Board of County Commissioners or [[Community]] Zoning Appeals Board, then the Department of Environmental Resources Management may, in its discretion, require additional conditions, restrictions, and limitations as to the permit other than those described in the aforesaid list. All such additional conditions, restrictions, and limitations shall be consistent with the action of the Board of County Commissioners or [[Community]] Zoning Appeals Board with respect to the permit.

Section 8. Section 24-49.3 of the Code of Miami-Dade County is hereby amended to

read as follows:

Sec. 24-49.3. Preliminary review of projects involving tree removal or relocation.

The Department shall review and comment on the following actions: Any application for zoning relief which requires a public hearing before the Miami-Dade County ~~[[Community]]~~ Zoning Appeals Board or the Board of County Commissioners; applications for plat approval; administrative site plan review; applications for approval of development plans by the developmental impact committee and the South Florida Regional Planning Council; proposed plans for new roadways or improvements to highway design projects; proposed plans for new public park and recreational areas and other public facilities. This review procedure shall determine if a tree removal permit is required under Section 24-49, and whether the following standards, when applicable, are adhered to:

* * *

- (2) Development within natural forest communities or involving specimen trees:

* * *

- (b) Notwithstanding any provision of this Code, no County or municipal officer, agent, employee or Board shall approve, grant or issue any building permit, certificate of use and occupancy (except for changes in ownership), platting action (final plat, waiver of plat or equivalent municipal platting action) or zoning action requiring a public hearing before the Miami-Dade County ~~[[Community]]~~ Zoning Appeals Board or the Board of County Commissioners for any land use involving division of property into parcels less than five (5) acres within natural forest communities without obtaining the prior written recommendation of the Director or the Director's designee. The Director or the Director's designee shall issue his written recommendation of approval only if the Director or

the Director's designee determines that a preservation area equivalent in size to the minimum preservation area required for the site under Section 24-49.2(I) has been designated prior to the proposed action.

Section 9. Section 28-18 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 28-18. Encroachment on or in streets.

* * *

- (d) Appeals of the director's decision regarding pump house or fence placement or removal may be taken to the ~~[[Community]]~~ Zoning Appeals Board pursuant to Section 33-311(c), Code of Miami-Dade County, Florida, and, thereafter, to the Board of County Commissioners pursuant to Sections 33-313 through 33-316 of the Code of Miami-Dade County, Florida.

Section 10. Section 28-19 of the Code of Miami-Dade County is hereby amended to read as follows:

Sec. 28-19. Variances.

- (a) *Authority of ~~[[Community]]~~ Zoning Appeals Board.* The County's ~~[[Community]]~~ Zoning Appeals Board may authorize a variance from these regulations. The ~~[[Community]]~~ Zoning Appeals Board may vary the regulations so that substantial justice may be done, provided that such variance will not have the effect of nullifying the intent and purpose of the overall community plan. In granting any variance, the County's ~~[[Community]]~~ Zoning Appeals Board shall prescribe any conditions that are deemed necessary to or desirable for the public interest. In making its findings, the ~~[[Community]]~~ Zoning Appeals Board shall take into account among other things the nature of the proposed use of the land and the exiting use of the land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the County's ~~[[Community]]~~ Zoning Appeals Board finds, among other

things, that all three (3) of the following conditions exist in regard to the land concerned:

* * *

- (b) *Large scale developer.* The standards and requirements of these regulations may be modified by the [[Community]] Zoning Appeals Board in the case of a plan and program for a new town or a complete community which in the judgment of the [[Community]] Zoning Appeals Board provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.

Section 11. Section 33-6 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-6. Permits not to be issued for violations.

No permits shall be issued for work that would violate any provision of this chapter, or any recorded restriction which runs with the land that are required by the County pursuant to the [[Community]] Zoning Appeals Board or County Commission resolutions.

Section 12. Section 33-13(e). of the Code of Miami-Dade County is hereby amended to read as follows

Sec. 33-13. Unusual uses.

* * *

A public hearing for the following unusual uses or uses similar thereto within coastal or freshwater wetlands, as defined in Section 24-3 of the Code of Miami-Dade County, shall be held by the [[Community]] Zoning Appeals Board and shall include a simultaneous public hearing for class I or class IV permit applications as provided pursuant to Section 24-58.2 of the Code of Miami-Dade County:

* * *

Section 13. Section 33-16 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-16. Excavations; public hearing required; exceptions.

- (a) *Public hearing required for certain excavations; exception.*
No excavations below the level of any street, highway or right-of-way shall be made except upon approval after public hearing; provided, no public hearing is required for excavations for the following purposes:

* * *

- (6) Lake excavations west of the salt barrier line shall also be allowed without a public hearing in all districts within the developable boundaries of the adopted metropolitan development pattern map of the Comprehensive Development Master Plan as may be amended from time to time. Public hearings will be required in all areas east of the salt barrier line. Applicants may choose to go to public hearing for lake excavation approval even if same is not required; provided, however, that if an unusual use is requested, applicants shall proceed in accordance with Section 33-13. In order to receive a waiver from the public hearing requirement, applicants must submit complete excavation plans to the Department. The Department shall review lake excavation plans for compliance with the requirements noted below. All plans shall be reviewed and approved or denied by the Department within fifteen (15) days from the date of submission. Applicants shall have the right to extend the fifteen-day period upon timely request made in writing to the Department. Staff shall have the right to extend the fifteen-day period by written notice to the applicant that additional information is needed to process the plan. Denials shall be in writing and shall specifically set forth the grounds for denial. If the plan is disapproved by the Department on the grounds of requirement (6)b, (6)j, (6)l, or (6)r below, the applicant may appeal to the ~~[[Community]]~~ Zoning Appeals Board in accordance with procedure established for appeals

of administrative decision in Section 33-311(c). Disapprovals on all other grounds listed below may be appealed to the [[Community]] Zoning Appeals Board as unusual use requests in accordance with procedure established in Section 33-13.

* * *

Section 14. Section 33-36.1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-36.1. Administrative adjustment procedure.

* * *

(h) The applicant, or any aggrieved property owner in the area, may appeal the decision of the Director to the appropriate [[Community]] Zoning Appeals Board in the manner provided for appeals of administrative decisions (Section 33-311 of the Code). In the event an appeal is made by an aggrieved property owner in the area, the Director may stop or suspend any construction authorized by the adjustment, until a decision has been made on the appeal. In the event the Director should determine that the suspension of the construction could cause imminent peril to life or property he or she may permit the construction to continue upon such conditions and limitations, including the furnishing of an appropriate bond, as may be deemed proper under the circumstances.

* * *

Section 15. Section 33-112 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-112. Permitted features described.

Notwithstanding any other provision of this article, entrance features in compliance with each of the standards enumerated below shall be permitted:

* * *

- (i) The applicant, or any aggrieved property owner in the area, may appeal the decision of the joint directors to the ~~[[Community]]~~ Zoning Appeals Board, in the manner provided for appeals of administrative decision (Section 33-311(c)(2) of the Code of Miami-Dade County).

Section 16. Section 33-121.14(c) of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-121.14. Nonconforming signs.

* * *

- (c) If approved as a result of a public hearing by the appropriate ~~[[Community]]~~ Zoning Appeals Board, a nonconforming sign may be replaced or modernized provided the board size and height is not increased.

Section 17. Section 33-161 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-161. Previously approved public charter schools.

It is not the intention of this article to require any changes in any public charter school facilities that prior to the effective date of this article have received final approval from the School Board of Miami-Dade County of a final charter contract specifying the charter school's site. Further, the provisions of this article shall not be applicable to the establishment of any new charter school upon demonstration of the following circumstances: (a) prior to the effective date of this article the proposed new charter school was presented during a public zoning hearing as a part of a development plan to the ~~[[applicable—Community]]~~ Zoning Appeals Board or the Board of County Commissioners; (b) prior to or at the public hearing, the zoning applicant presenting such development plan provided a declaration of restrictive covenants or other recordable assurances binding the applicant or successor to provide a charter school at a specified location, with a specified maximum number of students and specified grade levels; and (c) within two years after the effective date of this article, the proposed new charter school receives a favorable recommendation for site plan approval from the Developmental Impact Committee and a final charter contract from the School Board of Miami-Dade

County approving the charter school at substantially the site specified at the zoning public hearing.

* * *

Section 18. Section 33-202.3 (2)(r) of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-202.3. Uses permitted.

No land, body of water or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, moved, or reconstructed, structurally altered or maintained for any purpose in a townhouse district (RU-TH) which is designed, arranged or intended to be used or occupied for any reason or purpose, except for one (1) of the following uses:

* * *

(2) Townhouses, subject to the following restrictions:

* * *

(r) *Site plan review.* The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and thereby insure the congruity of the proposed development and its compatibility with the surrounding area. All plans submitted to the Department shall be reviewed and approved or denied by the Department within fifteen (15) days from the date of submission. The applicant shall have the right to extend the fifteen-day period by an additional fifteen (15) days upon timely request made in writing to the Department. The Department shall have the right to extend the fifteen-day period by written notice to the applicant that additional information is needed to process the site plan. Denials should be in writing and shall specifically set forth the grounds for denial. If the plan is disapproved the applicant may appeal to the appropriate [[Community]] Zoning Appeals Board

in accordance with procedure established for
appeals of administrative decision.

* * *

Section 19. Section 33-202.10 of the Code of Miami-Dade County, Florida is hereby
amended to read as follows:

Sec. 33-202.10. Site plan review.

The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. Requirements shall include conformance with the standards contained in regulations, herein. Substantial conformance with the Urban Design Guidelines and Policies of the Comprehensive Development Master Plan shall be incorporated. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and thereby insure the congruity of the proposed development and its compatibility with the surrounding area. All plans submitted to the Department shall be reviewed and approved or denied by the Department within twenty-one (21) days from the date of submission. The applicant shall have the right to extend the twenty-one (21) day period by an additional twenty-one (21) days upon timely request made in writing to the Department. The Department shall have the right to extend the twenty-one (21) day period by written notice to the applicant that additional information is needed to process the site plan. Denials shall be in writing and shall specifically set forth the grounds for denial. If the plan is disapproved the applicant may appeal to the ~~[[appropriate Community]]~~ Zoning Appeals Board in accordance with procedure established for appeals of administrative decisions.

* * *

Section 20. Section 33-203.7 of the Code of Miami-Dade County, Florida is hereby
amended to read as follows:

Sec. 33-203.7. Site plan review.

The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and

thereby ensure the congruity of the proposed development and its compatibility with the surrounding area. All plans submitted to the Department shall be reviewed and approved or denied within fifteen (15) days from the date of submission. The applicant shall have the right to extend the fifteen-day period by an additional fifteen (15) days upon timely request made in writing to Department. The Departments shall have the right to extend the fifteen-day period by written notice to the applicant that additional information is needed to process the site plan. Denials shall be in writing and shall specifically set forth the grounds for denial. If the plan is disapproved the applicant may appeal to the ~~[[appropriate Community]]~~ Zoning Appeals Board in accordance with procedure established for appeals of administrative decision.

* * *

Section 21. Section 33-207.2.1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-207.2.1. Site plan review.

The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and thereby ensure the congruity of the proposed development and its compatibility with the surrounding area. All plans submitted to the Department shall be reviewed and approved or denied within fifteen (15) days from the date of submission. The applicant shall have the right to extend the fifteen-day period by an additional fifteen (15) days upon timely request made in writing to the Department. The Department shall have the right to extend the fifteen-day period by written notice to the applicant that additional information is needed to process the site plan. Denials shall be in writing and shall specifically set forth the grounds for denial. If the plan is disapproved the applicant may appeal to the appropriate ~~[[Community]]~~ Zoning Appeals Board in accordance with procedure established for appeals of administrative decision.

* * *

Section 22. Section 33-208(3) of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-208. Uses permitted.

No land, body of water or structure shall be used, or permitted to be used and no structure shall be hereafter erected, constructed, moved or reconstructed, structurally altered or maintained for any purpose in an RU-4, High Density Residential District, which is designed, arranged or intended to be used or occupied for any purpose, except for one (1) of the following uses:

* * *

- (3) Multiple family apartment house containing eleven (11) or more units, subject to site plan review hereinafter provided. Where the applicant fails to secure the approval of the Department of Planning and Zoning the site plan reviewed shall be deemed denied. Where the site plan has been denied the applicant may correct the same to secure the approval of both Departments or appeal the denial for review by the ~~[[Community]]~~ Zoning Appeals Board.

* * *

Section 23. Section 33-208.1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-208.1. Site plan review--Generally.

The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and thereby ensure the congruity of the proposed development and its compatibility with the surrounding area. All plans submitted to the Department shall be reviewed and approved or denied within fifteen (15) days from the date of submission. The applicant shall have the right to extend the fifteen-day period by an additional fifteen (15) days upon timely request made in writing to the Department. The Department shall have the right to extend the fifteen-day period by written notice to the applicant that additional information is needed to process the site plan. Denials shall be in writing and shall specifically set forth the grounds for denial. If the

plan is disapproved, the applicant may appeal to the appropriate [[Community]] Zoning Appeals Board in accordance with procedure established for appeals of administrative decisions.

* * *

Section 24. Section 33-217 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-217. Uses permitted.

No land, body of water or structure shall be used, or permitted to be used and no structure shall be hereafter erected, constructed, moved or reconstructed, structurally altered or maintained for any purpose in an RU-4A District which is designed, arranged, or intended to be used or occupied for any purpose, except for one (1) of the following uses:

* * *

- (3) Hotels, motels, apartment houses, and apartment hotels containing eleven (11) or more units, subject to site plan review hereinafter provided. Where applicant fails to secure the approval of both departments the site plan reviewed shall be deemed denied. Where the site plan has been denied, the applicant may correct the same to secure the approval of both departments or appeal the denial for review by the [[Community]] Zoning Appeals Board.

* * *

Section 25. Section 33-217.1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-217.1. Site plan review--Generally.

The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and thereby ensure the congruity of the proposed development and its compatibility with the surrounding area. All plans submitted to the Department shall be reviewed and approved or denied within fifteen (15) days from the date of submission. The applicant shall

have the right to extend the fifteen-day period by an additional fifteen (15) days upon timely request made in writing to the Department. The Department shall have the right to extend the fifteen-day period by written notice to the applicant that additional information is needed to process the site plan. Denials shall be in writing and shall specifically set forth the grounds for denial. If the plan is disapproved the applicant may appeal to the appropriate ~~[[Community]]~~ Zoning Appeals Board in accordance with procedure established for appeals of administrative decision.

* * *

Section 26. Section 33-222.1.1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-222.1.1. Subdivision of hotels and motels.

* * *

(d) (1)

It shall be presumed that the subdivision of a hotel or motel results in a change of use to nonhotel or nonmotel use. This presumption may be rebutted administratively at a public hearing. An application to rebut shall be filed for public hearing before the appropriate Community Zoning Appeals Board. The presumption shall be rebutted whenever such an applicant shall establish at public hearing that the property will continue to be utilized as a hotel or motel. In civil proceedings the presumption of change of use shall shift the burden of proof on this issue to the party against whom it operates; and in criminal proceedings the presumption shall constitute prima facie evidence of a change in use.

* * *

Section 27. Section 33-223.5.1(a) of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-223.5.1. Site plan review.

(a) *Required; purpose.* The Department shall, prior to issuance of any permits, review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage

logic, imagination, innovation and variety in the design process and ensure the congruity of the proposed development and its compatibility with the surrounding area. If requested approval is denied, proposed project may be appealed to the ~~[[appropriate—Community]]~~ Zoning Appeals Board, in accordance with regulations as provided in Chapter 33 of the Code of Miami-Dade County governing appeals from administrative decisions.

Section 28. Section 33-223.11 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-223.11. Site plan review.

- (A) *[Required; purpose.]* The Department shall, prior to issuance of any permits, review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and ensure the congruity of the proposed development and its compatibility with the surrounding area. If requested approval is denied, the proposed project may be appealed to the appropriate ~~[[Community]]~~ Zoning Appeals Board, in accordance with regulations as provided in Chapter 33 governing appeals from administrative decisions contained in the Code of Miami-Dade County.

* * *

Section 29. Section 33-245.2 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-245.2. Plan review standards.

- (A) The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The decision of the Department in relation to the site plan review criteria may be appealed by the party(ies) which filed the application for the project to the appropriate Community Zoning Appeals Board within thirty (30) days of the date the project was denied approval in writing. Appeals will be heard as expeditiously as possible. The purpose of the site plan review is to encourage logic, imagination and variety in the design

process and thereby insure the congruity of the proposed development and its compatibility with the surrounding area. All final plans submitted for building permits shall be substantially in compliance with plans approved under the plan review procedure herein established.

* * *

Section 30. Section 33-251.5 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-251.5. Plan review standards.

- (A) The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The decision of the Department in relation to the site plan review criteria may be appealed by the party(ies) which filed the application for the project to the ~~[[appropriate Community]]~~ Zoning Appeals Board within thirty (30) days of the date the project was denied approval in writing. Appeals will be heard as expeditiously as possible. The purpose of the site plan review is to encourage logic, imagination and variety in the design process and thereby insure the congruity of the proposed development and its compatibility with the surrounding area. All final plans submitted for building permits shall be substantially in compliance with plans approved under the plan review procedure herein established.

* * *

Section 31. Section 33-253.9(A) of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-253.9. Plan review standards.

- (A) The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The decision of the Department in relation to the site plan review criteria may be appealed by the party(ies) which filed the application for the project to the appropriate Community Zoning Appeals Board within thirty (30) days of the date the project was denied approval in writing. Appeals will be heard as expeditiously as

possible. The purpose of the site plan review is to encourage logic, imagination and variety in the design process and thereby insure the congruity of the proposed development and its compatibility with the surrounding area. All final plans submitted for building permits shall be substantially in compliance with plans approved under the plan review procedure herein established.

* * *

Section 32. Section 33-256.8 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-256.8. Plan review standards.

- (A) The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The decisions of the Department in relation to the site plan review criteria may be appealed by the party(ies) which filed the application for the project to the ~~[[appropriate Community]]~~ Zoning Appeals Board within thirty (30) days of the date the project was denied approval in writing. Appeals will be heard as expeditiously as possible. The purpose of the site plan review is to encourage logic, imagination and variety in the design process and thereby insure the congruity of the proposed developments and its compatibility with the surrounding area. All final plans submitted for building permits shall be substantially in compliance with plans approved under the plan review procedure herein established.

* * *

Section 33. Section 33-257 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-257. Unity of title; covenant in lieu thereof.

In the RU-5, RU-5A, BU-1, BU-1A, BU-2, BU-3, IU-1, IU-2, IU-3, IU-C, and OPD Districts, all applications for building permits where multiple buildings are proposed for a single site shall be accompanied by one (1) of the following documents:

* * *

- (2) A declaration of restrictive covenants, approved for legal form and sufficiency by the County Attorney, which shall run with the land and be binding upon the heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest in the property. The declaration shall contain the following necessary elements:
- (a) That the subject site will be developed in substantial accordance with the approved site plan. That no modification shall be effectuated without the written consent of the then owner(s) of the phase or portion of the property for which modification is sought, and the Director; provided the Director finds that the modification would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or tend to provoke a nuisance, or be incompatible with the area concerned, when considering the necessity and reasonableness of the modification in relation to the present and future development of the area concerned. Should the Director withhold such approval, the then owner(s) of the phase or portion of the property for which modification is sought shall be permitted to seek such modification by application to modify the plan or covenant at public hearing before the ~~[[Community]]~~ Zoning Appeals Board or Board of County Commissioners of Miami-Dade County, Florida (whichever by law has jurisdiction over such matters).

Section 34. Section 33-261.1(A) of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-261.1. Site plan review.

- (A) *[Responsibility; purpose; procedures generally.]* The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and encourage the congruity of the proposed development and its compatibility with the surrounding area. All plans submitted to the Department shall be

reviewed and approved or denied within fifteen (15) days from the date of submission. The applicant shall have the right to extend the fifteen-day period by an additional fifteen (15) days upon request made in writing to the Department. Denials shall be in writing and shall specifically set forth the grounds for denial. Receipt of applicant's plans for fifteen (15) days without formal written denial shall constitute approval. If the plan is disapproved, the applicant may appeal to the ~~[[appropriate Community]]~~ Zoning Appeals Board. Appeals by the applicant shall be filed within thirty (30) days of the date the project was denied.

* * *

Section 35. Section 33-263.2 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-262. Site plan review.

- (A) *[Responsibility; purpose; procedures generally.]* The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and encourage the congruity of the proposed development and its compatibility with the surrounding area. All plans submitted to the Department shall be reviewed and approved or denied within fifteen (15) days from the date of submission. The applicant shall have the right to extend the fifteen-day period by an additional fifteen (15) days upon request made in writing to the Department. Denials shall be in writing and shall specifically set forth the grounds for denial. Receipt of applicant's plans for fifteen (15) days without formal written denial shall constitute approval. If the plan is disapproved, the applicant may appeal to the ~~[[appropriate Community]]~~ Zoning Appeals Board. Appeals by the applicant shall be filed within thirty (30) days of the date the project was denied.

* * *

Section 36. Section 33-265 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-265. Control of uses.

Any person, firm, corporation or other legal entity desiring to use any property or premises situated in an IU-3 District for the manufacture, assembly, processing or packaging of any article or matter enumerated in Section 33-264(3), or for the storage of relatively large quantities of such article or matter (not to include storage where storage is relatively small and incidental to the use of small quantities of such article or matter in connection with manufacture, processing or use permitted in more restrictive districts), or manufacture, assembly, processing, packaging or storage of similar articles or matter, or for any use or operation enumerated in said Section 33-264(3) or for similar use or operation, shall file with the Director a written application setting forth a full description of the proposed use or occupancy, and accurate legal description of the property or premises, a description of the structure or structures to be constructed or occupied, satisfactory proof that the proposed use will conform to the requirements of the Miami-Dade County Pollution Control Ordinance, and such other information as may be reasonably required by the Director, who shall determine from such information, whether or not the proposed use will, in fact, create objectionable influences ordinarily associated with the general type of such uses. If it is found that such use because of the method of operation, or type of materials used, the usual degree of hazardous conditions will not be created, the Director may assign the use to the IU-3 District or to a less restrictive zoning district. However, if it is determined that the high hazards usually anticipated in connection with the uses listed involving fire, explosions, noise, vibration, dust or emissions of smoke, odors, or toxic gases, or other hazards to public health, safety or welfare will be created, the Director shall require approval as result of a public hearing before such use is permitted. Upon filing of the application, the Director shall transmit such application, together with his recommendations, to the [[Community]] Zoning Appeals Board, who shall consider the application in accordance with the zoning procedure prescribed by article XXXVI of this chapter, and transmit its recommendations to the County Commission. Provided, however, no use specified in Section 33-264(3) shall be established within five hundred (500) feet of any RU or EU

District except after approval after public hearing. Provided, that the spacing limitation shall be two hundred fifty (250) feet if the use is confined within a building and an exterior wall or walls of the building located on the establishment is not penetrated with any openings directly facing the RU or EU District. It is further provided that, except for exterior uses, such distances shall be measured from the closest point of the subject use in the building to the RU or EU District. In connection with exterior uses, the distance of five hundred (500) feet shall be measured from the closest point of the IU District to the RU or EU District. For purposes of establishing such distances, the applicant for such use shall furnish a certified survey from a registered surveyor, which shall indicate such distances. In case of dispute, the measurement scaled by the Director of the Department of Planning and Zoning shall govern.

Section 37. Section 33-266.3 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-266.3. Site plan review.

- (A) *[Responsibility; purpose; procedures generally.]* The Department shall review plans for compliance with zoning regulations and for compliance with the size plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and encourage the congruity of the proposed development and its compatibility with the surrounding area. All plans submitted to the Department shall be reviewed and approved or denied within fifteen (15) days from the date of submission. The applicant shall have the right to extend the fifteen-day period by an additional fifteen (15) days upon request made in writing to the Department. Denials shall be in writing and shall specifically set forth the grounds for denial. Receipt of applicant's plans for fifteen (15) days without formal written denial shall constitute approval. If the plan is disapproved, the applicant may appeal to the ~~[[appropriate Community]]~~ Zoning Appeals Board. Appeals by the applicant shall be filed within thirty (30) days of the date the project was denied.

Section 38. Section 33-278.2(A) of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-278.2. Site plan review.

- (A) *[Responsibility; purpose; procedures generally.]* The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and encourage the congruity of the proposed development and its compatibility with the surrounding area. All plans submitted to the Department shall be reviewed and approved or denied within fifteen (15) days from the date of submission. The applicant shall have the right to extend the fifteen-day period by an additional fifteen (15) days upon request made in writing to the Department. Denials shall be in writing and shall specifically set forth the grounds for denial. Receipt of applicant's plans for fifteen (15) days without formal written denial shall constitute approval. If the plan is disapproved, the applicant may appeal to the ~~[[appropriate Community]]~~ Zoning Appeals Board. Appeals by the applicant shall be filed within thirty (30) days of the date the project was denied.

* * *

Section 39. Section 33-284.9.1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.9.1. Site plan review.

Procedure. Cluster developments shall be reviewed by the Department for compliance with all applicable requirements, including the site plan review exhibits and criteria hereinafter provided. The recommendation of the Department shall be transmitted to the ~~[[Community]]~~ Zoning Appeals Board for their consideration. If after approval of the site plan review exhibits a substantial change therein is desired, application may be filed as a special exception with the ~~[[Community]]~~ Zoning Appeals Board to modify or change such exhibits, all in accordance with this article and Article XXXVI of Chapter 33 of this Code.

In approving a development plan, the ~~[[Community]]~~ Zoning Appeals Board may, by special exception, vary, amend or modify the following otherwise applicable zoning district regulations and/or subdivision regulations in order to effectuate the plan, provided the elements affected by such special exceptions are specifically noted upon the site plan review exhibits and provided the same are in harmony with the general purpose and intent thereof:

* * *

Section 40. Section 33-284.14 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.14. Densities.

Total dwelling units permitted in the planned development shall be determined by multiplying the net acreage of each differently zoned parcel by the number of units permitted by the underlying residential zoning for said parcel, and adding the resulting number of units for each differently zoned parcel. The resulting number of dwelling units is the total permitted dwelling units unless otherwise modified by provisions included herein. If a prior density limitation was set by County Commission, Zoning Appeals Board or ~~[[Community]]~~ Zoning Appeals Board resolution or other document(s) filed for public record, then the total densities shall not exceed densities established by said documents.

If an RU-4A Zone is part of a planned development, and hotels and/or motel units are proposed in the planned development, the total number of units used in computing the units per acre permitted in the RU-4A Zone shall be fifty (50) or any number less than fifty (50) established by County Commission or ~~[[Community]]~~ Zoning Appeals Board resolution or other documents filed for public record which have previously limited density. If fewer than the permitted maximum number of hotel/motel units are proposed in the planned development, the remaining hotel/motel units can be converted to other types of residential dwelling units in the planned development. If an RU-4A parcel is to be used as part of a planned development, the proposed uses shall not be other than hotel, motel, and/or apartment units.

Section 41. Section 33-284.17 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.17. Common ownership provisions.

Provisions shall be made to assure that all nonpublic areas and facilities for the common or joint use of all residents shall be maintained in a continuous and satisfactory manner and without expense to the general taxpayers of Miami-Dade County. Such may be provided by the requirements of home association memberships for the purpose of holding title to such areas and facilities, and levying assessments against each individual ownership for the purpose of maintaining such areas and facilities. These areas and facilities shall include, but not be limited to, all commonly owned recreational facilities, open space, off-street parking areas, streets, sidewalks and street lights. Such assessments shall be superior to all other liens which are amortized over a period of not less than ten (10) years. Other methods may be acceptable if they provide for the proper and continuous payment of taxes of common areas and all maintenance costs without expense to the general taxpayers. The instrument incorporating such provisions shall be approved by the County Attorney as to form and legal sufficiency before submission to the [[Community]] Zoning Appeals Board and after approval shall be recorded in the public records of Miami-Dade County.

Section 42. Section 33-284.18 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.18. Structure height.

The [[Community]] Zoning Appeals Board shall have the authority to determine structure height as hereinafter provided under plan review standards; provided, however, that the [[Community]] Zoning Appeals Board shall not permit any structure to be of a height greater than that established by the following criteria:

* * *

Section 43. Section 33-284.21 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.21. Plan review procedure.

The application for a planned development shall be reviewed by the Department to determine its compliance with applicable regulations and review criteria contained herein. An instrument, suitable for recording, shall be submitted prior to the advertising of the public hearing, which covenants that development will occur substantially in accordance with plans approved at the public hearing.

The ~~[[Community]]~~ Zoning Appeals Board shall review the plans and documents, and may approve, approve with modifications, or disapprove the application.

If ~~[[a-Community]]~~ >>the<< Zoning Appeals Board incorporates specific modifications to the planned development in its resolution of approval, those modifications shall be made by the applicant prior to filing documents and plans with the Department. Such filing shall be completed within sixty (60) working days from date of a Community >>the<< Zoning Appeals Board's action. Failure to do so shall nullify the ~~[[Community]]~~ Zoning Appeals Board's action unless waived by formal vote of the ~~[[Community]]~~ Zoning Appeals Board.

* * *

Section 44. Section 33-284.26 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.26. Review procedures.

The planned area development review procedures are divided into four (4) steps:

- (A) Preapplication conference; (B) total development plan review; (C) development tract review; and (D) review criteria.

* * *

(B) *Total development plan review.*

Following the preapplication conference the total development plan reviews shall be initiated by the applicant. Required exhibits listed below and a completed development impact statement if required by Chapter 33 of the Miami-Dade County Code, together with an application for public hearing as required by Chapter 33 of the Miami-Dade County Code, shall be submitted to the Department.

(1) Required exhibits--Written documents. The following written documents shall be submitted as part of the planned area development zoning application:

(a) Recordable agreement guaranteeing the development in accordance with promises made in the written and graphic documents listed below as approved by the [[Community]] Zoning Appeals Board. Said agreement shall be submitted to the Department after the Development Impact Committee review and prior to the [[Community]] Zoning Appeals Board review.

* * *

(3) Review process. The review of the total development plan of a planned area development shall be by the Developmental Impact Committee, and review and action by the [[Community]] Zoning Appeals Board shall be in accord with Section 33-304(f) of the Miami-Dade County Code.

(C) *Development tract review.*

Following approval of the total development plan by the [[Community]] Zoning Appeals Board, review at the development tract level may be initiated.

* * *

Section 45. Section 33-284.27 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.27. Development parameters.

All applications for the Planned Area District shall comply with the following applicable development parameters:

* * *

(B) *Development tracts.*

* * *

At any time after a Planned Area Development District boundary change is approved at final hearing, any tract so approved may be subdivided in accordance with the subdivision ordinances of Miami-Dade County without any prior public hearing before the ~~[[Community]]~~ Zoning Appeals Board, providing that the new tract or tracts so created shall meet all of the provisions of this article, all existing agreements of record, and the written approval of the Department.

* * *

(C) *Permitted residential uses.*

All residential types, including single-family, and multi-family, and workforce housing units in compliance with the provisions of this section and Article XIIA of this code, whether detached, attached or any combination thereof, shall be permissible in the Planned Area Development zoning classification upon approval by the ~~[[Community]]~~ Zoning Appeals Board.

(D) *Maximum permitted density.*

Maximum permitted densities, in terms of number of units per gross residential acre and total number of dwelling units and bedrooms, shall be established for each development tract at the time of approval of the development plan by the ~~[[Community]]~~ Zoning Appeals Board. All uses and land areas devoted thereto approved

under the other use provision, Section 33-284.27(H), shall be excluded in the computation of the overall residential density. Said number of dwelling units and densities shall be in conformance with the Comprehensive Development Master Plan (Ordinance No. 75-22, as amended from time to time), neighborhood planning studies and existing zoning and development in adjacent and in immediate areas shall be considered in the establishment of the maximum density for the Planned Area Development District. The information provided in the development impact statement shall be considered in the establishment of densities.

* * *

(H) *Other uses with PAD application.*

* * *

Other uses that are permitted only by the special exception, new use or unusual use procedure under the zoning regulations are permitted in a development tract, subject to the required ~~[[Community]]~~ Zoning Appeals Board approval. In all instances the development tracts in which such other uses are located shall comply with all applicable requirements for development tracts and shall be filed with the application for the Planned Area Development District. No separate request or application for special exceptions or unusual uses shall be required so long as they are clearly noted on the development plan.

* * *

Section 46. Section 33-284.38 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.38. Site plan review.

(A) [*Generally.*] The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and ensure the congruity of the proposed development and its compatibility with the surrounding area. If plan(s) are denied, the applicant may

appeal to the ~~[[appropriate Community]]~~ Zoning Appeals Board for action.

* * *

Section 47. Section 33-284.42 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.42. Districts in which permitted.

A zero lot line development, with a maximum of six (6) units per net acre, for one (1) family dwelling only, may be permitted in the RU-1Z, RU-2, RU-TH, RU-3, RU-3M, RU-4, RU-4A, RU-4L and RU-4M Districts without a public hearing upon approval of the site plan(s) by the Department and upon compliance with all other specified conditions in this article. A zero lot line development with greater than six (6) units per net acre shall require a public hearing before the Community Zoning Appeals Board. Where the regulations included herein conflict with regulations included in the individual districts or other sections of Chapter 33, the regulations included herein shall apply.

Section 48. Section 33-284.44.1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.44.1. Grandfather provisions.

Any request for a substantial change to a zero lot line plan, previously or hereafter approved in the RU-1 District, shall be reviewed and decided by the ~~[[Community]]~~ Zoning Appeals Board.

Any zero lot line projects which were approved prior to the effective date of this Ordinance Number 88-9 as a result of a public hearing shall remain in effect as approved unless modified or rescinded

Section 49. Section 33-284.50 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.50. Review procedure.

The TND review procedures are divided into four (4) steps: (A) preapplication conference; (B) initial TND review; (C) intermediate site plan review; and (D) final review.

* * *

(B) *Initial TND review.*

(1) Following the preapplication conference(s), the total development plan reviews shall be initiated by the applicant. Required exhibits listed below together with an application for public hearing shall be submitted to the Department in accordance with the requirements of Section 33-304, Code of Miami-Dade County.

(a) *Required exhibits--Written documents.* The following written documents shall be submitted to the Developmental Impact Committee for review prior to the public hearing.

1. Recordable agreement guaranteeing the development in accordance with promises made in the written and graphic documents listed below as approved by the ~~[[Community]]~~ Zoning Appeals Board. A draft of said agreement shall be submitted to the Developmental Impact Committee twelve (12) days prior to Developmental Impact Committee Executive Council review with final executed agreement received fifteen (15) days prior to ~~[[Community]]~~ Zoning Appeals Board review and action.

(2) Upon the filing of a complete application, the Department shall submit the required exhibits for the TND to the Developmental Impact Committee for review in accordance with standards and review procedures of the Developmental Impact Committee as provided in Section 33-303.1. At a

public hearing held by the [[Community]] Zoning Appeals Board, the applicant shall present the proposal. The [[Community]] Zoning Appeals Board shall have the recommendations of the Developmental Impact Committee. The [[Community]] Zoning Appeals Board shall consider the information presented by the applicant, the recommendations of the Developmental Impact Committee and viewpoints of the public expressed at the hearing. The [[Community]] Zoning Appeals Board shall take formal action either approving the plan as presented, approving it subject to certain specified modifications, and/or conditions disapproving it, or a combination of the foregoing. Upon approval, plans, documents and recordable development agreements shall be filed with the Department and recorded in the official records and shall thereby constitute the TND District. If the TND is approved with specific modifications, as incorporated in the [[Community]] Zoning Appeals Board's resolution, those modifications shall be made by the applicant on all applicable documents and plans prior to filing the same with the Department. Such filing shall be completed within sixty (60) calendar days from date the decision becomes final including all appeals. Failure to do so shall nullify the [[Community]] Zoning Appeals Board's action unless waived by the [[Community]] Zoning appeals Board or if appealed, by the County Commission. The Director shall review all modifications in accordance with the [[Community]] Zoning Appeals Board's decision. The approved TND shall be indicated on the zoning maps as would any other district boundary change. Intermediate site plan review shall not be initiated until the above requirements have been met.

* * *

(C) *Intermediate site plan review.*

- (1) Following final approval of the TND zoning district by the [[Community]] Zoning Appeals Board or the Board of County Commissioners, the following plans and documents shall be submitted for Developmental Impact Committee review and

approval together with any other relevant information required by said Committee.

* * *

(D) *Final review.*

- (1) Final review for all or a portion of the TND shall be by the Department of Planning and Zoning in accordance with all plans and documents as approved by the ~~[[Community]]~~ Zoning Appeals Board or the Board of County Commissioners, the Developmental Impact Committee, and as filed with the Department. Said final review shall be completed prior to tentative plat approval. Upon approval by the Department, the applicant may proceed to develop any portion of the TND as approved under final review. The Building Department shall issue building permits in accordance with all previously approved plans and documents and in accordance with applicable requirements of the Florida Building Code and other applicable State and Miami-Dade County requirements. The following information shall be submitted to the Department of Planning and Zoning.

* * *

Section 50. Section 33-292(22) of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-292. Definitions.

As used in this article, unless the context otherwise required:

* * *

- (22) *The County's ~~[[Community]]~~ Zoning Appeals Board* is hereby appointed the "Board of Adjustment," pursuant to Section 333.10, Florida Statutes.

* * *

Section 51. Section 33-297 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-297. Variances and appeals.

Any person desiring to erect any structures, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property in violation of the airport zoning regulations adopted under this chapter, may apply to the [[Community]] Zoning Appeals Board for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of these regulations. Provided, that any variance may be allowed subject to any reasonable conditions that the Board may deem necessary to effectuate the purpose of these regulations. All such variances shall be applied for in the same manner as any other variances and shall be granted only after the same notice and hearing as required in the case of other variances. Any person aggrieved, or taxpayer affected, by any decision of the administrative agency made in its administration of these airport zoning regulations or any governing body or Board of a political subdivision, or any airport zoning board, which is of the opinion that a decision of such administrative agency is an improper application of these airport zoning regulations of concern to such governing body, may appeal to the [[Community]] Zoning Appeals Board to hear and decide appeals from the decision of such administrative agency.

* * *

Section 52. Section 33-303.1 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-303.1. Developmental Impact Committee.

* * *

(D) Duties of the Developmental Impact Committee. The Developmental Impact Committee shall perform the following duties:

* * *

- (3) Upon application, determine whether a development of regional impact ("DRI") is essentially built out and issue an appropriate order.

* * *

- (b) Hearings before the Executive Council of the DIC pursuant to this subsection shall be noticed in the same manner as applications filed before the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ pursuant to Section 33-310 for modifications of DRIs.

Section 53. Section 33-304 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-304. Applications.

* * *

An application may be withdrawn without prejudice by the applicant as a matter of right, provided the request for withdrawal is in writing and executed in the same manner as provided by Section 33-309 for the executing of application, and filed with the Department prior to the mailing of final notices, as provided by Section 33-310(c)(2); otherwise all such requests for withdrawal shall be with prejudice save and except that the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ or the Board of County Commissioners may permit withdrawals without prejudice at the time the matter is considered by such Boards; provided, further, no application may be withdrawn after final action has been taken.

* * *

Section 54. Section 33-305 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-305. District boundary maps.

The Board of County Commissioners shall by resolution adopt, approve and ratify the district boundary maps as originally adopted by Resolution No. 895 of August 2, 1938, and as modified, amended and changed by subsequent resolutions, and the Director shall continue to maintain and keep on file in the

Department such maps showing thereon the boundaries of districts. The district boundary maps shall be amended, modified and changed by resolution of the County Commission or ~~[[Community]]~~ Zoning Appeals Board as hereinafter provided, and shall be prima facie evidence of the boundaries of districts.

Section 55. Sections 33-306 through 33-317, 33-319, 33-320, 33-324, 33-397 and 33-402 of the Code of Miami-Dade County, Florida are hereby amended to read as follows:

Sec. 33-306. ~~[[Community]] Zoning Appeals Board[[s]]--Establishment.~~

- (a) There ~~[[are]]~~ >>is<< hereby established ~~[[multiple]]~~ >>a<< ~~[[Community]] Zoning Appeals Board[[s whose boundaries shall coincide with the boundaries of Community Councils established pursuant to the Code of Miami-Dade County. The Community Councils shall serve as Community Zoning Appeals Boards and]]~~ >>who<< shall have jurisdiction over zoning applications as provided in this chapter. Each member shall be a qualified elector of Miami-Dade County, with an outstanding reputation for civic interest, community welfare, integrity and responsibility; provided, no member shall be employed by Miami-Dade County, or be a member of the County Commission. The ~~[[seven]]~~ >>thirteen<<[[(7)]] >>(13)<< members of ~~[[each]]~~ >>the<< ~~[[Community]] Zoning Appeals Board~~ shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval of the County Commission.
- (b) These boards are created and established pursuant to Section 4.08 of the Home Rule Charter, and for the purpose of facilitating the zoning powers granted by the Home Rule Charter to the Board of County Commissioners, and to provide a board to hear, consider and review appeals from the zoning regulations or decisions of an administrative official, and to take appropriate action as in this article provided and limited.
- >>(c) Each County Commissioner shall have the authority to nominate one member to the Zoning Appeals Board which shall be confirmed by the Board of County Commissioners.<<

**Sec. 33-307. [[Community]] Zoning Appeals
Board[[s]]--Term of office.**

The term of office of the members of ~~[[each of]]~~ the ~~[[Community]] Zoning Appeals Board[[s]]~~ shall be ~~[[the terms established as members of Community Councils-]]~~>>for a term of four years<<. In the event a vacancy should occur on ~~[[a Community]]~~ >>the<< Zoning Appeals Board the ~~[[appropriate Community Zoning Appeals Board]]~~ >>nominating<< Commissioner ~~[[upon]]~~ may fill the vacancy for the remaining board member's term ~~[[by appointment pursuant to Section 20-43(A)(7) of the Code]]~~ >>upon approval by the Board of County Commissioners<<.

**Sec. 33-307.1. [[Community]] Zoning Appeals Board;
prohibition of members appearance.**

- (A) No member of ~~[[a Community]]~~ >>the<< Zoning Appeals Board may appear on behalf of a third person before ~~[[another]]~~ >>the<< ~~[[Community]] Zoning Appeals Board~~ or before the County Commission sitting in its capacity as the zoning authority pursuant to Chapter 33, Code of Miami-Dade County.
- (B) No member of ~~[[a Community]]~~ >>the<< Zoning Appeals Board shall appear at any public hearings or meetings before the Board of County Commissioners or any other federal, state, or local board or tribunal, to advocate concerning any zoning application that was heard by, or that could reasonably be expected to be heard by~~[[, any Community Council]]~~ >>the Zoning Appeals Board<<.
- (C) Violation of this section shall constitute grounds for removal pursuant ~~[[to § 20-43.2]]~~.

**Sec. 33-308. [[Community]] Zoning Appeals Board--
Organization.**

The Director shall serve as secretary for the ~~[[Community]] Zoning Appeals Board[[s]]~~, shall be in attendance at all meetings as an advisor and be permitted to propound questions and give evidence; provided, the Director shall have authority to designate a staff member of the Department to act in the Director's stead. Meetings of the ~~[[Community]] Zoning Appeals Board[[s]]~~ shall be held, where practical, in the ~~[[area of each Community Zoning Appeals Board's jurisdiction at a time and place determined by the~~

~~Director]]~~ >>chambers of the Board of County Commissioners no earlier than 6:00 pm<<. ~~[[Each Community]]~~ >>The << Zoning Appeals Board shall elect a Chair and a Vice-Chair from its members, each of whom shall serve until a successor is elected. Rules and regulations for the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ shall be adopted by the County Manager and approved by the County Commission. The Chair, or Vice-Chair, or Acting Chair, may administer oaths and compel the attendance of witnesses in the same manner prescribed in the Circuit Court. No action shall be taken on any matter before the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ unless a quorum of ~~[[four (4)]]~~ >>seven (7)<< members is present, and only upon not less than a majority vote of all members present and voting provided however that any approval or denial of any application or portion thereof pursuant to Chapter 33 shall require not less than ~~[[three (3)]]~~ a majority of >>members present<< ~~[[votes]]~~. When there is an insufficient number of votes to either approve or deny an application, the result shall be deemed a tie vote.

Whenever a tie vote occurs, the matter shall be carried over to the next regularly scheduled meeting.

Minutes will be kept of all meetings and proceedings and shall include and state the vote of each member on each question, and the motion shall state the reason upon which it is made; such reason or reasons being based upon the prescribed guides and standards and good zoning and planning principles. If a member is absent from voting, the minutes shall so indicate. The ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ shall keep accurate records of ~~[[their]]~~ >>its<< public hearings which shall be filed, together with ~~[[their]]~~ >>its<< minutes and resolutions, with the Department, and the same shall be open for public inspection at reasonable times and hours. The Director shall furnish from the Department such staff as may be necessary to assist and advise the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ in the fulfillment of ~~[[their]]~~ >>its<< duties, and is authorized to retain a qualified reporter to record and transcribe the public hearing proceedings of the ~~[[Community]]~~ Zoning Appeals Board, and shall provide County transportation for such Board >>members<< for the purpose of making inspections of sites involved in zoning applications.

**Sec. 33-309. [[Community]] Zoning Appeals
Board/Board of County Commissioners
Applications for public hearing**

All hearings before the [[Community]] Zoning Appeals Board or the Board of County Commissioners shall be initiated by the filing with the Department an application on forms prescribed by the Director, executed and sworn to by the owner or owners of at least seventy-five (75) percent of the property described in the application, or by tenant or tenants, with owner's written sworn-to consent or by duly authorized agents, evidenced by a written power of attorney, if not a member of the Florida Bar, or by the Director, or by any person aggrieved by an order, requirement, decision or determination of an administrative official when appealing the same, or by anyone desiring an amendment or repeal to the zoning regulations. All properties described in one (1) application must be contiguous and immediately adjacent to one (1) another, and the Director may require more than one (1) application if the property concerned contains more than forty (40) acres, or the fee paid for one (1) application would not equal the cost of processing the same. Only applications which the [[Community]] Zoning Appeals Board or the Board of County Commissioners are authorized to consider and act upon shall be accepted for filing.

~~[[Applications which are to be considered by the Community Zoning Appeals Boards in accordance with this chapter shall be assigned by the Director to the Community Zoning Appeals Board which has jurisdiction based upon the location of the property which is encompassed by the application. In the event that the property which is encompassed by the application is located in more than one (1) Community Zoning Appeals Board's district the application shall be heard directly by the County Commission]].~~

Whenever any hearing is initiated by the Director or the Zoning Official, pursuant to this section, the County Manager may order that no building permits shall be issued for any construction work on the property involved in the hearing, until the hearing has been finally concluded in accordance with the provisions of this Code. Should the County Manager issue such an order the administrative personnel shall schedule the application for the first public hearing date after appropriate legal notice.

Sec. 33-310. Notice and hearing prerequisite to action by the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ or Board of County Commissioners.

* * *

- (c) No action on any application shall be taken by the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ or the Board of County Commissioners on any appeal, until a public hearing has been held upon notice of the time, place and purpose of such hearing, the cost of said notice to be borne by the applicant. Notice shall be provided as follows:

* * *

Sec. 33-311. ~~[[Community]]~~ Zoning Appeals Board-- Authority and duties.

- (A) Except as otherwise provided by this chapter, the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ and Board of County Commissioners shall have the authority and duty to consider and act upon applications, as hereinafter set forth, after first considering the written recommendations thereon of the Director or Developmental Impact Committee. Provided, however, no such action shall be taken until notice of time and place of the hearing at which the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ will consider the application has been first published as provided in Section 33-310. The ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the County. The ~~[[Community]]~~ Zoning Appeals Board and Board of County

Commissioners or any of their members may inspect the premises and area under consideration. The ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ shall have authority over the following zoning applications except where the Board of County Commissioners has direct jurisdiction.

* * *

- (2) *Appeal of administrative variances administrative adjustments; and appeals of administrative site plan review substantial compliance determinations, and administrative correction of clerical or scrivener's errors.*

* * *

- (b) Pursuant to the provisions of Section 33-36.1 any aggrieved property owner in the area may appeal the decision of the Director to the appropriate ~~[[Community]]~~ Zoning Appeals Board within fifteen (15) days after the Director's decision is published in a newspaper of general circulation. An aggrieved applicant must file a new application with the appropriate Miami-Dade County ~~[[Community]]~~ Zoning Appeals Board pursuant to the provisions of this chapter and must comply fully with the requirements of Section 33-311 "Variances from Other Than Airport Regulations".
- (3) *Special exceptions (for all applications other than public charter schools), unusual and new uses.* Hear application for and grant or deny special exceptions, except applications for public charter schools; that is, those exceptions permitted by the regulations only upon approval after public hearing, new uses and unusual uses which by the regulations are only permitted upon approval after public hearing; provided the applied for exception or use, including exception for site or plot plan approval, in the opinion of the ~~[[Community]]~~ Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public

facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the necessity for and reasonableness of such applied for exception or use in relation to the present and future development of the area concerned and the compatibility of the applied for exception or use with such area and its development. For purposes of public hearing, a site plan shall be considered one (1) special exception, and upon approval of a site plan by the [[Community]] Zoning Appeals Board and/or the Board of County Commissioners, all non-use variances incorporated within and reflected upon the site plan shall be considered a part thereof, and official approval of the site plan shall constitute approval of all such non-use variances, unless otherwise so moved by the approving board.

- (a) Hear application for and grant or deny unusual uses for Wireless Supported Service Facilities, which by the regulations are only permitted upon approval after public hearing; provided the applied for use, in the opinion of the [[Community]] Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the

necessity for and reasonableness of such applied for use in relation to the present and future development of the area concerned and the compatibility of the applied for use with such area and its development, provided that:

* * *

- (5) *Variances from airport zoning regulations.* Hear applications for and grant or deny variances from any airport zoning regulations, but in considering, granting or denying any such variance the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ shall be governed and shall abide by the guides and standards, general purpose and intent of the particular airport zoning regulation concerned. No such application shall be heard until the recommendation of the Director of the Aviation Department is first obtained, which recommendation shall be considered, together with that of the Director's. The granting of a variance under this subsection does not authorize or permit violation of other zoning regulations or the zoning regulations of any municipality concerned unless authorized by the appropriate County or municipal board, body or commission concerned, as the case may be.

* * *

- (7) Hear applications to modify or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution, and to modify or eliminate any provisions of restrictive covenants, or parts thereof, accepted at public hearing, except as otherwise provided in Section 33-314(C)(3); provided, that the appropriate board finds after public hearing (a) that the modification or elimination, in the opinion of the ~~[[Community]]~~ Zoning Appeals Board, would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or would not tend to provoke a nuisance, or would not be incompatible with the area concerned, when

considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned, or (b) (i) that the resolution that contains the condition approved a school use that was permitted only as a special exception, (ii) that subsequent law permits that use as of right without the requirement of approval after public hearing, and (iii) that the requested modification or elimination would not result in development exceeding the standards provided for schools authorized as a matter of right without the requirement of approval after public hearing.

* * *

- (10) The ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ shall review those plans submitted as part of an application for a planned development. The ~~[[Community]]~~ Zoning Appeals Board shall decide if the proposed development is in accordance with the provisions for a planned development and shall diligently consider the recommendations of the Director and the Zoning Official or the Developmental Impact Committee prior to recommending approval, approval with modification, or denial. The ~~[[Community]]~~ Zoning Appeals Board shall approve an application for a planned development only when plans and other exhibits are in compliance with the criteria for a planned development and otherwise meet the criteria contained in this section.
- (11) Notwithstanding anything in Section 24-58.1 to the contrary, the ~~[[Community]]~~ Zoning Appeals Board shall hear, grant or deny applications for unusual uses or amendments or modifications thereto described in Section 33-13(e) when said unusual uses, amendments or modifications are in connection with a class I or class IV permit application, as defined in Section 24-58.1.

* * *

- (14) Alternative Site Development Option for Single-family and Duplex Dwellings. This subsection provides for the establishment of an alternative site development option, after public hearing, for single-family and duplex dwellings, when such uses are permitted by the underlying district regulations, in the GU, RU-1, RU-1Z, RU-1M(a), RU-1M(b), RU-2, RU-TH, RU-3, RU-3M, RU-3B, RU-4L, RU-4M, RU-4, RU-4A, RU-5, EU-M, EU-S, EU-1, EU-1C, EU-2, and AU zoning districts, in accordance with the standards established herein. In considering any application for approval hereunder, the ~~[[Community]]~~ Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

* * *

- (15) Alternative Site Development Option for Single-family Zero Lot line Dwellings. This subsection provides for the establishment of an alternative site development option, after public hearing, for zero lot line dwellings, when such uses are permitted by the underlying district regulations, or when such uses were approved for development by a prior public hearing action, in accordance with the standards established herein. In considering any application for approval hereunder, the ~~[[Community]]~~ Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

* * *

- (16) Alternative Site Development Option for Buildings and Structures in the BU Zoning Districts. This subsection provides for the establishment of an alternative site development option, after public hearing, for buildings and structures permitted by the underlying district regulations, except residential buildings and structures and religious facilities, in the BU-1, BU-1A, BU-2, and BU-3 zoning districts, in accordance with the standards established herein. In considering any application

for approval hereunder, the [[Community]] Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

* * *

- (17) Modification or Elimination of Conditions and Covenants After Public Hearing. The [[Community]] Zoning Appeals Board shall approve applications to modify or eliminate any condition or part thereof which has been imposed by any zoning action, and to modify or eliminate any restrictive covenants, or parts thereof, accepted at public hearing, upon demonstration at public hearing that the requirements of at least one of the following paragraphs have been met. Upon demonstration that such requirements have been met, an application may be approved as to a portion of the property encumbered by the condition or the restrictive covenant where the condition or restrictive covenant is capable of being applied separately and in full force as to the remaining portion of the property that is not a part of the application, and both the application portion and the remaining portion of the property will be in compliance with all other applicable requirements of prior zoning actions and of this chapter.

- I. *Modification or Elimination of Conditions and Covenants Associated with Voluntarily Abandoned Zoning Actions.* The [[Community]] Zoning Appeals Board shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, where it is demonstrated that the condition, restrictive covenant or part thereof was imposed to prevent or mitigate the adverse impacts of a zoning action that has been entirely and voluntarily abandoned, in that:

* * *

II. *Modification or Elimination of Conditions and Restrictive Covenants That Are Satisfied or Moot.* The ~~[[Community]]~~ Zoning Appeals Board shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, where it is demonstrated by one of the following that the condition, restrictive covenant or part thereof either is satisfied or is moot:

* * *

III. *Modification or Elimination of Conditions and Restrictive Covenants When No New Adverse Impacts Will Result.* The ~~[[Community]]~~ Zoning Appeals Board shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, where the applicant demonstrates that the modification or elimination will not result in a material new adverse impact on the public health, safety, welfare, or aesthetic values, according to the following criteria:

* * *

IV. *Modification of Conditions and Restrictive Covenants to Extend Timing or Phasing Deadlines.* The ~~[[Community]]~~ Zoning Appeals Board shall approve an application to modify a condition or part thereof, or a restrictive covenant or part thereof that is related solely to the timing or phasing of development, where the applicant demonstrates that it has been reasonably diligent in fulfilling its obligations under the condition or restrictive covenant, but is unable to complete the obligation within the time set forth in the condition or restrictive covenant, and:

* * *

V. *Modification or Elimination of Conditions and Restrictive Covenants After Public Hearing, Where Public Benefits Are Created or Enhanced to a Level or Degree that Clearly Outweighs Additional New Public Burdens.* The ~~[[Community]]~~ Zoning Appeals Board shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, where demonstratively greater public benefit will result from the modification or elimination than the resulting public burden as measured by the following:

* * *

(B) Notwithstanding the provisions of the preceding paragraphs, no application will be approved under this subsection if such approval would result in:

* * *

The ~~[[Community]]~~ Zoning Appeals Board shall impose such conditions and requirements in connection with an approval under this subsection as shall prevent or mitigate any resulting adverse impacts to the County or to any aggrieved person who has reasonably, demonstrably and detrimentally relied upon the condition or covenant sought to be modified or eliminated.

VI. *Modification or Elimination of Conditions or Restrictive Covenants After Public Hearing, Where the Conditions or Restrictive Covenants were Accepted or Imposed Simultaneously with a District Boundary Change.* The ~~[[Community]]~~ Zoning Appeals Board shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, which requires development of a specific site plan and which was accepted or imposed simultaneously with a district boundary change, where it is demonstrated that:

* * *

(B) The ~~[[Community]]~~ Zoning Appeals Board shall impose such conditions and requirements in connection with an approval under this subsection as shall prevent or mitigate any resulting adverse impacts to the County or to any aggrieved person who has reasonably, demonstrably and detrimentally relied upon the condition or covenant sought to be modified or eliminated.

* * *

(18) Wireless Supported Service Facilities, including Antenna Support Structures. This subsection provides for the establishment of criteria, after public hearing, to hear and grant applications to allow a Wireless Supported Service Facility, including Antenna Support Structures. In considering any application for approval hereunder, the ~~[[Community]]~~ Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

* * *

(19) Alternative Site Development Option for Buildings and Structures in IU Zoning Districts. This subsection provides for the establishment of an alternative site development option, after public hearing, for buildings and structures permitted by the underlying district regulations, except residential buildings and structures and religious facilities, in the IU-1, IU-2, IU-3, and IU-C zoning districts, in accordance with the standards established herein. In considering any application for approval hereunder, the ~~[[Community]]~~ Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

* * *

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- (20) Alternative Site Development Option for Semi-Professional Office Buildings and Structures. This subsection provides for the establishment of an alternative site development option, after public hearing, for semi-professional office buildings and structures, when such uses are permitted by the underlying district regulations, in the RU-5 and RU-5A zoning districts, in accordance with the standards established herein. In considering any application for approval hereunder, the [[Community]] Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

* * *

- (21) Alternative Site Development Option for Office Buildings, Laboratory Buildings and Associated Accessory Buildings and Structures. This subsection provides for the establishment of an alternative site development option, after public hearing, for office buildings, laboratory buildings and associated accessory buildings and structures, when such uses are permitted by the underlying district regulations, in the OPD zoning district, in accordance with the standards established herein. In considering any application for approval hereunder, the [[Community]] Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

(B) Conditions, restrictions and limitations.

- (1) In granting any application for increase or decrease in minimum space footage requirements, special exception, new uses or unusual use, use or nonuse variances or variances from airport regulations, the appropriate [[Community]] Zoning Appeals Board[[s]] may prescribe any reasonable conditions, restrictions and limitations it deems necessary or desirable, in order to maintain the plan of the area and compatibility therewith. The [[Community]] Zoning Appeals Board[[s]] may revoke, modify or change any resolution heretofore or hereafter

adopted granting a special permit or a special exception, new uses, unusual use or variance, if upon, application filed at any time by the Director and after public hearing, the ~~[[Community]]~~ Zoning Appeals Board finds that there has been a violation of any imposed conditions, restrictions or limitations in any such resolution; provided, such public hearing shall not be held until published notice provided by Section 33-310 hereof has first been given; provided further, if the Director, upon written request of any aggrieved party, refuses or fails to make such an application, such aggrieved party may request the Board of County Commissioners, through the County Manager, to instruct the Director to do so.

* * *

(E) Takings and vested rights.

- (1) No argument shall be made or evidence presented to a ~~[[Community]]~~ Zoning Appeals Board or the Board of County Commissioners to the effect that a decision may result in a temporary or permanent taking of private property or abrogation of vested rights unless the person making such argument: (1) files a sworn statement and supporting documents pursuant to Section 2-114.1 with the coordinator of the Development Impact Committee not less than forty-five (45) calendar days prior to the first hearing on the application, and (2) exhausts the remedy afforded by Section 2-114.1. Pursuant to Section 33-314(C)(2), the Board of County Commissioners has direct jurisdiction over the application to which such taking or vested rights argument pertains. Any individual or entity having an interest in property which is the subject of a zoning application filed by a County official shall be entitled to file an application for a taking or vested rights determination pursuant to Section 2-114.1 of the Code.

* * *

- (G) The ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ may defer action on any hearing in order to inspect the site in question, to refer the matter back to the Developmental Impact Committee for further consideration and recommendation, to refer the matter to any department for its recommendation, or for any other justifiable and reasonable reason.

**Sec. 33-312. ~~[[Community]]~~ Zoning Appeals Board--
Decisions.**

All decisions of the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ shall be by resolution. The decision, if for denial, shall specify whether it is with or without prejudice. A final finding by the Ethics Commission as provided in Section 2-11.1(z) of a willful violation of Sections 2-11.1 or 20-45 of the Code by any member of a ~~[[Community]]~~ Zoning Appeals Board regarding a particular matter shall constitute malfeasance in office and shall render the action regarding that particular matter voidable by the Board of County Commissioners. Notwithstanding any provision to the contrary, a decision of the Board of County Commissioners to void a decision as provided in this section shall be by simple majority vote of the members present. Decisions of the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ are final and may be appealed to circuit court pursuant to Section 33-316 provided however within fourteen (14) days, but not thereafter, decisions of the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ as specified in Section 33-314, shall be appealed to the Board of County Commissioners, as provided by Section 33-313. The fourteen-day appeal period provided herein shall commence to run the day after notification that the ~~[[appropriate Community]]~~ Zoning Appeals Board has taken action on the particular matter, such notification to be given by the Department by posting a short, concise statement of the action taken on a conspicuous bulletin board that may be seen by the public at reasonable times and hours in the office of the Department. Where the fourteenth (14th) day falls on a weekend or legal holiday the fourteen-day period shall be deemed to extend through the next business day. No appeal may be withdrawn after a period of ten (10) days from the date of the decision of the a ~~[[Community]]~~ Zoning Appeals Board; except at the appeal hearing before the Board of County Commissioners and with the permission of such Board. In no event shall an appellant be entitled to a refund of the appeal fee. It is hereby intended that the ~~[[Community]]~~ Zoning Appeals Board's decision concerning a requested regulation amendment shall be considered only as a recommendation, which shall be transmitted, together with the

[[Community]] Zoning Appeals Board's record on each such application, to the Board of County Commissioners for final action by way of approval, disapproval or modification pursuant to Section 33-314 hereof.

Sec. 33-313. Appeals to Board of County Commissioners.

Any appealable decision of the [[Community]] Zoning Appeals Board may be appealed by an applicant, governing body of any municipality, if affected, or any aggrieved party, including neighborhood, community and civic associations, whose name appears in the record of the ~~[[appropriate-Community]]~~ Zoning Appeals Board by filing with the Department a petition in a form prescribed by the Director and a written statement specifying in brief, concise language the grounds and reasons for reversal of the ruling made by the [[Community]] Zoning Appeals Board, together with a fee for the processing of the appeal, as provided by Administrative Order No. 4-40, as amended from time to time, within the fourteen (14) days provided by Section 33-312 hereof, whereupon, the Director shall transmit to the County Commission the appeal papers, and the decision and record of the [[Community]] Zoning Appeals Board. If the ground for reversal is a failure to provide notice as required by Section 33-310, the name of the appellant need not appear in the record. If the decision of the [[Community]] Zoning Appeals Board is for approval and has not been appealed within the fourteen-day period, the County Manager pursuant to Section 33-314(B)(8) or the Director may appeal such decision within four (4) additional days in the manner aforesaid, except that a fee will not be required. Upon the taking of an appeal, the County Commission shall conduct a de novo hearing and shall consider why the decision of the [[Community]] Zoning Appeals Board should or should not be sustained or modified. By resolution, the Board shall either affirm, modify or reverse the [[Community]] Zoning Appeals Board's decision and such action of the County Commission shall be by a majority vote of all members present except that a two-thirds (2/3) vote of all members present shall be required to reverse any [[Community]] Zoning Appeals Board decision denying a request for zoning action ~~[[or to approve any Development of Regional Impact or modifications thereof, substantial deviation determination or related request pursuant to Section 33-314 where a Community Zoning Appeals Board's recommendation is for denial.]]~~ No appeal shall be heard or considered until notice has been provided in accordance with the provisions of Section 33-310(c), (d), (e) and (f). With respect to appeals arising from the Downtown Kendall

Urban Center District a two-thirds (2/3) vote of all members present shall be required to reverse >>the<< ~~[[any Community]]~~ Zoning Appeals Board decision denying a request for zoning action for a development proposed within the Center or Edge Sub-Districts of the Downtown Kendall Urban Center District. For any application for a development proposed within the Core Sub-District of the Downtown Kendall Urban Center District pursuant to Section 33-311 shall be decided by a majority vote of all members then in office.

Sec. 33-314. Direct applications and appeals to the County Commission.

(A) The County Commission shall have jurisdiction to directly hear the following applications:

- (1) Applications for development approval of Developments of Regional Impact ("DRI"), modification thereof or substantial deviation determination or modification thereof, including applications for modifications to restrictive covenants related thereto~~[[, after hearing and recommendation by the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the entire Development of Regional Impact]].~~ Where an application substantial deviation determination or for development approval of a DRI, modification thereof or substantial deviation determination also contains a request for any other action under this chapter requiring a public hearing or where there is pending on any property an application of or development approval for a DRI and an application for any other action under this chapter requiring a public hearing (related requests), except applications for essentially built out determinations, all such applications shall be heard in their entirety by the Board of County Commissioners ~~[[after hearing and recommendation of the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the application or applications]].~~ Where an application requests a modification or elimination of a condition or restrictive covenant not constituting a substantial deviation, and where such application does not contain a request for any other action under this chapter requiring a public hearing apart

from modifying the DRI development order, then such application shall be heard directly by the Board of County Commissioners after recommendation of the Developmental Impact Committee. Where practicable, all such items shall be acted upon at the same public hearing. Hearings pursuant to this subsection shall be noticed in the same manner as applications filed before the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~. The procedural requirements of Section 33-311(F) and 33-311(G) shall apply to hearings held pursuant to this section.

~~[(2) Any application encompassing property located in more than one Community Zoning Appeals Board as set forth in Section 33-309.~~

~~(3) When as a result of municipal incorporation or annexation, a Community Zoning Appeals Board (CZAB) does not have enough members in office to hear and decide zoning applications, the Board of County Commissioners shall hear and decide all zoning applications in the remaining jurisdiction of the CZAB. Zoning actions advertised for hearing before the Board of County Commissioners shall be heard and decided by the board, and neither the subsequent appointment or election of additional CZAB members, nor the reconfiguration of the affected CZAB, shall divest the board of jurisdiction to hear such advertised applications. If prior to the mailing of the final notice of hearing pursuant to Section 33-310, new members of the affected CZAB have been appointed or elected, or the affected CZAB has been reconfigured, such that the CZAB has enough members to act, applications within the CZAB's jurisdiction shall be heard and decided by that CZAB upon notice pursuant to Section 33-310.~~

(4)] >>(2)<< Any application encompassing property located within a municipality when jurisdiction is vested in Miami-Dade County pursuant to applicable zoning regulations or municipal charter or interlocal agreement.

- (B) The County Commission shall have jurisdiction to hear appeals from decisions of the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ as follows:
- (1) Applications for district boundary changes on individual pieces of property or on a neighborhood or area-wide basis.
 - (2) Applications for district boundary changes which also contain requests for unusual use, new use, variance or special exception which is incidental or related thereto, or where there is pending on the same property or portion thereof more than one (1) application for district boundary change, variance, special exception, unusual or new use. When possible an appeal containing such requests shall be acted upon at the same public hearing.
 - (3) All zoning applications by State and municipal entities and agencies.
 - (4) Applications for unusual uses or amendments or modifications thereto described in Section 33-13(e) when said unusual uses, amendments or modifications in connection with a class I or class IV permit application, as defined in Section 24-58.1.
 - (5) Any appeal filed by the County Manager from any action of the ~~[[Community]]~~ Zoning Board~~[[s]]~~ where it is the opinion of the County Manager that a ~~[[Community]]~~ Zoning Appeals Board's resolution has either (a) an overall impact to the County or (b) is inconsistent with the Miami-Dade County Comprehensive Development Master Plan, or (c) is incompatible with aviation activity or aviation safety.
 - (6) Notwithstanding any provision contained in any section of this Code, the Board of County Commissioners shall have appellate jurisdiction whenever it is contended that a decision of a ~~[[Community]]~~ >>the<< Zoning Appeals Board constitutes a taking or deprivation of vested rights and administrative remedies of Section 2-114 have been exhausted.

- (7) Applications for appeals of administrative decisions pursuant to Section 33-311(A)(2).
 - (8) Applications for development approval or modifications thereof for projects located within the Center or Edge Districts of the Downtown Kendall Urban Center District.
 - (9) Applications for development approval or modifications thereof for projects located within the Center or Edge sub-districts of the Naranja Community Urban Center District and all other Urban Center zoning districts.
- (C) The County Commission shall have jurisdiction to directly hear other applications as follows:
- (1) Upon application for, hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Development Impact Committee Executive Council or its Chairman in the discharge of its duties as defined in Sections 2-114.1, 2-114.2, 2-114.3, 2-114.4 and Chapters 28, 33-303.1(D)(3), 33E, [Section] 33G-6, 33H, 33I and 33J and 33K of the Code. The Board of County Commissioners shall also hear and decide appeals or other matters as provided by Sections 2-114.2, 2-114.3, and 2-114.4 of the Code.
 - (2) Applications for developmental resolutions for which the applicant or the executive council of the DIC has invoked the administrative remedy set forth in Section 2-114.1, Code of Miami-Dade County, Florida and to which the procedure of Section 33-311(E)(1) applies.
 - (3) Applications to modify or eliminate any provision of restrictive covenants, or part thereof, accepted at public hearing, where the covenant provides that only the Board of County Commissioners may modify or eliminate the provisions of such covenant.

- (4) Applications for development approval or modifications thereof for projects located within the Core District of the Downtown Kendall Urban Center District ~~[[after hearing and recommendation by the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the project]].~~
- (5) Applications for non-use variance from the requirements of Section 33-35(c) of this Code as to any structure subject to the provision of Article XXXIII(I) that is existing at the effective date of this Ordinance or approved as described in Section 33-284.64.
- (6) Applications for variances from the provisions of this chapter to permit development described in ground leases with the County in existence as of the effective date of this ordinance. Any variance granted pursuant to this provision shall satisfy the general intent of this chapter.
- (7) Applications for appeals of administrative decisions. Upon application for, hear and decide appeals where it is alleged there is an error in the any order, requirement, decision or determination made by an administrative official in the interpretation of any portion of the regulations, or of any final decision adopted by resolution, except appeals of administrative site plan review, or appeals of administrative variances pursuant to the provisions of Section 33-36.1 of the Code, said appeals first being under the jurisdiction of the ~~[[Community]]~~ Zoning Appeals Board. It is provided, however, that where zoning requests which would ordinarily be heard before the ~~[[Community]]~~ Zoning Appeals Board are joined with a request for an appeal of an administrative decision, the zoning requests shall remain pending before the ~~[[Community]]~~ Zoning Appeals Board until the appeal of the administrative decision has been determined by the Board of County Commissioners.

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- (E) If an application is before the Board of County Commissioners pursuant to this article, be it by way of appeal, recommendation or otherwise, it shall have authority to consider and take final action upon any and all matters and requests contained in the application, any other provisions in this article notwithstanding. In making any final decisions, the Commission shall be guided by the standards and guides applicable to the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~ or as otherwise specified in this chapter. It shall consider all relevant and material evidence offered to show the impact of the development upon Miami-Dade County. The procedural requirements of Section 33-311(F) and 33-311(G) shall apply to hearings held pursuant to this section.

* * *

- (G) The County Commission may defer action on any matter before it in order to inspect the site in question, to remand to the ~~[[Community]]~~ Zoning Appeals Board~~[[s]]~~, or for any other justifiable and reasonable reason. Whenever a deferral is approved at the request of the applicant, the applicant shall be required to pay a deferral fee in the amount of round-trip public transit fare for each person present at the hearing in opposition to the application, or two hundred fifty dollars (\$250.00), whichever is greater. The Clerk of the Board shall prepare and have available at the hearing appropriate voucher forms, in duplicate, to be filed under oath by persons present to oppose the application in question. Each objector presenting a completed voucher to the Clerk shall be given two (2) transit tokens. At the end of the meetings at which the deferral was requested, the Clerk shall, for each deferral, total the number of vouchers issued, determine the value of transit fares represented by the tokens, and submit the deferral fee to the applicant, or his attorney. The applicant requesting the deferral shall pay the deferral fee to the Department, which shall then pay an amount equal to the value of the transit fares to the transit agency. Except for that portion of the deferral fee paid to the transit agency, all monies collected by the Department as deferral fees shall be deposited into a separate account and shall be expended only for purposes of administering and enforcing the provisions hereof. In the event that the applicant does not pay the deferral fee prior to the date of the scheduled deferred hearing, the application shall be deemed to have

been voluntarily withdrawn without prejudice, the applicant shall be deemed to be in violation of this provision, and enforcement may be effectuated through all available means including but not limited to Chapter 8CC of the Code of Miami-Dade County, Florida. Notwithstanding the foregoing, the County Commission shall, at the time of approving a deferral, have the discretion to waive the provisions of this section upon a showing of good cause for the deferral. When any final action has been taken by the Board of County Commissioners, its record, together with a certified copy of its minutes and resolutions pertaining to such action shall be transmitted to the Department for filing, and the same shall be open to the public for inspection at reasonable times and hours. Save and except as otherwise provided by ordinance, all actions taken by the Board of County Commissioners under this article shall be by a majority vote of all members present. When there is an insufficient number of votes to either affirm or reverse a ~~[[Community]] Zoning Appeals [[Boards']]~~ >>Board's<< solution or on a direct application there is an insufficient number of votes to either approve or deny an application, the result shall be deemed a tie vote.

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Sec. 33-315. Regulation amendment request.

- (A) Request for regulation amendments may be filed with the Director who shall assign the request ~~[[on a blind filing basis to a Community]]~~ >>the<< Zoning Appeals Board.
- (B) Notice of the Board's action on a request for regulation amendment shall be limited to the advertisement provision of Section 33-310(C)(1) except the property's location and legal description need not be included.
- (C) The ~~[[Community]]~~ Zoning Appeals Board's action on a regulation amendment shall take the form of a recommendation which shall be transmitted to the Board of County Commissioners.
- (D) Recommendations of the ~~[[Community]]~~ Zoning Appeals Board for or against regulation amendments when received by the Board of County Commissioners shall be considered and if it is determined to amend the regulations in any

manner, such amendment shall be enacted by ordinance as provided by law.

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Sec. 33-316. Exhaustion of remedies; court review.

No person aggrieved by any zoning resolution order, requirement, decision or determination of an administrative official or by any decision of the [[Community]] Zoning Appeals Board may apply to the Court for relief unless such person has first exhausted the remedies provided for herein and taken all available steps provided in this article. It is the intention of the Board of County Commissioners that all steps as provided by this article shall be taken before any application is made to the Court for relief; and no application shall be made to the Court for relief except from a resolution adopted by the Board of County Commissioners, or where applicable from a resolution adopted by a Community Zoning Appeals Board pursuant to this article. Zoning resolutions of the Board of County Commissioners or where applicable zoning resolutions of [[Community]] Zoning Appeals Board shall be reviewed by the filing of a notice of appeal in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, in accordance with the procedure and within the time provided by the Florida Rules of Appellate Procedure for the review of the rulings of any commission or board; and such time shall commence to run from the date the zoning resolution sought to be reviewed is transmitted to the Clerk of the Commission. The Director, or his duly authorized representative, shall affix to each zoning resolution the date said zoning resolution is transmitted to the Clerk of the Commission. The Clerk of the Board shall comply with all requirements of the Florida Rules of Appellate Procedure. For the purposes of appeal the Director shall make available, for public inspection and copying, the record upon which each final decision of the Board of County Commissioners or [[Community]]-Zoning Appeals Board is based; provided, the Director may make a reasonable charge commensurate with the cost in the event the Department is able to and does furnish copies of all or any portion of the record. Prior to certifying a copy of any record or portion thereof, the Director or his designee shall make all necessary corrections in order that the copy is a true and correct copy of the record, or those portions requested, and shall make a charge as provided by administrative order as amended from time to time for preparation of the record, instrument maps, picture or other exhibit; provided, the charges here authorized are not intended to repeal or amend any fee or

schedule of fees otherwise established. The Chair, Vice-chair or Acting Chair of the Board of County Commissioners or [[Community]] Zoning Appeals Board at any zoning hearing before the Commission or [[Community]] Zoning Appeals Board may swear witnesses and, upon timely request in writing, compel the attendance of witnesses in the same manner prescribed in the Circuit Court. The Director shall employ a qualified court reporter to report the proceedings before the Board of County Commissioners and [[Community]] Zoning Appeals Board, who shall transcribe the notes only at the request of the County or other interested party, at the expense of the one (1) making the request. Such transcript, as well as the transcript of the proceedings before the [[Community]] Zoning Appeals Board, when certified by the reporter, may be used in a court review of a matter in issue.

It is the intent of the Board of County Commissioners that no decision under this chapter shall constitute a temporary or permanent taking of private property or an abrogation of vested rights (taking or vested rights deprivation). In the event that any court shall determine that a decision of the Board of County Commissioners or [[Community]] Zoning Appeals Board under this chapter constitutes a taking or vested rights abrogation, such decision of the board is declared to be non-final and the court is hereby requested to remand the matter to the Board of County Commissioners, which shall reconsider the matter after notice of the County Commission hearing is given pursuant to Section 33-310(c) through (f). In the event that a court fails to remand a matter to the Board of County Commissioners after finding that a taking or vested rights abrogation has occurred, the director is instructed to forthwith file an application to remedy such taking or vested rights abrogation, which application shall be heard directly by the Board of County Commissioners after notice is given pursuant to Section 33-310(c) through (f). The Board of County Commissioners may elect to request that any remand or director's application be deferred until a later point in the litigation, including the completion of any judicial appeals. Notwithstanding anything to the contrary contained in this chapter, the Board of County Commissioners shall have original administrative jurisdiction over any remand or director's application pursuant to this paragraph.

Sec. 33-317. Limitation on issuance of permits.

The Department shall not issue any type of permit or certificate based upon any action of the [[Community]] Zoning Appeals Board which the County Commission has jurisdiction to review until a final decision has been rendered on the application

by the County Commission as provided by this chapter; provided, however, a temporary conditional permit or certificate may be issued prior to such final decision if the Director should first determine that the withholding of the same would cause imminent peril to life or property and then only upon such conditions and limitations, including the furnishing of an appropriate bond, as may be deemed proper by the Director.

* * *

Sec. 33-319. Administrative building moratoria.

* * *

(k) An administrative building moratorium shall be imposed upon the occurrence of the following events:

- (1) As soon as the County Manager learns that a grand jury has indicted or that an information has been formally returned against a County Commissioner, or ~~[[Community]]~~ Zoning Appeals Board member charging said Commissioner, ~~[[Community]]~~ Zoning Appeals Board member with bribery, accepting unauthorized compensation, or other act of fraud in a zoning case relating to a particular parcel or parcels of real property, then the County Manager shall immediately issue an administrative order identifying the real property in question and prohibiting the issuance of building permits for said property. Such order of moratorium shall remain in effect until the completion of the criminal judicial process and the determination of guilty or not guilty as to the County Commissioner, ~~[[Community]]~~ Zoning Appeals Board member involved being reviewed by the highest judicial tribunal to consider the case. Should the Commissioner, ~~[[Community]]~~ Zoning Appeals Board member be found not guilty, then the administrative order shall be deemed dissolved. Should the County Commissioner, ~~[[Community]]~~ Zoning Appeals Board member be found guilty, then a motion to reconsider the zoning on the real property in question may properly be made by any County Commissioner or when applicable by a ~~[[Community]]~~ Zoning Appeals Board member.

- (2) If an order of moratorium is imposed on a parcel or parcels of real property pursuant to this subsection, and the owner or owners of such property request the Board of County Commissioners or where appropriate the [[Community]] Zoning Appeals Board[[s]] to reconsider the zoning on that property, then a motion to reconsider the said zoning may properly be made by any County Commissioner or where appropriate any [[Community]] Zoning Appeals Board member. If the motion to reconsider is approved by the Board of County Commissioners or where appropriate the [[Community]] Zoning Appeals Board and the reconsideration of the zoning on the said property occurs, then the building moratorium shall end with the conclusion of the reconsideration process delineated below in Subsection (3).
- (3) Upon passage of a motion as provided in Subsection (2) above, the Clerk of the Board shall immediately notify the Director. The Board of County Commissioners or where appropriate the [[Community]] Zoning Appeals Board shall conduct its reconsideration only after notice of the time and place of the meeting has been first published as provided in Section 33-310 herein. If the existing zoning would permit a development of County impact (as defined in Section 33-304 herein) the Developmental Impact Committee shall prepare a report and present its recommendations to the appropriate Board at the advertised public hearing; otherwise, the Director and the Zoning Official shall furnish their reports and recommendations to the appropriate Board. The sole issue to be considered by the Board of County Commissioners or [[Community]] Zoning Appeals Board shall be whether the present zoning on the subject property is appropriate. In determining this issue, the Board of County Commissioners or the [[Community]] Zoning Appeals Board shall be guided by the standards and guides specified in this chapter. The Board of County Commissioners, or where appropriate, the [[Community]] Zoning

Appeals Board after considering the items delineated herein and the criteria specified in this chapter, shall by resolution either reaffirm the existing zoning or rezone the subject property. The provisions of Section 33-316 relating to exhaustion of remedies and court review are fully applicable to proceedings held in accordance with this subsection.

Sec. 33-320. Other building moratoria.

- (a) Should any person make written application to the County Manager for the issuance of an administrative order provided by Section 33-319(a), Miami-Dade County Code, and the County Manager refuses to issue such order, or fails to take action thereon within thirty (30) days, such person may make written application to the Board of County Commissioners for the issuance of a building moratorium by that Board. Such application to the Board shall be filed with the Clerk of the Board of County Commissioners, whose duty it shall be to place the matter before the Board of County Commissioners as soon as is reasonably practicable for the Board's determination as to whether a public hearing shall be called thereon. The County Manager shall be notified by the Clerk of the date that the matter is to be considered by the Board. The word "person" as used in this subsection includes, but is not limited to, any individual, firm, corporation, and governmental entity, including the Planning Advisory Board, and the ~~[[Community]]~~ Zoning Appeals Board.

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Sec. 33-324. Other zoning moratoria.

- (a) Should any person make written application to the County Manager for the issuance of an administrative order as provided by Section 33-323(a), Miami-Dade County Code, and the County Manager refuses to issue such order, or fails to take action thereon within thirty (30) days, such person may make direct application in writing to the Board of County Commissioners for the issuance of a zoning moratorium order. Such application to the Board shall be filed with the Clerk of the Board of County Commissioners, whose duty it shall be to place the matter

before the Board of County Commissioners as soon as is reasonably practicable for the Board's determination as to whether a public hearing should be called thereon. The word "person" as used in this subsection includes, but is not limited to, any individual, firm, corporation, or governmental entity, including the Planning Advisory Board and the ~~[[Community]]~~ Zoning Appeals Board.

* * *

Sec. 33-397. Nonconforming uses, regulations not retroactive.

* * *

For the purposes of determining what shall constitute a non-conforming use, nothing contained herein shall be construed to prohibit the construction of educational facilities previously approved by Zoning Resolution of the Community Zoning Appeals Board or Board of County Commissioners within twelve (12) months prior to the effective date of this ordinance.

Sec. 33-402. Variances.

- (1) Any person desiring to erect or increase the height of any structure, or permit the growth of any tree or otherwise use his property not in accordance with the regulations prescribed in this article may apply to the appropriate zoning board for a variance from such regulations as provided and prescribed under Article XXXVI of Chapter 33, Code of Miami-Dade County, Florida. Applications for variances or any other authorization for any construction or use not authorized by Sections 33-392, 33-393, 33-394, 33-395, 33-396 or 33-397 shall be submitted and determined in accordance with the procedures, provisions and requirements set forth in Florida Statutes, Section 333.03 and Sections 333.07 through and including 333.11 (1998) or successor legislation. For the purpose of zoning applications filed under this chapter, the ~~[[appropriate Community]]~~ Zoning Appeals Board shall constitute the board of adjustment pursuant to Florida Statutes, Section 333.10, subject to all procedures applicable to ~~>>the<<~~ ~~[[community]]~~ zoning appeals board~~[[s]]~~.

- (2) At the time of filing the application, the applicant shall forward to the Florida Department of Transportation by certified mail, return receipt requested, a copy of the application for the Department's review and comment, if any. A copy of the return receipt must be filed with the Director of the Miami-Dade County Department of Planning and Zoning at the time of filing the application. No public hearing on the application may commence less than forty-six (46) days after receipt of the application by the Department of Transportation. Notwithstanding any provision of the Code of Miami-Dade County, failure to comply with the requirements of this subsection shall be grounds for appeal of a decision rendered by the ~~[[community]]~~ zoning appeals board by an applicant, governing body of any municipality, if affected, or any aggrieved party as defined in Section 33-313, Code of Miami-Dade County, the Director or the County Manager to the Board of County Commissioners. The provisions of Section 33-313 shall govern all appeals brought under this subsection.

* * *

- (5) Construction of any educational facility is prohibited at either end of a runway of Kendall-Tamiami Executive Airport within an area which extends 5 miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. In addition to any findings required in this chapter, variances approving construction of an educational facility within the delineated area shall only be granted when the appropriate zoning board makes specific findings detailing how the public policy reasons for allowing construction outweigh health and safety concerns prohibiting such a location.

* * *

- (7) Notwithstanding any provision contained in any section of this Code, the Board of County Commissioners shall have jurisdiction over any appeal filed by the County Manager from a decision of ~~>>the<< [[a-Community]]~~ Zoning Appeals Board rendered pursuant to this section where it is the opinion of the County Manager that ~~>>the<< a [[Community]]~~ Zoning Appeals Board's resolution is incompatible with aviation activity or aviation safety.

Section 56. Section 33C-3 of the Code of Miami-Dade County, Florida is hereby amended to read as follows

Sec. 33C-3. Rapid Transit Developmental Impact Committee.

There is hereby established a Rapid Transit Developmental Impact Committee Executive Council composed of the County's Developmental Impact Committee Executive Council (established by Section 33-303.1, Miami-Dade County Code) and two (2) representatives from each of the following municipalities: City of South Miami, City of Coral Gables, City of Miami, and the City of Hialeah. The Rapid Transit Developmental Impact Committee shall, subject to the procedures specified in Section 33-303.1, Miami-Dade County Code, perform the duties specified in Section 33C-2 and Section 33C-4 of this chapter.

Mailed notice of hearings before the Rapid Transit Developmental Impact Committee pursuant to Section 33C-2(D)(9)(d) shall be provided in the same manner as hearings on applications filed before the ~~[[Community]]~~ Zoning Appeals Board pursuant to Section 33-310(d)(3) for the special exceptions expressly enumerated in that subsection. Mailed notice of the hearing shall also be provided simultaneously to the municipality in which the application site is located. Applications shall comply with the procedural requirements of Section 33-304.

Section 57. Section 33G-6 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33G-6. Extension of capacity reservation and application for equitable tolling of traffic concurrency reservation period.

* * *

(B) *Equitable tolling of traffic capacity reservation.*

* * *



(3) Standards.

(a) For the purposes of this section:

* * *

(iii) *Appellate decision* shall mean any subsequent review of an administrative zoning decision, whether by ~~[[a—community]]~~ >>the<< zoning appeals board, the Board of County Commissioners or an appellate court with jurisdiction of the matter.

* * *

Section 58. It is the intent of this ordinance to substitute “Zoning Appeals Board” wherever Community Zoning Appeals Board appears in the Code of Miami-Dade County, Florida. Accordingly, in the event that this ordinance has not substituted Zoning Appeals Board for Community Zoning Appeals Board in the Code of Miami-Dade County, Florida the codifier is hereby instructed to do same.

Section 59. 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 60. 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 61. 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:

GKS for RAC

Prepared by:

CAE

Craig H. Coller

Prime Sponsor: Vice-Chairman Jose "Pepe" Diaz