MEMORANDUM

LUDC
Agenda Item No. 1E4

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: March 14, 2013

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

SUBJECT: Ordinance pertaining to zoning; amending Sections 33-20, 33-50, and 33-202.3 of the Code; amending RU-TH, townhouse district to permit fences and accessory structures within the side yard setback; amending procedures for administrative approval of site plan changes for individual townhouse units

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum

MIAMI-DADE COUNTY

Date: February 20, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Amending the Requirements for Townhouse Developments in the RU-TH Zoning District

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Recommendation
It is recommended that the Board of County Commissioners adopt the proposed ordinance amending the requirements for townhouse developments in the RU-TH zoning district.

Scope
The ordinance applies to unincorporated Miami-Dade County.

Fiscal Impact/Funding Source
There is no fiscal impact to Miami-Dade County.

Track Record/Monitor
Eric Silva, Assistant Director of Development Services in the Department of Regulatory and Economic Resources, will be responsible for implementation of the proposed ordinance.

Background
Currently, the side setback regulations for townhouse developments in the RU-TH (Townhouse District) zoning district require a portion of the setback to remain unencumbered by walls, fences and other structures. This regulation has prevented the owners of townhomes from placing fences and accessory structures within the side yard setback. The proposed amendment will remove this restriction, thereby allowing townhome owners to place fences at the property line as is currently permitted for single-family residences. The proposed ordinance also amends the procedures for administrative approvals of site plan changes to allow applicants that are unable to obtain authorization from the authorized body of the townhouse community or the adjacent property owner to seek approval through public hearing.

Jack Osterholt
Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: February 20, 2013

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

SUBJECT: Agenda Item No. 4(B)

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 Mayor'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 _____

Agenda Item No. 4(B)
2-20-13

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING; AMENDING SECTIONS 33-20, 33-50, AND 33-202.3 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AMENDING RU-TH, TOWNHOUSE DISTRICT TO PERMIT FENCES AND ACCESSORY STRUCTURES WITHIN THE SIDE YARD SETBACK; AMENDING PROCEDURES FOR ADMINISTRATIVE APPROVAL OF SITE PLAN CHANGES FOR INDIVIDUAL TOWNHOUSE UNITS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 33-20 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-20. - Accessory buildings; utility sheds and pergolas; swimming pools; fallout shelters; boat storage.

* * *

(1) Utility sheds and pergolas in townhouse developments [[~~are further restricted~~]]>>shall be regulated<< by Section 33-202.3(2)(q).

* * *

Section 2. Section 33-50 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

[1] Words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< shall be added. Remaining provisions are now in effect and remain unchanged.

Sec. 33-50. - Table of setback lines in residential and estate districts.

The minimum setback distances and spacing requirements in residential and estate districts shall be as follows:

* * *

NOTE 1. Refer to Section 33-20(b)(1) for additional utility shed setback regulations. Sheds in townhouse developments [[~~are further restricted~~]]>>shall be regulated<< by Section 33-202.3(2)(q).

Section 3. Section 33-202.3 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

ARTICLE XVA. - RU-TH, TOWNHOUSE DISTRICT

* * *

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:

(1) Those uses permitted in the RU-1, RU-1M(a), RU-1M(b) and RU-2 Districts, subject only to the requirements, limitations and restrictions applicable therefor in said districts, including, but not limited to, lot width, areas, yard areas, heights and coverage.

(1.1) Workforce housing units in compliance with the provisions of Article XIIA of this code.

(2) Townhouses, subject to the following restrictions:

* * *

(h) Front yard requirements. There shall be a fifteen-foot minimum distance from the nearest edge of roadway pavement to the front building line. If parking is provided in front of the townhouse unit, then the setback provisions in Section 33-202.3(2)(m) shall apply.

(i) Rear yard requirements. The minimum rear building setback for the principal building and any enclosed additions shall be ten (10) feet. The minimum rear setback for a cantilevered terrace roof or a terrace roof with pole or column supports shall be five (5) feet. The minimum rear setback for screen enclosures without a solid roof shall be zero (0) feet.

(j) Side yard requirements. A minimum side yard of fifteen (15) feet shall be provided between the end of a group of townhouses and >>the right-of-way line of<< a public or private street>>.<<[[~~, eight (8) feet of which shall be unencumbered by walls, fences or other structures or buildings. The remaining seven (7) feet may be encumbered by trellises, chimneys or walkways which may be enclosed by privacy fences. Said fences shall not extend in excess of fifty (50) percent of the depth of the building. Said amenities must be attached to the principal structure.~~]] A spacing of twenty (20) feet shall be provided between each [[~~such~~]] group of townhouses>>.<<[[~~, fifteen (15) feet of which shall be unencumbered by walls, fences or other structures or buildings. The remaining five (5) feet may be encumbered by trellises, chimneys or walkways which may be enclosed by privacy fences. Said fences shall not extend in excess of fifty (50) percent of the depth of the building. Said amenities must be attached to the principal structure.~~]]

(k) Street frontage. Each townhouse site must have a clear, direct frontage on public streets or to accessways complying with private street requirements.

(l) Utilities and services. Each townhouse shall be independently served by separate heating, air conditioning, seer, water, electric power, gas, and other facility and utility services, wherever such utilities and services are provided, and no townhouse shall be in any way dependent upon such services or utility lines located

within another unit or on or in another townhouse or townhouse site, except as may be installed in public easements. All townhouses must be connected to water and sewer lines and all electrical and telephone lines in a townhouse development site shall be placed underground. Proper and adequate access for firefighting purposes, and access to service areas to provide garbage and waste collection, and for other necessary services shall be provided.

(m) Parking. Where parking spaces are provided in front of townhouse buildings, the required front setback of the building shall be twenty-five (25) feet from the nearest edge of roadway pavement in said parking area unless garages are provided, in which case the garage portion of the structure shall be set back twenty (20) feet from the nearest edge of roadway pavement. Any portion of the townhouse building that is not located directly in front of parking spaces shall be set back fifteen (15) feet from the nearest edge of roadway pavement.

(n) Street right-of-way width and improvements. The right-of-way width of public streets and private streets serving a group of townhouses and the improvements therein shall conform to all applicable minimum Miami-Dade County standards and requirements for such streets.

(o) Walls>>, fences, and hedges<<. >>Walls, fences, and hedges shall comply with the provisions of Section 33-11 of this chapter, except that chain link fences shall be prohibited.<< All patio, outdoor living areas on each townhouse site shall be enclosed by a wall>>or fence<< affording complete screening except in cases where a natural feature of the site such as a lake or golf course would suggest that complete screening would not be required. Such determination shall be made as a result of the site plan review process as provided herein. [[~~Such wall shall be of masonry or other material having a life expectancy of not less than ten (10) years and the minimum height of such wall shall be six (6) feet; such walled-in patio may include a screen roof.~~]] All rear yard areas used for service, such as drying areas, shall be completely screened from view from the street and from adjoining lots by walls>>, fences,<< or landscaping.

(p) Patios and service areas. There shall be provided on each townhouse site at least four hundred (400) square feet of patio living area exclusive of parking and service areas for each townhouse; such footage may consist of one (1) or more patio areas. Open roof areas, balconies designed and planned for patio purposes, cantilevered terrace roofs, and terrace roofs with pole or column supports, may be credited toward patio area. The following features may also be included: Screen enclosures, patio slabs, Jacuzzis, swimming pools, decks, garden features and hot tubs. Said features must be either shown on the approved site plan or approved pursuant to the provisions of Section 33-202.3(2)(t). >>Such patio area shall be enclosed in accordance with the requirements of subsection (o) above.<<

(q) Accessory buildings. No accessory building shall be permitted in unwalled areas on sites containing a townhouse, and where located within an area enclosed with walls, shall not extend above the height of the walls.

(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.

Procedure. Exhibits prepared by design professionals such as architects and landscape architects shall be submitted to the

Department of Planning and Zoning and shall include, but not be limited to the following:

1. Site plan including the following information:
   a. Lot lines and setbacks.
   b. Location, shape, size and height of existing and proposed buildings, vehicular and pedestrian circulation systems, entrance features, >>fencing,<< bike paths, recreational facilities and any other physical features that are proposed for the site that can be shown in plan form.
   c. Landscaping in accordance with Chapter 18A of this Code.
   d. Location of all parking spaces and waste collection area(s).
   e. Indication of exterior graphics, as required.
   f. Indication of any site design methods used to conserve energy.

   >>g. Common open space areas and common use amenities.<<

2. Floor plans and elevations for typical townhouse units and floor plans and elevation of any recreation buildings, community buildings and other similar structures. Plan(s) for units shall indicate the private outdoor areas (>>including<< patio space) for the individual unit(s).

3. Figures indicating the following:
   a. Gross and net acreage.
   b. Amount of common open space in square feet and percentage required and provided.
   c. The size in square feet for the smallest and average townhouse sites.
   d. Total trees required and provided in accordance with Chapter 18A of this Code.
   e. Parking required and provided.
   f. Such other design data as may be needed to evaluate the project.

   >>g. Details depicting height and material for perimeter walls and/or fences as well as walls and/or fences located on individual lots.<<

* * *

(t) Site plan changes. The Director may authorize a change in a site plan for changes to an individual townhouse unit >>where such changes are encompassed wholly within the fee simple lot of such unit<< after [[~~in-house~~]]>>administrative<< site plan review and approval [[~~or public hearing approval~~]] for screen enclosures, patio slabs, new facial or trim work, open porch additions with or without wood or metal roofs, trellis or garden amenities, awnings, jacuzzis, swimming pools, decks, hot tubs, etc., providing:

1. That approval in writing is secured from an official, authorized body designated in the townhouse development to approve architectural changes in the townhouse community;
2. That written approval of the immediate adjacent townhouse owners is secured. If the applicant is unable to contact an adjacent property owner for such approval, the applicant may present proof that he has mailed the request for approval to each adjacent unit owner, by certified mail, return receipt requested, at each adjacent property owner's mailing address as listed in the most current Miami-Dade County tax roll, and that the notice has been returned undeliverable; and
3. That no additional variances are necessary to accomplish the proposed changes.
4. Exceptions. The installation of temporary storm panels approved under Chapter 35, South Florida Building Code shall be permitted as a matter of right and shall not be subject to homeowners' association approval, nor shall such installation be subject to adjacent townhouse owners' approval. However, homeowners' association approval shall be required for the installation of permanent storm shutters. For the purposes of this subsection, temporary storm panels shall be defined as detachable protection devices that are installed temporarily over building openings in the event of an approaching hurricane or tropical storm.

>>5.<< In approving the amendment to the plan, the Director shall find that the change in plan will be in harmony with and compatible with existing

development in the area, and will not destroy the theme or character of the development in the area.

>>6. If the applicant is unable to obtain the approvals required by Sections 33-202.3(2)(t)(1) and (2), site plan changes may only be approved following public hearing. At the time of filing such application, the applicant shall sign a statement, on a form acceptable to the Director and approved by the County Attorney's Office, that the applicant understands that approval at public hearing does not relieve the applicant from obtaining approval from a homeowner's association or other such private, authorized body where required to do so by a declaration of restrictions or other such private agreement applicable to the townhouse development.<<

[[~~All adverse decisions of the official, authorized body designated in the townhouse development to approve architectural changes in the townhouse community shall be appealed solely pursuant to the provisions of the official documents of the townhouse community. The official authorized body is required to afford the applicant, within sixty (60) days of receipt of the request, (1) written notice of the time and place of the hearing, (2) a full hearing, and (3) a decision in writing which is furnished to the applicant. No variances from this subsection may be applied for or granted.~~]]

* * *

Section 4. 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 5. 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 a 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 6. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Dennis A. Kerbel