Memorandum

MIAMI-DADE COUNTY

Date: June 19, 2012

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Report: Zoning Requirements for Single-Family Residences

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On February 7, 2012, the Board of County Commissioners (BCC) directed the administration to prepare a report outlining the current zoning requirements for single-family development. This request was made in response to a citizen presentation to the BCC regarding the development of a single-family home that the presenter considered to be incompatible with surrounding residences.

The attached report outlines the current regulations for the RU-1 (Single-Family Residential) Zoning District and provides a recommendation for a possible code revision. An analysis of the current regulations identified a need to clarify the definition for a building story. Although the zoning regulations limit single-family residential structures to two stories, there is an exemption within the definition of a "story" that provides the potential for a third floor. The current definition would allow for a third floor provided it complies with the 35' building height limit and does not exceed two-thirds of the area of the floor immediately below. As noted in the attached, staff is recommending an amendment that would limit the aforementioned exemption to multi-family residential structures, thereby excluding single-family residences. This amendment is being drafted and will be presented for Board consideration shortly.

c: Jack Osterholt, Deputy Mayor/Director, Regulatory and Economic Resources
Eric Silva, Assistant Director, RER Development Services

Memorandum

MIAMI-DADE COUNTY

Date: June 12, 2012

To: Carlos A. Gimenez
Mayor

From: Jack Osterholt, Director
Regulatory and Economic Resources

Subject: Report: Zoning Requirements for Single-Family Residences

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Summary: This report outlines the current regulations for the RU-1 (Single-Family Residential) Zoning District and provides a recommendation for a possible code revision to address the scale of single-family residential structures.

RU-1: Single –Family Residential District Code Requirements

Summary of Permitted Uses by Right (Section 33-199):

1. Single-family home
2. Recreation areas and buildings
3. Golf courses
4. Family day care and after school care with up to five preschool children, including resident family children
5. Group home with up to six clients

A public hearing is required for a religious facility (Section 33-18).

Parking Requirements:

Two parking spaces per single-family house (Section 33-124(a)(1)). Minimum size per space 8.5 feet by 18 feet. The parking areas may be graveled, mulched or hard surfaced (Section 33-126(1)).

Maximum Building Lot Coverage:

35% (Percentage of lot coverage applies to the principal structure)

Setbacks:

Structure	Front	Rear	Interior Side	Side Street	Between Buildings
Principal Building Setbacks for subdivisions platted before March 8, 2002	25 feet	25 feet	7 feet 6 inches	15 feet	
Principal Building Setbacks for subdivisions platted after March 8, 2002	15 feet for 50% of the building and 25 feet for 50% of the building	15 feet for 50% of the building and 25 feet for 50% of the building	7 feet 6 inches	15 feet	
Accessory Use Setbacks (sheds, gazebos, etc.)	75 feet	5 feet	7 feet 6 inches	20 feet	10 feet
Accessory Use Setbacks Sheds less than 100 square feet and maximum height 8 feet	55 feet	5 feet	5 feet	10 feet	10 feet
Canopy Carport Setbacks	5 feet	5 feet	2 feet	5 feet	
Swimming Pool Setbacks	75 feet	7 feet 6 inches	10 feet	20 feet	
Screen Enclosure Setbacks	N/A	6 feet	7 feet 6 inches	15 feet	

Principal Building Height (Section 33-52):

Maximum Height: 35 feet

Maximum Number of Stories: 2 (In any residential building in which the area of the upper floor does not exceed 2/3 of the area of the floor immediately below it, such upper floor shall not be considered a story.)

Accessory Building Height:

Maximum Height: 35 feet

Maximum Stories: 1 unless the principal building is 2 stories and there are 2 or more 2 story buildings on other lots in the block

Fences, Walls and Hedges:

Maximum Height: 6 feet (in sight triangle limited to 2 feet 6 inches)

Zoning Code Definitions:

Story:

a) That portion of a building included between the uppermost surface of any floor and the uppermost surface of the floor or roof next above.
b) That portion of a building between floor and ceiling which is so located that more than half of the clear height from floor to ceiling is above grade.
c) In any residential building in which the area of the upper floor does not exceed 2/3 of the area of the floor immediately below it, such upper floor shall not be considered a story.
d) That portion of a building in a high flood hazard district below the elevation of the regulatory flood level and below the lowest habitable floor, and constructed in accordance with Chapter 11C(Development Within Coastal Flood Hazard Districts) of the Code of Miami-Dade County shall not be considered a story.

Accessory building. A secondary residence, garage, or other building or structure on a lot or parcel subordinate to and not forming an integral part of the main or principal building but pertaining to the use of the main building. An accessory building may include servant's quarters unless prohibited by existing deed restrictions. Also see *Guesthouse.*

Building height. The height of a building with a gabled or hip roof shall be the vertical distance measured from the average elevation of the finished building site to the top of the roof of the uppermost story. The height of a building with a flat or nearly flat roof shall be measured from the footing as stated above to the highest point of the roof (but not the parapet or coping shall be used). A flat roof shall be considered a roof that has a slope of less than seven (7) degrees with the horizontal.

Dwelling, one family. A private residence building used or intended to be used as a home or residence in which all living rooms are accessible to each other from within the building and in which the use and management of all sleeping quarters, all appliances for sanitation, cooking, ventilating, heating or lighting are designed for the use of one (1) family only.

Family. One (1) person, or group of two (2) or more persons living together and interrelated by blood, marriage or legal adoption, occupying a dwelling unit designed as a single-family use, as a separate housekeeping unit with a single set of kitchen facilities. The persons thus constituting a family may also include gratuitous guests and domestic servants.

Setback. The minimum horizontal distance between the street, rear or side lines of the lot and the front, rear or side lines of the building. When two (2) or more lots under one (1) ownership are used, the exterior property line so grouped shall be used in determining offsets.

County Zoning Code – Sections 33-4 and 33-5:

Offensive color, design, smoke, noise, etc.: nuisances, moves and locations to be approved: location on lands subject to flooding (Section 33-4)
Nothing shall be allowed on the premises in any district which would in any way be offensive or obnoxious by reason of color, design, or the emission of odors, liquids, gases, dust, smoke, vibration or noise. Nor shall anything be placed, constructed or maintained that would in any way constitute an eyesore or nuisance to adjacent property owners, residents, or to the community. No structure shall be erected, altered, structurally altered or moved except by methods and on locations as approved by the Director.

Architectural Style and Color (Section 33-5)
All buildings constructed shall be of an architectural style and color which will harmonize with the premises and with other buildings in the same neighborhood. All questions raised on this subject shall be referred to the appropriate zoning board for recommendation.

County Attorney's Interpretation of Sections 33-4 and 33-5
The County Attorney has indicated that Sections 33-4 and 33-5 of the County's Zoning Code cannot be enforced independent of other provisions of the Code containing substantive requirements for construction, maintenance and use of structures. These sections contain no specific standards to define their broad general terms. Sections 33-4 and Sections 33-5 cannot provide an independent basis to disapprove a building permit application. Attached is the County Attorney's interpretation of Sections 33-4 and 33-5 of the County's Zoning Code.

Landscape Code (Chapter 18A):

Minimum standards:

1. Maximum lawn area (sod/grass area): 50 % of the net lot area.
2. Number of required lot trees: 3 per lot.
3. Number of required street trees: At least 1 every 35 feet of street frontage.
4. Tree size:
    a. Lot tree: minimum of 10 ft. high and 2 inches of caliper at planting. (Native trees shall be at least 8 feet high and 1.5 inches of caliper)
    b. Street tree: minimum of 12 feet high and 2 inches of caliper at planting.
5. Palms to lot tree ratio: 2 palms may count as a required lot tree provided that palm is 10 feet high and 3 inches of caliper at planting.
6. Palms to street tree ratio: 1 palm per street tree provided that palm is 14 feet high and 4 inches of caliper at planting.
7. Plant material: At least:
    a. 30% shall be native species
    b. 50% shall be low maintenance and draught-tolerant
    c. No more than 30% shall be palms

Drainage:

In general, stormwater shall be retained onsite. The specific stormwater retention requirements depend on the location of the property.

Recommendation:

Revise Story Definition, as follows:

Sec. 33-1 (99): Story:
(c) In any >>multi-family<< residential building in which the area of the upper floor does not exceed >>fifty (50) percent<<[[~~two-thirds~~]] of the area of the floor immediately below it, such upper floor shall not be considered a story.

Attachment (County Attorney's Memorandum)

c: Eric Silva, Assistant Director, RER Development Services

Memorandum

MIAMI-DADE COUNTY

Date: February 2, 2012

To: Charles Danger, Director
PERA

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

Subject: Sections 33-4 and 33-5 of the County Code

You have asked whether Sections 33-4 and 33-5 of the County's Zoning Code ("Code") can be enforced independent of other provisions of the Code containing substantive requirements for construction, maintenance and use of structures. Our answer is no.

Section 33-4 precludes the placement of anything on the premises in any district that would "in any way be offensive ... by reason of ... design" or "that would in any way constitute an eyesore or nuisance to adjacent property owners, residents, or to the community." Section 33-5 provides that all buildings "shall be of an architectural style and color which will harmonize with the premises and with other buildings in the same neighborhood." These Sections contain no specific standards to define their broad general terms.

The Code (Ch. 33) divides the unincorporated areas of the County into various zoning districts, and contains detailed provisions governing structures and lot size in each zoning district. Depending on the zoning district, these provisions govern, among other things, the use, lot area and lot frontage, height, set back from lot lines, lot coverage, floor area ratio and open space requirements for such structures and lots. We believe these detailed provisions provide the standards to be applied in determining whether a proposed structure to be erected in a particular zoning district meets the Code's requirements, including those of Sections 33-4 and 33-5. Thus, if a proposed structure meets the Code's district-specific building requirements, Sections 33-4 and 33-5 cannot provide an independent basis to disapprove a building permit application for that structure.

Any interpretation of Sections 33-4 and 33-5 that would divorce them from the balance of the Code, would in all likelihood render them unconstitutional since they lack applicable substantive standards. See, e.g. *Miami v. Save Brickell Avenue, Inc.*, 426 So.2d 1100 (Fla. 3d DCA 1983)(ordinance permitting discretionary exercise of zoning authority without substantive standards is unconstitutionally vague).

c: Hon. Chairman Joe A. Martinez
and Members, Board of County Commissioners
Hon. Carlos A. Gimenez, Mayor
Christopher Mazzella, Inspector General
Charles Anderson, Commission Auditor
Christopher Agrippa, Division Chief, Clerk of the Board Div.