OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(A)

(Second Reading 4-7-08)

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

DATE: November 20, 2008

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

SUBJECT: Ordinance pertaining to zoning regulation of signs deleting sunset provision for the establishment of murals; repealing Section 9 of Ordinance 07-61 of Miami-Dade County

Ordinance No. 09-24

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

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: April 7, 2009

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

From: George M. Burgess
County Manager

Subject: Ordinance pertaining to zoning regulations of signs deleting sunset provision for the establishment of murals; repealing Section 9 of Ordinance 07-61 of Miami-Dade County

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The ordinance pertaining to zoning regulations of signs deleting the sunset provision for the establishment of murals will not have a fiscal impact to Miami-Dade County.

Alex Munoz
Assistant County Manager

fis01109

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MEMORANDUM
(Revised)

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

DATE: April 7, 2009

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

SUBJECT: Agenda Item No. 7(A)

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

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

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

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(A)
4-7-09

ORDINANCE NO. **09-24**

ORDINANCE PERTAINING TO ZONING REGULATION OF SIGNS; DELETING SUNSET PROVISION FOR THE ESTABLISHMENT OF MURALS; REPEALING SECTION 9 OF ORDINANCE 07-61 OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 9 of Ordinance 07-61 is repealed in its entirety as follows:[1]

[[~~**Section 9.** All provisions of this Ordinance shall stand repealed two (2) years from its effective date except Section 1, Section 3, and that portion of Section 4 that amends Sec. 33-86 of the code to create subdivision (e) pertaining to review of applications for sign permits.~~]]

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

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

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Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Miami-Dade County, Florida.

Section 4. 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: **April 7, 2009**

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Craig H. Coller

Prime Sponsor: Commissioner Bruno A. Barreiro

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: May 6, 2009

Substitute
Special Item No. 1A

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

From: George M. Burgess
County Manager

Ordinance Bo. 09-28

Subject: Ordinance Nos. 1A and 1B Acting Upon Pending April 2008 Cycle Applications to Amend the Comprehensive Development Master Plan; (DCA No. 09-1)

These Substitute Items differ from the original item (legistar no. 083145) in that they comply with the new rule change regarding substitutes and alternates as provided in Ordinance #09-13, adopted on March 3, 2009. In addition, they differ from the original as follows:

- **The preamble of the Ordinances reflect the actions taken by the Board of County Commissioners (Board) at its "transmittal" public hearing on November 6, 2008, and the receipt of the Objections, Recommendations and Comments (ORC) from the Florida Department of Community Affairs (DCA), by letter dated March 13, 2009;**

- **The two substitute ordinances do not contain the following April 2008 Cycle CDMP amendment applications:**
  - **Application Nos. 1, 14 and 16 which were withdrawn by DP&Z at or prior to the Board's "transmittal" hearing;**
  - **Application No. 17 which was withdrawn by DP&Z at the PAB's final public hearing on April 6, 2009;**
  - **Application Nos. 2, 3 and 5 which were previously adopted as small-scale amendments;**
  - **Application No. 4 which was adopted as a small-scale amendment, however, the amendment is not yet in effect; and**
  - **Application No. 12 (CIE update) which was adopted.**

  Therefore, these two substitute ordinances are limited to the disposition of Application Nos. 6 through 11, 13, 15, and 18 through 20;

- **The two substitute ordinances group the applications as follows:**
  - **Special Item No. 1A (Applications Nos. 6 and 7 which are the Aviation Department's Applications; Application No. 8 which is the "Fontainebleau Lakes" application; Application No. 9 which is the "Blue Lake Partners" application originally known as "Gold River Corp."; Application No. 10 which is the "Manuel Diaz and Live Oak Partners" application; and Application Nos. 13, 18, 19 and 20 which are Staff's applications);**
  - **Special Item No. 1B (Application No. 11 which is the "Builders Association of South Florida" application; and Application No. 15 which is Staff's application).**

/

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinances~~, (Special Item No. 4)~~ (Substitute Special Item Nos. 1A and 1B), which provide for the Commission to adopt, adopt with change, not adopt, or deny the pending April 2008 Cycle of applications to amend the Comprehensive Development Master Plan (CDMP). ~~It is recommended that first reading occur at the conclusion of the CDMP public hearing scheduled for Tuesday, November 6, 2008, to address transmittal of the referenced applications to the Florida Department of Community Affairs (DCA) for review and issuance of Objections, Recommendations and Comments (ORC) report. It is further recommended that final action be taken on the ordinance at the conclusion of the public hearing that will be scheduled for April 2009.~~

~~Please be aware that Section 163.3177(12)(j), Florida Statutes (F.S.) precludes local governments from adopting amendments that increase residential density until a public school facilities element has been adopted. Thus, the Florida Department of Community Affairs (DCA) may find the land use amendments increasing residential density invalid until an amendment to the CDMP, and an Interlocal Agreement with the School Board of Miami-Dade County and the municipalities in Miami-Dade County establishing a public school concurrency program have been adopted as required by Section 163.3177(12)(j), F.S. Accordingly, DCA will not conduct a compliance review or issue a notice of intent on an ordinance containing such land use amendments. This finding may be made by DCA even with a delayed effective date clause pending school concurrency in the ordinance.~~

It is recommended that final actions be taken on the corresponding ordinances for these pending applications at the conclusion of the public hearing scheduled to begin at 9:30 AM on Wednesday, May 6, 2009. Each ordinance follows the same format used in previous CDMP amendment cycles. That is, it contains blank spaces to record your action on each request contained in each application. After the Board adopts individual entries indicating its action on each application, the Board will take action adopting each Ordinance in its entirety, incorporating the foregoing entries.

Scope

The CDMP is a broad-based countywide policy-planning document to guide future growth and development to ensure adequate provision of facilities and services for existing and future populations, and to maintain or improve the quality of the natural and man-made environment. While the adopted text of the CDMP generally applies countywide, individual, site-specific Land Use Plan (LUP) map amendment applications may have localized impact on one or more Commission Districts. ~~Application Nos. 1 are~~ and ~~2 are located within Commission District 1 (Commissioner Jordan). Application Nos. 3 and 4 are located within Commission District 2 (Commissioner Rolle).~~ Application Nos. ~~5,~~ 6 and 7 are located within Commission District 12 (Commissioner Diaz); Application Nos. 8 and 9 ~~10~~ are located within Commission District 10 (Commissioner Souto); Application No. 10 is located within Commission District 8 (Commissioner Sorenson); and Application Nos. 11, 13, 15, and 18 through 20 are Countywide.

Fiscal Impact/Funding Source

Fiscal impact means the cost to the County of implementing the activities or actions that would be incurred after approval of the ordinance. The proposed ordinances acting on the pending April 2008 Cycle of applications to amend the CDMP will have some fiscal impacts on Miami-Dade County. Ordinance 94-238 requires a statement of fiscal impact on all activities and actions resulting from approval of an ordinance. In addition, Ordinance 01-163 requires the review procedures for amendments to the CDMP to include, for any proposed land use change, a written evaluation of the estimated incremental and cumulative impact on Miami-Dade County for bringing such infrastructure to the area as well as the costs of operating it annually. Details of the fiscal impacts of each ~~Land Use Plan map~~ application can be found in Appendix E at the end of each review of a LUP map application in the document titled "Initial Recommendations April 2008 Applications To Amend The Comprehensive Development Master Plan," dated August 25, 2008."

Based on the information provided by service agencies, the fiscal impacts of the proposed land use changes vary based on the type of request and location. The proposals involving non-residential development impact fewer services than the proposals for residential development. For example, the Miami-Dade County Public Schools Board limits its impact reviews to the proposals for residential development or those that may allow residential development. Of the ~~proposed ten (10)~~ pending five (5) CDMP land use amendment applications, only Application ~~No.~~ Nos. ~~1, 8 and~~ 10 will have a fiscal impact on the Miami-Dade County Public Schools System. Projected annual operating costs as a result of Application No. 10 are $1,958,151.

~~Application No. 1 will have the most significant fiscal costs for schools, water and sewer facilities and roads. If the original 165.8 acres were developed at maximum residential development, the capital costs for schools would be $24,705,633. If the application site is reduced to 48 acres as recommended by staff and is developed at maximum residential development, the capital costs for schools would be $6,082,596. This application if developed as originally proposed, the costs for constructing water and sewer facilities would be $1,094,427 and the annual operating costs would be $559,424. Application No. 6 would require almost as much ($1,025,308) for constructing water and sewer facilities. Any development on the site of Application No. 1 would require in the short-term an estimated $20,597,585 (excluding right-a-of-way acquisition costs) for widening segments of NW 47 Avenue (NW 215 Street and NW 183 Street) and NW 202 Street (NW 57 Avenue to NW 67 Avenue) to four lanes.~~

The Miami-Dade Water and Sewer Department (WASD) estimated the fiscal impacts for providing public water and sewer. WASD has determined for each application site the impact and connection fees as well as annual operations and maintenance costs. Of the pending 2008 Cycle of Applications, the application that generates the most fiscal impacts for water and sewer service is Application No. 10, which will result in annual operating and maintenance costs of $90,152. The cost estimate for water and sewer infrastructure improvements in public right-of-way from Application No. 10 totals $330,994.

Housing Impact

Of the ~~ten (10) proposed~~ five (5) pending April 2008 Cycle of applications to amend the Land Use Plan (LUP) map in unincorporated areas of Miami-Dade County, ~~five (5) (three small scale and two standard)~~ two (2) applications could impact the supply of housing. These applications

have the potential to reduce or increase the County's housing supply, based upon the current land use designation of the application sites, the requested re-designation, and voluntary restrictions on ~~density~~ residential development. ~~The applications adding to the supply of housing are Application No. 1 (385 net units on the original 165.8-acre site or 156 net units on the recommended 48-acre site) and Application No. 4 (100 net units).~~ No LUP map applications from the pending April 2008 Cycle of amendments would increase the housing supply. The applications decreasing the supply of housing are ~~Application No. 2 (33 net units),~~ Application No. 8 (net ~~467~~ 352 units) and Application No. 9 (533 net units). Based on the fact that the yearly estimate by the DP&Z of the housing demand is ~~14,155~~ 12,161 units, the cumulative reduction of ~~548~~ 885 units from the pending LUP map amendments, will be a loss to the supply of housing.

Track Record/Monitor

CDMP Amendments do not involve contracts so a Track Record/Monitor is not applicable.

Background

~~The attached ordinance provides for action on the April 2008 Cycle applications requesting standard amendments to the CDMP (Application Nos. 1, 6 through 11, 13, 15, 17 through 20), and provides for final action on any of the four small-scale amendments (Application Nos. 2, 3, 4 and 5), on which final action is not taken at the scheduled November 6, 2008 public hearing and which the Board elects to transmit to DCA for further review. Application No. 12 (updates to the schedules of improvements in the Capital Improvement Element) is being addressed in another ordinance (Special Item No. 2). Application Nos. 14 and 16 were lawfully withdrawn.~~

~~A resolution accompanying this ordinance requests a review and issuance of an ORC report by DCA on all transmitted applications. It is estimated that DCA's ORC report on the applications will be returned to the County in February 2009. The County is required to take final action on transmitted applications within 60 days after receipt of the ORC report. The Department of Planning and Zoning (DP&Z) may issue revised recommendations, and the Planning Advisory Board (PAB) acting as the Local Planning Agency (LPA) may conduct a second public hearing and may issue revised recommendations between the time DCA issues its ORC report and the Board conducts its final hearing. By approving this ordinance on first reading, the Board is in a position to conduct a public hearing and take final action on the applications after receipt of ORC report from DCA.~~

The two attached ordinances provide for final actions on the eleven (11) pending April 2008 Cycle of applications requesting amendments to the CDMP (Application Nos. 6 through 11, 13, 15, and 18 through 20). These applications were transmitted to DCA for review and comment. The Board's previous actions on these applications at the November 6, 2008 public hearing were the following: Application No. 6: "ADOPT with Acceptance of Proffered Covenant and TRANSMIT"; Application No. 7: "ADOPT with Acceptance of Proffered Covenant and TRANSMIT"; Application No. 8: "ADOPT with CHANGE (*as provided by the applicant*) and with Acceptance of Two Proffered Covenants and TRANSMIT"; Application Nos. 9 and 10: "ADOPT with Acceptance of Proffered Covenant and TRANSMIT"; Application Nos. 11 and 13: "ADOPT with CHANGES and TRANSMIT"; Application Nos. 15 and 17: "ADOPT and TRANSMIT"; Application No. 18: "ADOPT with Further CHANGES and TRANSMIT"; Application No. 19:

"ADOPT with CHANGE and TRANSMIT"; and Application No. 20: "ADOPT and TRANSMIT." A "Matrix" updated April 6, 2009 summarizing the previous recommendations of the DP&Z, affected Community Councils, PAB and BCC, and the revised recommendations of the DP&Z and PAB is enclosed at the end of this memo.

DCA coordinated the State agency consistency reviews on the transmitted applications at the request of Miami-Dade County. The issues identified in the Objections, Recommendations and Comments (ORC) report from DCA dated March 13, 2009 include: "lack of need for commercial uses" for Application Nos. 8 and 9; "insufficient road capacity" for Application No. 9; "lack of required data and analysis" for Application No. 11; and "inconsistent with the Public Schools Facilities Element" for Application Nos. 11 and 15. DCA objected to each of these four applications based on these issues.

Attached you will find the Department of Planning and Zoning's (DP&Z) Memorandum, dated March 27, 2009, addressing the pending 12 applications of the April 2008-09 Cycle of amendments. That memo summarizes the pending applications as transmitted to DCA and presents the DP&Z's revised recommendations and principal reasons for the revised recommendations. Attached you will also find DP&Z's response to the ORC report, dated March 27, 2009.

Revised Recommendations
DP&Z's revised recommendations for Application Nos. 6 and 7 is to "ADOPT As Transmitted With Additional Changes" by re-designating these parcels to "Terminals" instead of "Business and Office" on the Adopted Land Use Plan map; for Application Nos. 8, 9 and 11 to "DENY"; for Application No. 10 "ADOPT with Acceptance of Proffered Covenant"; and for Application Nos. 13, 15, and 18 through 20 "ADOPT As Transmitted."

The Planning Advisory Board (PAB) acting as the Local Planning Agency (LPA) conducted its final public hearing on the pending amendments on April 6, 2009 and issued the following recommendations: for Application Nos. 6 and 7 "ADOPT with Change as Recommended by Staff"; for Application No. 8 "ADOPT as Transmitted to DCA with Acceptance of Two Proffered Covenants"; for Application Nos. 9 and 10 "ADOPT With Acceptance of Proffered Covenant"; for Application Nos. 18, 19 and 20 "ADOPT as Transmitted to DCA"; for Application No. 11 "No Recommendation"; for Application No. 13 "ADOPT The Original Application"; and for Application No. 15 "ADOPT Subject To Being in Compliance with Section 163.3177(12)(j), F.S.". The DP&Z withdrew Application No. 17 at the PAB final public hearing on April 6, 2009.

The PAB recommendations are contained in the attached PAB resolution, the meeting minutes dated April 6, 2009 and the Matrix attached at the end of this memo.

Attachments

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: May 6, 2009

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

SUBJECT: Substitute Special Item No. 1A

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

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

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

✓ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Substitute
Special Item No. 1A
5-6-09

ORDINANCE NO. 09-28

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATION NOS. 6, 7, 8, 9, 10, 13, 18, 19 AND 20 FILED IN APRIL 2008 CYCLE TO AMEND, MODIFY, ADD TO OR CHANGE COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

WHEREAS, the Board of County Commissioners (Board) has provided a procedure (codified as Section 2-116.1 of the Code of Miami-Dade County, Florida) to amend, modify, add to or change the Miami-Dade County Comprehensive Development Master Plan (CDMP); and

WHEREAS, Miami-Dade County's procedures reflect and comply with the procedures for adopting or amending local comprehensive plans as set forth in Section 163, Part II, Florida Statutes; and

WHEREAS, 18 CDMP amendment applications were filed on or before April 30, 2008 and are contained in the document titled "April 2008 Applications to Amend the Comprehensive Development Master Plan" dated June 5, 2008; and

WHEREAS, two (2) additional staff CDMP amendment applications were filed prior to the production of the "Initial Recommendations April 2008 Applications to Amend the Comprehensive Development Master Plan", dated August 25, 2008, bringing the total number of applications filed in the April 2008 cycle CDMP amendments to 20; and

WHEREAS, of the 20 amendment applications, six (6) Land Use Plan (LUP) map (Application Nos. 2 to 4 and 8 to 10) and one (1) text (Application No. 11) amendments were privately filed, three (3) LUP map amendments (Application Nos. 5 to 7) were filed by the Aviation Department, and one LUP map (Application No. 1) and 9 (nine) text amendments (Application Nos. 12 to 20) were filed by the Department of Planning and Zoning (DP&Z); and

WHEREAS, the DP&Z published its initial recommendations addressing the referenced Applications in the report titled "Initial Recommendations April 2008 Applications to Amend the Comprehensive Development Master Plan" dated August 25, 2008; and

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WHEREAS, DP&Z has subsequently published its revised recommendations addressing the transmitted amendment applications in a memorandum dated March 27, 2009; and

WHEREAS, DP&Z has subsequently published a response to the ORC report dated March 27, 2009; and

WHEREAS, Application Nos. 14 and 16 were lawfully withdrawn by DP&Z; and

WHEREAS, the affected Community Councils, Planning Advisory Board (PAB), and DP&Z have acted in accordance with the referenced State and County procedures and have accepted applications, held public hearings and transmitted recommendations for the disposition of such applications to this Board; and

WHEREAS, on November 6, 2008, this Board, by Resolution, instructed the County Manager to transmit certain applications to the Florida Department of Community Affairs (DCA) pursuant to Section 163.3184(3), F.S.; and

WHEREAS, Application No. 1 was withdrawn by the applicant at the Board's public hearing on November 6, 2008; and

WHEREAS, on November 6, 2008, the Board voted to adopt small-scale amendment Application Nos. 2, 3, 4 and 5 with acceptance of proffered covenant, to transmit with intent to adopt Application Nos. 6, 7, 9 and 10 with acceptance of proffered covenant; to transmit with intent to adopt Application No. 8 with changes as provided by the applicant and with acceptance of two proffered covenants; to transmit with intent to adopt Application No. 11 with changes as provided by the applicant; to transmit with intent to adopt Application Nos. 13 and 19 with staff changes; to transmit with intent to adopt Application Nos. 15, 17, and 20; and to transmit with intent to adopt Application No. 18 with further staff changes to the Florida Department of Community Affairs (DCA) for review and comment; and

WHEREAS, on November 20, 2008, the Board voted to adopt Application No. 12 that updated the Capital Improvements Element; and

WHEREAS, DCA reviewed the proposed applications at the request of this Board and has issued its Objections, Recommendations and Comments (ORC) report pursuant to Section 163.3184 (6)(c), F.S.; and

WHEREAS, DP&Z has subsequently published its revised recommendations addressing the transmitted amendment applications in a memorandum dated March 27, 2009; and

WHEREAS, DP&Z has subsequently published a response to the ORC report dated March 27, 2009; and

WHEREAS, Application No. 17 was withdrawn by DP&Z at the PAB's final public hearing on April 6, 2009; and

WHEREAS, Application No. 11 was withdrawn by the Board's public hearing on May 6, 2009; and

WHEREAS, the Board must take final action to Adopt, Adopt With Change or Deny amendment applications not later than sixty (60) days after receipt of written Objections, Recommendations and Comments (ORC) report from DCA addressing the application(s); and

WHEREAS, the Board must take final action specifically on Application Nos. 6, 7, 8, 9, 10, 13, 18, 19 and 20, which are the subjects of this Ordinance; and

WHEREAS, all existing lawful uses and zoning in effect prior to a CDMP amendment are deemed to remain consistent with the CDMP as amended unless the Board, in conjunction with a particular zoning action, finds such pre-existing zoning or uses to be inconsistent with the CDMP based upon a planning study addressing the criteria set forth in the CDMP; and

WHEREAS, the approval of an amendment to the CDMP does not assure favorable action upon any application for zoning or other land use approval but is part of the overall land use policies of the County; and

WHEREAS, any application for zoning or other land use approval involves the application of the County's overall land use policies to the particular request under consideration; and

WHEREAS, the County's overall land use policies include, but are not limited to, the CDMP in its entirety and the County's land development regulations; and

WHEREAS, this Board has conducted the public hearings required by the referenced procedures preparatory to enactment of this ordinance,

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

Section 1. All matters set forth in the preamble are found to be true and are hereby incorporated by reference as if set forth verbatim and adopted.

Section 2. This Board hereby desires to take further action on the pending amendment applications filed for review during the April 2008 cycle for amendments, modifications, additions, or changes to the Miami-Dade County CDMP as follows:

Application Number	Applicant/Representative Location (Size) Requested Amendments To The CDMP Land Use Plan Map	Final Commission Action
6	Miami-Dade County Aviation Department/Jose Abreu, P.E., Director Between the Palmetto Expressway (SR 826) and Milam Dairy Road and between NW 14 and NW 19 Streets, west of the Miami International Airport (31.04 gross acres) FROM: INDUSTRIAL AND OFFICE AND TRANSPORTATION TERMINALS TO: BUSINESS AND OFFICE	Adopt with Change by redesignating to Terminals
7	Miami-Dade County Aviation Department/Jose Abreu, P.E., Director Northeast corner of Milam Dairy Road and NW 12 Street, at the SW corner of the Miami International Airport (16.9 gross acres) FROM: INDUSTRIAL AND OFFICE TO: BUSINESS AND OFFICE	Adopt with Change by redesignating to Terminals
8	Fontainebleau Lakes, LLC/Felix M. Lasarte, Esq. North side of Flagler Street between theoretical NW 90 and NW 94 Avenues *(originally 41.0 gross acres but modified by applicant by deleting a northeastern 1.6-acre portion of the property from the application site and redesignating Parcel B (4.3 acres) to Parks and Recreation as stated below, all for a net balance of 39.4 gross acres)* PARCEL A FROM: MEDIUM DENSITY RESIDENTIAL (13-25 DU/Ac) & PARKS AND RECREATION TO: BUSINESS AND OFFICE (35.06 GROSS ACRES); AND PARCEL B: FROM: MEDIUM DENSITY RESIDENTIAL (13-25 DU/Ac) TO: PARKS AND RECREATION (4.36 GROSS ACRES)	Adopt as transmitted with Acceptance of Two Proffered Covenants

Application Number	Applicant/Representative Location (Size) Requested Amendments To The CDMP Land Use Plan Map	Final Commission Action
9	Blue Lake Partners, LLC *(Originally filed by Gold River Corporation)*/ Juan J. Mayol, Jr., Esq. Northeast corner of West Flagler Street and NW 102 Avenue (41 gross acres) FROM: LOW-MEDIUM DENTSITY RESIDENTIAL (6-13 DU/Ac) TO: BUSINESS AND OFFICE	Adopt with Acceptance of Proffered Covenant
10	Manuel C. Diaz and Live Oak Partners, LLC/Joseph G. Goldstein, Esq., Alan S. Krischer, Esq. & Tracy R. Slavens, Esq. Southwest corner of SW 112 Avenue and SW 248 Street (35.0 gross acres) 1. Requested Amendment to the Land Use Plan map. FROM: OFFICE/RESIDENTIAL TO: BUSINESS AND OFFICE 2. Requested Amendment to the Land Use Element. Delete existing CDMP Covenant from Official Records Book and add the new CDMP Covenant to the Restrictions Table.	Adopt with Acceptance of Proffered Covenant
13	Miami-Dade County Department of Planning & Zoning/ Subrata Basu, AIA, AICP, Interim Director LAND USE ELEMENT Revise text relating to the "Agriculture" Land Use Plan Map category.	Adopt as transmitted
17	Miami-Dade County Department of Planning & Zoning/ Subrata Basu, AIA, AICP, Interim Director LAND USE ELEMENT Revise the text relating to the "Industrial and Office" Land Use Plan Map category.	Acceptance of Withdrawal
18	Miami-Dade County Department of Planning & Zoning/ Subrata Basu, AIA, AICP, Interim Director HOUSING ELEMENT Revise Policy HO-6D.	Adopt as transmitted
19	Miami-Dade County Department of Planning & Zoning/ Marc C. LaFerrier, AICP, Director CONSERVATION, AQUIFER RECHARGE AND DRAINAGE ELEMENT Revise Policy CON-8I.	Adopt as transmitted
20	Miami-Dade County Department of Planning & Zoning/ Marc C. LaFerrier, AICP, Director LAND USE ELEMENT Revise the text relating to Transportation Land Use Plan Map category. TRANSPORTATION ELEMENT, Aviation Subelement; Revise the text in Aviation Facilities Improvements Section.	Adopt

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected thereby. If any application, or portion of an application is found to be not in compliance pursuant to Section 163.3184, F.S., the remainder of the application subject to such a finding, and the remaining applications adopted by this ordinance shall not be affected thereby.

Section 4. It is the intention of the Board, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Miami-Dade County, Florida.

Section 5. This ordinance (overall amendment) shall become effective ten (l0) days after the date of enactment, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, however, the effective date of any individual plan amendment included within the overall amendment shall be in accordance with the following language which is included at the request of the Florida Department of Community Affairs without any admission by Miami-Dade County of the authority of the Department of Community Affairs or any other governmental entity to request or require such language: "The effective date of any [individual] plan amendment approved by this ordinance [and included within the overall amendment] shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the [individual] amendment in compliance in accordance with Section 163.3184(1)(b), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on such [individual] amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this [individual] amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be filed with the Clerk of the Board and sent to the Department of Community Affairs, Division of Resource Planning and Management, Plan Processing Team. The Department's notice of intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed."

PASSED AND ADOPTED: **May 6, 2009**

Approved by County Attorney as
to form and legal sufficiency.

Prepared by:
Joni Armstrong Coffey

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: May 6, 2009

Substitute
Special Item No. 1B

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

From: George M. Burgess
County Manager

Ordinance No. 09-29

Subject: Ordinance Nos. 1A and 1B Acting Upon Pending April 2008 Cycle Applications to Amend the Comprehensive Development Master Plan; (DCA No. 09-1)

These Substitute Items differ from the original item (legistar no. 083145) in that they comply with the new rule change regarding substitutes and alternates as provided in Ordinance #09-13, adopted on March 3, 2009. In addition, they differ from the original as follows:

- **The preamble of the Ordinances reflect the actions taken by the Board of County Commissioners (Board) at its "transmittal" public hearing on November 6, 2008, and the receipt of the Objections, Recommendations and Comments (ORC) from the Florida Department of Community Affairs (DCA), by letter dated March 13, 2009;**

- **The two substitute ordinances do not contain the following April 2008 Cycle CDMP amendment applications:**
  - **Application Nos. 1, 14 and 16 which were withdrawn by DP&Z at or prior to the Board's "transmittal" hearing;**
  - **Application No. 17 which was withdrawn by DP&Z at the PAB's final public hearing on April 6, 2009;**
  - **Application Nos. 2, 3 and 5 which were previously adopted as small-scale amendments;**
  - **Application No. 4 which was adopted as a small-scale amendment, however, the amendment is not yet in effect; and**
  - **Application No. 12 (CIE update) which was adopted.**

  Therefore, these two substitute ordinances are limited to the disposition of Application Nos. 6 through 11, 13, 15, and 18 through 20;

- **The two substitute ordinances group the applications as follows:**
  - **Special Item No. 1A (Applications Nos. 6 and 7 which are the Aviation Department's Applications; Application No. 8 which is the "Fontainebleau Lakes" application; Application No. 9 which is the "Blue Lake Partners" application originally known as "Gold River Corp."; Application No. 10 which is the "Manuel Diaz and Live Oak Partners" application; and Application Nos. 13, 18, 19 and 20 which are Staff's applications);**
  - **Special Item No. 1B (Application No. 11 which is the "Builders Association of South Florida" application; and Application No. 15 which is Staff's application).**

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinances~~, (Special Item No. 4)~~ (Substitute Special Item Nos. 1A and 1B), which provide for the Commission to adopt, adopt with change, not adopt, or deny the pending April 2008 Cycle of applications to amend the Comprehensive Development Master Plan (CDMP). ~~It is recommended that first reading occur at the conclusion of the CDMP public hearing scheduled for Tuesday, November 6, 2008, to address transmittal of the referenced applications to the Florida Department of Community Affairs (DCA) for review and issuance of Objections, Recommendations and Comments (ORC) report. It is further recommended that final action be taken on the ordinance at the conclusion of the public hearing that will be scheduled for April 2009.~~

~~Please be aware that Section 163.3177(12)(j), Florida Statutes (F.S.) precludes local governments from adopting amendments that increase residential density until a public school facilities element has been adopted. Thus, the Florida Department of Community Affairs (DCA) may find the land use amendments increasing residential density invalid until an amendment to the CDMP, and an Interlocal Agreement with the School Board of Miami-Dade County and the municipalities in Miami-Dade County establishing a public school concurrency program have been adopted as required by Section 163.3177(12)(j), F.S. Accordingly, DCA will not conduct a compliance review or issue a notice of intent on an ordinance containing such land use amendments. This finding may be made by DCA even with a delayed effective date clause pending school concurrency in the ordinance.~~

It is recommended that final actions be taken on the corresponding ordinances for these pending applications at the conclusion of the public hearing scheduled to begin at 9:30 AM on Wednesday, May 6, 2009. Each ordinance follows the same format used in previous CDMP amendment cycles. That is, it contains blank spaces to record your action on each request contained in each application. After the Board adopts individual entries indicating its action on each application, the Board will take action adopting each Ordinance in its entirety, incorporating the foregoing entries.

Scope

The CDMP is a broad-based countywide policy-planning document to guide future growth and development to ensure adequate provision of facilities and services for existing and future populations, and to maintain or improve the quality of the natural and man-made environment. While the adopted text of the CDMP generally applies countywide, individual, site-specific Land Use Plan (LUP) map amendment applications may have localized impact on one or more Commission Districts. ~~Application Nos. 1 are~~ and ~~2 are located within Commission District 1 (Commissioner Jordan). Application Nos. 3 and 4 are located within Commission District 2 (Commissioner Rolle).~~ Application Nos. ~~5,~~ 6 and 7 are located within Commission District 12 (Commissioner Diaz); Application Nos. 8 and 9 ~~10~~ are located within Commission District 10 (Commissioner Souto); Application No. 10 is located within Commission District 8 (Commissioner Sorenson); and Application Nos. 11, 13, 15, and 18 through 20 are Countywide.

Fiscal Impact/Funding Source

Fiscal impact means the cost to the County of implementing the activities or actions that would be incurred after approval of the ordinance. The proposed ordinances acting on the pending April 2008 Cycle of applications to amend the CDMP will have some fiscal impacts on Miami-Dade County. Ordinance 94-238 requires a statement of fiscal impact on all activities and actions resulting from approval of an ordinance. In addition, Ordinance 01-163 requires the review procedures for amendments to the CDMP to include, for any proposed land use change, a written evaluation of the estimated incremental and cumulative impact on Miami-Dade County for bringing such infrastructure to the area as well as the costs of operating it annually. Details of the fiscal impacts of each ~~Land Use Plan map~~ application can be found in Appendix E at the end of each review of a LUP map application in the document titled "Initial Recommendations April 2008 Applications To Amend The Comprehensive Development Master Plan," dated August 25, 2008."

Based on the information provided by service agencies, the fiscal impacts of the proposed land use changes vary based on the type of request and location. The proposals involving non-residential development impact fewer services than the proposals for residential development. For example, the Miami-Dade County Public Schools Board limits its impact reviews to the proposals for residential development or those that may allow residential development. Of the ~~proposed ten (10)~~ pending five (5) CDMP land use amendment applications, only Application ~~No.~~ Nos. ~~1, 8 and~~ 10 will have a fiscal impact on the Miami-Dade County Public Schools System. Projected annual operating costs as a result of Application No. 10 are $1,958,151.

~~Application No. 1 will have the most significant fiscal costs for schools, water and sewer facilities and roads. If the original 165.8 acres were developed at maximum residential development, the capital costs for schools would be $24,705,633. If the application site is reduced to 48 acres as recommended by staff and is developed at maximum residential development, the capital costs for schools would be $6,082,596. This application if developed as originally proposed, the costs for constructing water and sewer facilities would be $1,094,427 and the annual operating costs would be $559,424. Application No. 6 would require almost as much ($1,025,308) for constructing water and sewer facilities. Any development on the site of Application No. 1 would require in the short-term an estimated $20,597,585 (excluding right-a-of-way acquisition costs) for widening segments of NW 47 Avenue (NW 215 Street and NW 183 Street) and NW 202 Street (NW 57 Avenue to NW 67 Avenue) to four lanes.~~

The Miami-Dade Water and Sewer Department (WASD) estimated the fiscal impacts for providing public water and sewer. WASD has determined for each application site the impact and connection fees as well as annual operations and maintenance costs. Of the pending 2008 Cycle of Applications, the application that generates the most fiscal impacts for water and sewer service is Application No. 10, which will result in annual operating and maintenance costs of $90,152. The cost estimate for water and sewer infrastructure improvements in public right-of-way from Application No. 10 totals $330,994.

Housing Impact

Of the ~~ten (10) proposed~~ five (5) pending April 2008 Cycle of applications to amend the Land Use Plan (LUP) map in unincorporated areas of Miami-Dade County, ~~five (5) (three small-scale and two standard)~~ two (2) applications could impact the supply of housing. These applications

have the potential to reduce or increase the County's housing supply, based upon the current land use designation of the application sites, the requested re-designation, and voluntary restrictions on ~~density~~ residential development. ~~The applications adding to the supply of housing are Application No. 1 (385 net units on the original 165.8-acre site or 156 net units on the recommended 48-acre site) and Application No. 4 (100 net units).~~ No LUP map applications from the pending April 2008 Cycle of amendments would increase the housing supply. The applications decreasing the supply of housing are ~~Application No. 2 (33 net units),~~ Application No. 8 (net ~~467~~ 352 units) and Application No. 9 (533 net units). Based on the fact that the yearly estimate by the DP&Z of the housing demand is ~~14,155~~ 12,161 units, the cumulative reduction of ~~548~~ 885 units from the pending LUP map amendments, will be a loss to the supply of housing.

Track Record/Monitor

CDMP Amendments do not involve contracts so a Track Record/Monitor is not applicable.

Background

~~The attached ordinance provides for action on the April 2008 Cycle applications requesting standard amendments to the CDMP (Application Nos. 1, 6 through 11, 13, 15, 17 through 20), and provides for final action on any of the four small-scale amendments (Application Nos. 2, 3, 4 and 5), on which final action is not taken at the scheduled November 6, 2008 public hearing and which the Board elects to transmit to DCA for further review. Application No. 12 (updates to the schedules of improvements in the Capital Improvement Element) is being addressed in another ordinance (Special Item No. 2). Application Nos. 14 and 16 were lawfully withdrawn.~~

~~A resolution accompanying this ordinance requests a review and issuance of an ORC report by DCA on all transmitted applications. It is estimated that DCA's ORC report on the applications will be returned to the County in February 2009. The County is required to take final action on transmitted applications within 60 days after receipt of the ORC report. The Department of Planning and Zoning (DP&Z) may issue revised recommendations, and the Planning Advisory Board (PAB) acting as the Local Planning Agency (LPA) may conduct a second public hearing and may issue revised recommendations between the time DCA issues its ORC report and the Board conducts its final hearing. By approving this ordinance on first reading, the Board is in a position to conduct a public hearing and take final action on the applications after receipt of ORC report from DCA.~~

The two attached ordinances provide for final actions on the eleven (11) pending April 2008 Cycle of applications requesting amendments to the CDMP (Application Nos. 6 through 11, 13, 15, and 18 through 20). These applications were transmitted to DCA for review and comment. The Board's previous actions on these applications at the November 6, 2008 public hearing were the following: Application No. 6: "ADOPT with Acceptance of Proffered Covenant and TRANSMIT"; Application No. 7: "ADOPT with Acceptance of Proffered Covenant and TRANSMIT"; Application No. 8: "ADOPT with CHANGE (*as provided by the applicant*) and with Acceptance of Two Proffered Covenants and TRANSMIT"; Application Nos. 9 and 10: "ADOPT with Acceptance of Proffered Covenant and TRANSMIT"; Application Nos. 11 and 13: "ADOPT with CHANGES and TRANSMIT"; Application Nos. 15 and 17: "ADOPT and TRANSMIT"; Application No. 18: "ADOPT with Further CHANGES and TRANSMIT"; Application No. 19:

"ADOPT with CHANGE and TRANSMIT"; and Application No. 20: "ADOPT and TRANSMIT." A "Matrix" updated April 6, 2009 summarizing the previous recommendations of the DP&Z, affected Community Councils, PAB and BCC, and the revised recommendations of the DP&Z and PAB is enclosed at the end of this memo.

DCA coordinated the State agency consistency reviews on the transmitted applications at the request of Miami-Dade County. The issues identified in the Objections, Recommendations and Comments (ORC) report from DCA dated March 13, 2009 include: "lack of need for commercial uses" for Application Nos. 8 and 9; "insufficient road capacity" for Application No. 9; "lack of required data and analysis" for Application No. 11; and "inconsistent with the Public Schools Facilities Element" for Application Nos. 11 and 15. DCA objected to each of these four applications based on these issues.

Attached you will find the Department of Planning and Zoning's (DP&Z) Memorandum, dated March 27, 2009, addressing the pending 12 applications of the April 2008-09 Cycle of amendments. That memo summarizes the pending applications as transmitted to DCA and presents the DP&Z's revised recommendations and principal reasons for the revised recommendations. Attached you will also find DP&Z's response to the ORC report, dated March 27, 2009.

Revised Recommendations
DP&Z's revised recommendations for Application Nos. 6 and 7 is to "ADOPT As Transmitted With Additional Changes" by re-designating these parcels to "Terminals" instead of "Business and Office" on the Adopted Land Use Plan map; for Application Nos. 8, 9 and 11 to "DENY"; for Application No. 10 "ADOPT with Acceptance of Proffered Covenant"; and for Application Nos. 13, 15, and 18 through 20 "ADOPT As Transmitted."

The Planning Advisory Board (PAB) acting as the Local Planning Agency (LPA) conducted its final public hearing on the pending amendments on April 6, 2009 and issued the following recommendations: for Application Nos. 6 and 7 "ADOPT with Change as Recommended by Staff"; for Application No. 8 "ADOPT as Transmitted to DCA with Acceptance of Two Proffered Covenants"; for Application Nos. 9 and 10 "ADOPT With Acceptance of Proffered Covenant"; for Application Nos. 18, 19 and 20 "ADOPT as Transmitted to DCA"; for Application No. 11 "No Recommendation"; for Application No. 13 "ADOPT The Original Application"; and for Application No. 15 "ADOPT Subject To Being in Compliance with Section 163.3177(12)(j), F.S.". The DP&Z withdrew Application No. 17 at the PAB final public hearing on April 6, 2009.

The PAB recommendations are contained in the attached PAB resolution, the meeting minutes dated April 6, 2009 and the Matrix attached at the end of this memo.

Attachments

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: May 6, 2009

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

SUBJECT: Substitute Special Item No. 1B

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

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

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

✓ **No committee review**

b

Approved _____ Mayor
Veto _____
Override _____

Substitute
Special Item No. 1B
5-6-09

ORDINANCE NO. 09-29

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING DISPOSITION OF APPLICATION NOS. 11 AND 15 FILED IN APRIL 2008 CYCLE TO AMEND, MODIFY, ADD TO OR CHANGE COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

WHEREAS, the Board of County Commissioners (Board) has provided a procedure (codified as Section 2-116.1 of the Code of Miami-Dade County, Florida) to amend, modify, add to or change the Miami-Dade County Comprehensive Development Master Plan (CDMP); and

WHEREAS, Miami-Dade County's procedures reflect and comply with the procedures for adopting or amending local comprehensive plans as set forth in Section 163, Part II, Florida Statutes; and

WHEREAS, 18 CDMP amendment applications were filed on or before April 30, 2008 and are contained in the document titled "April 2008 Applications to Amend the Comprehensive Development Master Plan" dated June 5, 2008; and

WHEREAS, two (2) additional staff CDMP amendment applications were filed prior to the production of the "Initial Recommendations April 2008 Applications to Amend the Comprehensive Development Master Plan", dated August 25, 2008, bringing the total number of applications filed in the April 2008 cycle CDMP amendments to 20; and

WHEREAS, of the 20 amendment applications, six (6) Land Use Plan (LUP) map (Application Nos. 2 to 4 and 8 to 10) and one (1) text (Application No. 11) amendments were privately filed, three (3) LUP map amendments (Application Nos. 5 to 7) were filed by the Aviation Department, and one LUP map (Application No. 1) and 9 (nine) text (Application No Nos. amendments (Application Nos. 12 to 20) amendments were filed by the Department of Planning and Zoning (DP&Z); and

WHEREAS, the DP&Z published its initial recommendations addressing the referenced Applications in the report titled "Initial Recommendations April 2008 Applications to Amend the Comprehensive Development Master Plan" dated August 25, 2008; and

WHEREAS, Application Nos. 14 and 16 were lawfully withdrawn by DP&Z; and

WHEREAS, the affected Community Councils, Planning Advisory Board (PAB), and DP&Z have acted in accordance with the referenced State and County procedures and have accepted applications, held public hearings and transmitted recommendations for the disposition of such applications to this Board; and

WHEREAS, on November 6, 2008, this Board, by Resolution, instructed the County Manager to transmit certain applications to the Florida Department of Community Affairs (DCA) pursuant to Section 163.3184(3), F.S.; and

WHEREAS, Application No. 1 was withdrawn by the applicant at the Board's public hearing on November 6, 2008; and

WHEREAS, on November 6, 2008, the Board voted to adopt small-scale amendment Application Nos. 2, 3, 4 and 5 with acceptance of proffered covenant, to transmit with intent to adopt Application Nos. 6, 7, 9 and 10 with acceptance of proffered covenant; to transmit with intent to adopt Application No. 8 with changes as provided by the applicant and with acceptance of two proffered covenants; to transmit with intent to adopt Application No. 11 with changes as provided by the applicant; to transmit with intent to adopt Application Nos. 13 and 19 with staff changes; to transmit with intent to adopt Application Nos. 15, 17, and 20; and to transmit with intent to adopt Application No. 18 with further staff changes to the Florida Department of Community Affairs (DCA) for review and comment; and

WHEREAS, on November 20, 2008, the Board voted to adopt Application No. 12 that updated the Capital Improvements Element; and

WHEREAS, DCA reviewed the proposed applications at the request of this Board and has issued its Objections, Recommendations and Comments (ORC) report pursuant to Section 163.3184 (6)(c), F.S.; and

WHEREAS, DP&Z has subsequently published its revised recommendations addressing the transmitted amendment applications in a memorandum dated March 27, 2009; and

WHEREAS, DP&Z has subsequently published a response to the ORC report dated March 27, 2009; and

WHEREAS, Application No. 17 was withdrawn by DP&Z at the PAB's final public hearing on April 6, 2009; and

WHEREAS, Application No. 11 was withdrawn by the Board's public hearing on May 6, 2009; and

WHEREAS, the Board must take final action to Adopt, Adopt With Change or Deny amendment applications not later than sixty (60) days after receipt of written Objections, Recommendations and Comments (ORC) report from DCA addressing the application(s); and

WHEREAS, the Board must take final action specifically on Application Nos. 11 and 15, which are the subjects of this Ordinance; and

WHEREAS, all existing lawful uses and zoning in effect prior to a CDMP amendment are deemed to remain consistent with the CDMP as amended unless the Board, in conjunction with a particular zoning action, finds such pre-existing zoning or uses to be inconsistent with the CDMP based upon a planning study addressing the criteria set forth in the CDMP; and

WHEREAS, the approval of an amendment to the CDMP does not assure favorable action upon any application for zoning or other land use approval but is part of the overall land use policies of the County; and

WHEREAS, any application for zoning or other land use approval involves the application of the County's overall land use policies to the particular request under consideration; and

WHEREAS, the County's overall land use policies include, but are not limited to, the CDMP in its entirety and the County's land development regulations; and

WHEREAS, this Board has conducted the public hearings required by the referenced procedures preparatory to enactment of this ordinance,

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

Section 1. All matters set forth in the preamble are found to be true and are hereby incorporated by reference as if set forth verbatim and adopted.

Section 2. This Board hereby desires to take further action on the pending amendment applications filed for review during the April 2008 cycle for amendments, modifications, additions, or changes to the Miami-Dade County CDMP as follows:

Application Number	Applicant/Representative Location (Size) Requested Amendments To The CDMP Land Use Plan Map	Final Commission Action
11	Builders Association of South Florida/Jeffrey Bercow, Esq. & Graham Penn, Esq. EDUCATION ELEMENT Revise Policy EDU-2C as presented in the replacement pages for the 2007 Special Amendment.	Acceptance of Withdrawal
15	Miami-Dade County Department of Planning & Zoning/ Subrata Basu, AIA, AICP, Interim Director LAND USE ELEMENT Revise the text of the "Gross Residential Density" section and add a new section titled "Density Bonus Programs for Affordable Housing" after the section titled "Density Increase with Urban Design."	Adopt

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected thereby. If any application or portion of an application is found to be not in compliance pursuant to Section 163.3184, F.S., the remainder of the application subject to such a finding, and the remaining applications adopted by this ordinance shall not be affected thereby.

Section 4. It is the intention of the Board, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Miami-Dade County, Florida.

Section 5. This ordinance (overall amendment) 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, however, the effective date of any individual plan amendment included within the overall amendment shall be in accordance with the following language which is included at the request of the Florida Department of Community Affairs without any admission by Miami-Dade County of the authority of the Department of Community Affairs or any other governmental entity to request or require such language: "The effective date of any [individual] plan amendment approved by this ordinance [and included within the overall amendment] shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the [individual] amendment in compliance in accordance with Section 163.3184(1)(b), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on such [individual] amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this [individual] amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be filed with the Clerk of the Board and sent to the Department of Community Affairs, Division of Resource Planning and Management, Plan Processing Team. The Department's notice of intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed." It is further provided that this ordinance shall not take effect until an amendment to the Comprehensive Development Master Plan and an Interlocal Agreement with the School Board of Miami-Dade County and the municipalities in Miami-Dade County establishing a public school concurrency program have been adopted and transmitted to the Florida Department of Community Affairs as required by Section 163.3177(12)(j), Florida Statutes.

PASSED AND ADOPTED: **May 6, 2009**

Approved by County Attorney as
to form and legal sufficiency.

Prepared by:

Joni Armstrong Coffey

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(D)

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

DATE: May 5, 2009

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

SUBJECT: Ordinance pertaining to Airport Zoning Regulations; amending Section 33-363.1 pertaining to the Uses permitted on Opa-locka Airport Lands; Creating Section 33-363.2 Site Plan Review

Ordinance No. 09-33

The accompanying ordinance was prepared and placed on the agenda at the request of Co-Sponsor Commissioner Barbara J. Jordan.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: May 5, 2009

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

From: George M. Burgess
County Manager

Subject: Ordinance Pertaining to Airport Zoning Regulations; Amending Section 33-363.1 Pertaining to the Uses Permitted on Opa-Locka Airport Lands; Creating Section 33-363.2 Site Plan Review

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This Substitute Item #2 differs from the original item (legistar no. 083241), as follows:

- **References to "airside" and "landside" were deleted in order to reflect terms used in the CDMP.**
- **The permitted uses are now categorized as "aviation uses," "aviation-related uses," and "non-aviation uses" reflecting the CDMP.**
- **Additional types of aviation maintenance facilities were added to the list of aviation uses.**
- **In the portion of the airport where general public access is not restricted additional aviation uses and aviation-related uses have been added – i.e. storage and aircraft maintenance.**
- **Office and retail buildings are now required to comply with the standards of the BU-2 zoning district instead of the BU-1A.**
- **A new Opa-Locka Executive Airport Development Zone Map containing the three development zones where non-aviation uses may be developed is included.**
- **A list of generic uses permitted with their respective range of acreage is provided for each of the development zones.**

- **Incorporates all the additions and deletions of the body of the Ordinance with underscores and double arrows.**
- **Substitute No. 2 differs from Substitute No. 1 in that it complies with the new rule change regarding substitutes and alternates as provided in Ordinance #09-13 adopted on March 3, 2009.**

Recommendation

It is recommended that the Board adopt the attached ordinance pertaining to zoning amending Section 33-363.1 pertaining to uses permitted on Opa-Locka airport lands and creating Section33-363.2 site plan review standards.

Scope
The item shall affect Commission District 1 as it pertains to the Opa-Locka Airport and Commission District 13 adjacent to the western portion of Opa-Locka Airport at N.W. 57th Avenue.

Fiscal Impact/Funding Source
The proposed ordinance creates a positive fiscal impact to Miami-Dade County in that it revises regulations to permit additional private third party leasehold development within the boundaries of the Opa-Locka Airport.

Track Record/Monitor
Not applicable.

Background
The proposed ordinance amends the Zoning Code to allow additional third party leasehold development on Opa-Locka airport lands where consistent with the CDMP. The ordinance revises the regulatory criteria in order to provide for development standards for the different types of uses within the GP Zoning District designation. Additionally, development shall be subject to site plan review approvals.

Attachments

Alex Muñoz
Assistant County Manager

MEMORANDUM
(Revised)

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

DATE: May 5, 2009

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

SUBJECT: Agenda Item No. 7(D)

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

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

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

_____ **No committee review**

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 7(D)

5-5-09

ORDINANCE NO. 09-33

ORDINANCE PERTAINING TO AIRPORT ZONING REGULATIONS; AMENDING SECTION 33-363.1 OF THE CODE OF MIAMI-DADE COUNTY PERTAINING TO USES PERMITTED ON OPA-LOCKA AIRPORT LANDS IN THE GP GOVERNMENT PROPERTY ZONING DISTRICT; CREATING SECTION 33-363.2 PERTAINING TO SITE PLAN REVIEW STANDARDS; PROVIDING FOR DEVELOPMENT CRITERIA; 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 33-363.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-363.1. Uses permitted on Opa-locka Airport lands in the GP Governmental Property zoning district.

The following public airport uses shall be permitted on those lands at Opa-locka Airport zoning area that are in the GP Governmental Property zoning district, provided that such uses comply with the requirements of the Future Aviation Facilities Section of the Aviation Subelement, are compatible with and not disruptive of airport operations occurring on such lands, and comply with all applicable regulations of the Federal Aviation Administration and other applicable law.

(1) The [[~~airside~~]] portion of the airport >>designated in the Comprehensive Development Master Plan for aviation uses<<, [[~~which~~]] shall be deemed to consist of all portions of the airport where general public access is restricted (but not including terminal concourses), >>and<< shall be limited to aviation uses, including but not limited to airfield uses such as runways, taxiways, aprons, clear zones, landing areas, and support and maintenance facilities such as control towers, flight service stations, access roads, fire stations, >>storage and aircraft maintenance and repair facilities and hangars, aircraft and aircraft parts manufacturing and storage, fixed base operators, air cargo operations, specialized aircraft service operations,<< and fuel farms. Where not

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

5

otherwise prohibited by law, open space and interim or existing agricultural uses and zoning may also be permitted in the [[~~airside portion~~]] >>portions of these airports designated for aviation use<<, subject to such conditions and requirements as may be imposed to ensure public health and safety.

(2) The [[~~landside~~]] portion of the airport >>designated in the Comprehensive Development Master Plan for aviation-related and non-aviation uses<<, [[~~which~~]] shall be deemed to consist of all portions of the airport where general public access is not restricted [[~~and also terminal concourses~~]], >>and may be developed with aviation uses, aviation-related uses and non-aviation uses<< [[~~may include both aviation uses and non-aviation uses~~]] that are compatible with airport operations and consistent with applicable law. [[~~At least 30% of the land area in the landside portion]] must be developed with aviation-related uses or uses that directly support airport operations~~]].

(a) Aviation uses where general public access is allowed may include existing uses and the following or substantially similar uses:

* * *

12. Aviation-related entertainment uses such as museums and sightseeing services, ~~and~~

13. Aviation-related retail uses such as general aviation aircraft sales, electronic and instrument sales and pilot stores[[~~.~~]]>>,<<

>>14. Storage and aircraft maintenance and repair facilities and hangars,

15. Aircraft and aircraft parts manufacturing and storage,

16. Air cargo operations, and

17. Specialized aircraft service operations.

(b) Aviation-related uses, which shall include, but not be limited to, manufacturing, storage, office, service or similar uses ancillary to or supportive of aviation uses may be approved in the aviation-related and non-aviation areas of the airport.<<

[[~~(b)~~]]>>(c)<< Subject to the restrictions contained herein, the following [[~~privately owned~~]] non-aviation[[~~-related~~]] uses may be approved in the [[~~landside area~~]] >>aviation-related and non-aviation areas<< of the Opa-locka Airport [[~~accessible to the general public~~]]:

1. lodgings such as hotels and motels [[~~(except in terminal concourses)~~]],

* * *

5. retail, restaurants, and personal service establishments.

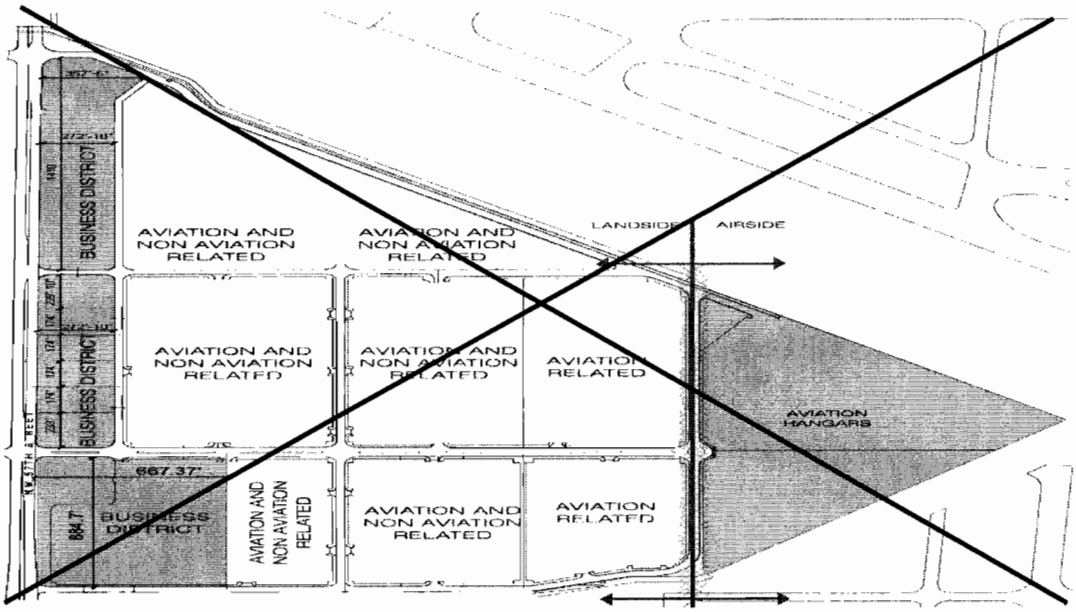
Such [[~~privately owned~~]] non-aviation [[~~related~~]] uses shall be limited as follows:

[[~~Those portions of the that are not developed for uses that are aviation-related or directly supportive of airport operations shall range from 50 to 85 percent for industrial uses, 5 to 25 percent for commercial uses, 5 to 25 percent for office uses, 0 to 10 percent for hotels and motels, and 0 to 20 percent for institutional uses.~~]] The distribution, range, intensity and types of such non-aviation [[~~related~~]] uses shall vary by location as a function of the availability of public services, height restrictions, Comprehensive Development Master Plan (CDMP) intensity ceiling for the Urban Infill Area (FAR of 2.0 not counting parking structures) [[~~or the Urbanizing Area (FAR of 1.5 not counting parking structures) involved~~]], impact on roadways, access and compatibility with neighboring development. Freestanding retail uses and shopping centers shall front on major access roads preferably near major intersections, where [[~~practicable~~]] >>practical<<, and have limited access to major roadways.

Each non-aviation use shall comply with applicable law, including but not limited to FAA regulations and [[any]] >>the current<< airport layout plan >>on file with the Miami-Dade County Aviation Department<< governing permissible uses on the entire airport property. Warehouses, storage showrooms, printing shops and any other industrial use [[~~permitted in those portions of the airport designated for non-aviation related uses~~]] shall be subject to the site development standards of the IU-1 zoning district. Office buildings, retail sales, >>hotels and motels,<< restaurants, personal service establishments, and any other [[~~business use permitted in those portions of the airport designated for non-aviation related~~]] >>similar<< uses, shall be subject to the [[~~site development requirements of the BU-1A~~]] >>standards of the BU-2<< district. >>Agricultural uses shall be subject to the site development standards of the AU district.<< All development shall comply with the off-street parking regulations of Chapter 33, and with Chapter 18A (Landscaping). All non-aviation uses shall be subject to the site plan review standards of Section 33-363.2 of this code.

[[~~The landside non-aviation uses provided for in subsections 1 through 5 above shall be allowed in the "Aviation and Non-Aviation Related" areas depicted in the map entitled Opa-Locka Airport Business District and Landside Aviation and Non-Aviation Related Areas Map ("the Opa-Locka Use Map"), as set forth below. Additionally, subsection 2 and 5 uses above (office~~

~~buildings, retail stores, restaurants, and personal service establishments) shall be allowed in the "Business District" depicted in the Opa-Locka Use Map, subject to the site development requirements contained in Chapter 33, Article XXV, BU-1A (Limited Business District). Development in both areas shall be governed by Chapter 18A (Landscaping) and Chapter 33, Article VII (Off-Street Parking), of this code.~~]]



[[~~Opa-Locka Airport Business District and Landside Aviation and Non-Aviation Related Areas Map~~]]

>>(3) The airport shall consist of three development zones as depicted on the Opa-locka Executive Airport Development Zone Map where non-aviation uses may be developed. The minimum and maximum land area devoted to non-aviation uses within each development zone shall be limited as follows. The location and intensity of non-aviation uses within each development zone shall further be limited by the Comprehensive Development Master Plan's Airport Land Use Master Plan map and interpretive text.

(a) Zone One (153.4 Acres)

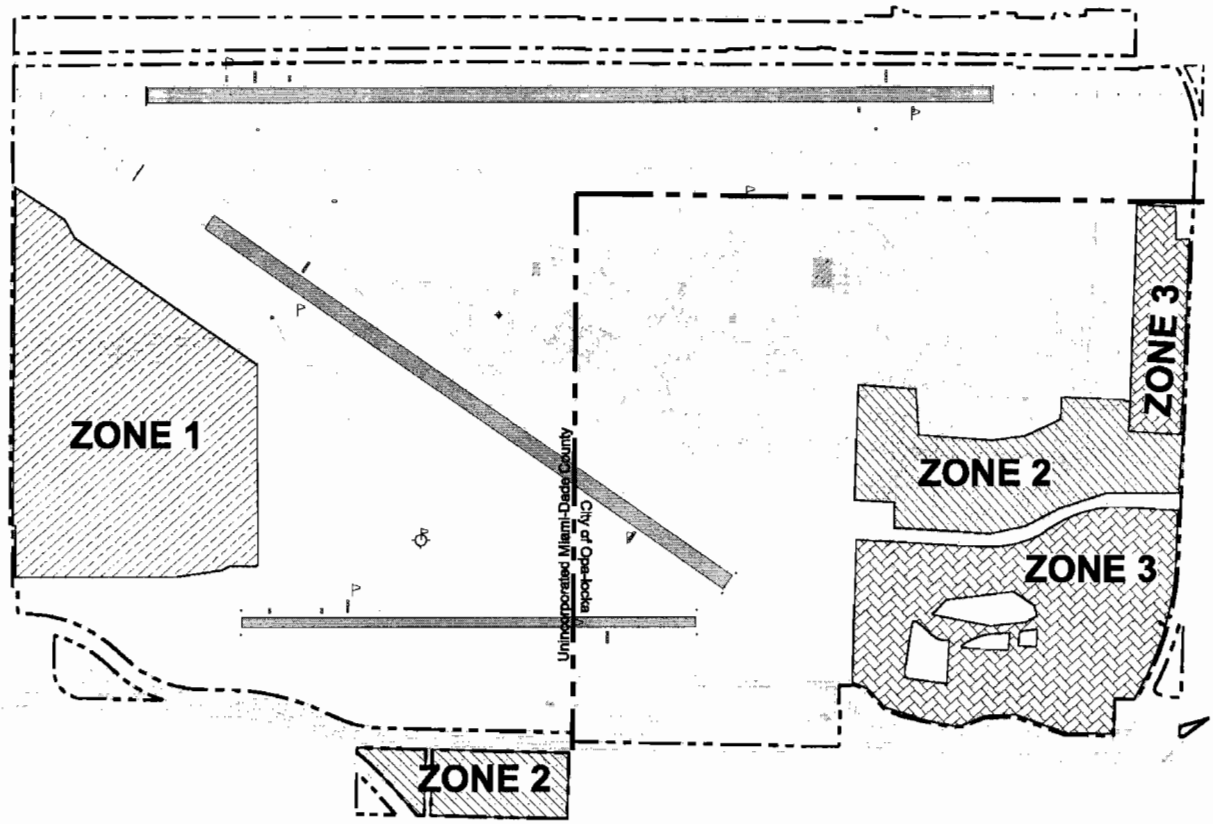
	Minimum (acres)	Maximum (acres)
Commercial	7.7	38.4
Office	7.7	38.4
Hotel or Motel	0	15.3
Institutional	0	30.7
Industrial	76.7	130.4

(b) Zone Two (87.7 acres)

	Minimum (acres)	Maximum (acres)
Commercial	4.4	21.9
Office	4.4	21.9
Hotel or Motel	0	8.8
Institutional	0	17.5
Industrial	43.9	74.5

(c) Zone Three (132 Acres)

	Minimum (acres)	Maximum (acres)
Commercial	6.6	33.0
Office	6.6	33.0
Hotel or Motel	0	13.2
Institutional	0	26.4
Industrial	66	112.2



Opa-locka Executive Airport Development Zone Map<<

Section 2. Section 33-363.2 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

Sec. 33-363.2. Site plan review.

(A) For all non-aviation uses, 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. Notwithstanding the provisions of 33-314, if the site is located within unincorporated or incorporated Miami-Dade County and if the plan is disapproved, the applicant may appeal to the Board of County Commissioners. Appeals by the applicant shall be filed within thirty (30) days of the date the project was denied.

(B) *Required exhibits.* The following exhibits shall be prepared by design professionals such as architects and landscape architects and submitted to the Department:

(1) Dimensioned site plan(s) indicating, as a minimum, the following information:

(a) Existing zoning on the site and on adjacent properties.

(b) The basic use, height, bulk and location of all buildings and other structures with setbacks.

(c) Vehicular and pedestrian circulation systems including connection(s) to existing or proposed roadway and sidewalk system and the layout of parking, service and loading areas.

(d) Graphics and/or notations indicating the site planning or structure design methods used to minimize the impact of those industrial activities that could have a negative impact on existing or proposed adjacent land uses.

(e) Sketches of design elements to be used for buffering surrounding uses.

(2) Elevation of the proposed buildings and other major design elements.

(3) Landscape plans: Landscaping and trees shall be provided in accordance with Chapter 18A of this Code.

(4) Figures indicating the following:

(a) Proposed uses.

(b) Gross floor area: _____ square feet

(c) Land area:
Gross lot area: _____ square feet _____ acres
Net lot area: _____ square feet _____ acres

(d) Landscaped open space:
Required: _____ square feet _____ % of net land area
Provided: _____ square feet _____ % of net land area

(e) Tree Required: _____ Trees Provided: _____

(f) Off-street parking spaces: Required:_____
Provided:_____

(C) *Criteria.* The following shall be considered in the plan review process:

(1) *Planning studies:* Planning studies approved by the Board of County Commissioners that include development patterns or environmental and other design criteria shall be considered in the plan review process.

(2) *Landscape:* Landscape shall be preserved in its natural state insofar as is practicable by minimizing removal of existing vegetation. Landscape shall be used to shade and cool, enhance architectural features, relate structure design to the site, visually screen noncompatible uses, and ameliorate the impact of noise.

(3) *Compatibility:* The architectural design and scale of the proposed structures shall be compatible with surrounding existing or proposed uses or shall be made compatible by the use of screening elements. Screening elements can include such devices as trees and shrubs, walls and fencing, berming or any combination of these elements. Visual buffering shall be provided between parking and service areas and adjacent non-commercial uses.

(4) *Emergency access:* Unobstructed on-site access for emergency equipment shall be considered.

(5) *Circulation:* Internal vehicular and pedestrian circulation systems shall be designed to function with existing and/or approved systems outside the development. Vehicular traffic generated from the industrial activity should be routed in such a manner as to minimize impact on residential development.

(6) *Energy conservation:* Applicants are advised to consider requirements of Florida Statutes Chapter 553 (Energy Code).

(7) *Visual screening for decorative walls:* In an effort to prevent graffiti vandalism, the following options shall be utilized for walls abutting zoned or dedicated rights-of-way:

(a) *Wall with landscaping.* The wall shall be setback two and one-half (2 1/2) feet from the right-of-way line and the resulting setback area shall contain a continuous extensively landscaped buffer which must be maintained in a good healthy condition by the property owner, or where applicable, by the condominium, homeowners or similar association. The landscape buffer shall contain one (1) or more of the following planting materials:

(1) *Shrubs.* Shrubs shall be a minimum of three (3) feet in height when measured immediately after planting and shall be planted and maintained to form a continuous, unbroken, solid, visual screen within one (1) year after time of planting.

(2) *Hedges.* Hedges shall be a minimum of three (3) feet in height when measured immediately after planting and shall be planted and maintained to form a continuous, unbroken, solid, visual screen within one (1) year after time of planting.

(3) *Vines.* Climbing vines shall be a minimum of thirty-six (36) inches in height immediately after planting.

(b) *Metal picket fence.* Where a metal picket fence abutting a zoned or dedicated right-of-way is constructed in lieu of a decorative wall, landscaping shall not be required.

Section 3. 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 4. 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 5. 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: **May 5, 2009**

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

Prepared by: CHC for JAC

Joni Armstrong Coffey

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item: 7(D)

File Number: 091096

Committee(s) of Reference: Board of County Commissioners

Date of Analysis: April 23, 2009

Type of Item: Code Amendment

Commission District 1

Summary

This ordinance amends the Miami-Dade Zoning Code (Code) to permit third party leasehold development on Opa-Locka Airport lands consistent with the Comprehensive Development Master Plan (CDMP).

This ordinance revises the Opa-Locka Airport's regulatory criteria in order to do the following:

- Provide development standards for the different types of uses within the Government Property (GP) Zoning District designation; and
- Provide guidelines for the site plan review process.

In addition, this resolution incorporates all of the proposed amendments considered at the April 14, 2009 Budget, Planning and Sustainable Committee meeting under Substitute No. 1; and complies with Ordinance No. 09-13, adopted by the Board of County Commissioners (BCC) on March 3, 2009, as it relates to the rules and procedures for a substitute item to come before the BCC. This item adheres to those mandates.

Background and Relevant Legislation

The CDMP states that lands owned by the County at the Opa-Locka Executive Airport (OPF) may be developed for both airside and landside uses provided such uses comply with the CDMP requirements, are compatible with airport operations and comply with Federal Aviation Administration (FAA) regulations. The CDMP also includes limitations on the types and percentages of uses at the airport.

Ordinance 06-20

On February 7, 2006, Ordinance 06-20 was adopted by the BCC, amending the Zoning Code and creating Section 33-363.1 pertaining to OPF Airport zoning. Ordinance 06-20 removed the government only restricted use providing for certain additional public airport uses in the GP Zoning District at OPF.

According to the February 7, 2008, General Aviation Airports Development Status Memorandum (Memo) provided by the County Manager, Miami-Dade Aviation Department (MDAD) has entered into three major long-term third-party development leases for mixed-use developments of both aviation and non-aviation uses at OPF. They are with J.P. Aviation Investments, AA Acquisitions, LLC., and AVE, LLC.

In addition, on July 10, 2008, BCC approved the development lease agreement between the County and The Carrie Meek Foundation, Inc. bringing the total number of major long-term third party development leases to four.

Policy Change and Implication

This ordinance amends the Code pertaining to the uses permitted on OPF (§ 33-363.1) and creates § 33-363.2, Site Plan Review standards. The table below outlines the difference between the current Code and the proposed ordinance.

Component	Current Code § 33-363.1	Proposed Ordinance	Comments
Airside / Landside Portion of the Airport	Used throughout the Code to designate portions of the airport where aviation and/or non-aviation uses are restricted.	Deleted in order to reflect terms used in the CDMP for aviation and non-aviation uses.	New terms under the proposed ordinance include aviation uses, aviation-related uses, and non-aviation uses.
Aviation Maintenance Facilities	List of aviation uses restricted to the airside portion of the airport.	The following are added to the list of aviation uses: storage and aircraft maintenance and repair facilities and hangars, aircraft and aircraft parts manufacturing and storage, fixed base operators, air cargo operations, specialized aircraft service operations.	
General Public Assess Areas	Current list of aviation uses where general public access is allowed includes existing uses and a list of substantially similar uses.	Aviation uses and Aviation-related uses have been added – i.e. storage and aircraft maintenance.	The Proposed Substitute Ordinance removes the requirement that at least 30% of the land area in which the general public is not restricted and the terminal concourses must be developed with aviation-related uses or

Component	Current Code § 33-363.1	Proposed Ordinance	Comments
			uses that directly support airport operations. All areas of the airport where general public access in not restricted may be developed with aviation uses, aviation-related uses and non aviation uses.
Site Development Standards of the IU-1 Zoning District	Warehouses, storage, showrooms, printing shops and any other industrial use permitted in those portions of the airport designated for non-aviation related uses.	Warehouses, storage, showrooms, printing shops and any other industrial use.	Language modified. No change in zoning impact. Both provide the same uses within the IU-1 district.
Site Development Standards of the BU-1A Zoning District	Office buildings, retail sales, restaurants, personal service establishments, and any other business use permitted in those portions of the airport designated for non-aviation related uses.	Office buildings, retail sales, <u>hotel and motels</u>, restaurants, personal service establishments, and any other similar uses.	Development Standards changed from BU-1A to BU-2 Zoning District. <u>The BU-2 District allows all uses permitted in the originally proposed BU-1A zoning district and accommodates the height of the non-aviation hotel and motel uses.</u>
Opa-Locka Airport Map	The Opa-Locka Airport Business District and Landside Aviation and Non-Aviation Related Areas Map depicts aviation and non-aviation uses in the landside and airside of the airport.	A new Opa-Locka Executive Airport Development Zone Map containing three development zones where non-aviation uses may develop.	
Development	50-85% for industrial uses; 5-25% for commercial uses, 5-25% for office uses, 0-10%% for hotels and motels,	Minimum and Maximum Acreage for Commercial, Office, Hotel and motel institutions and	

Component	Current Code § 33-363.1	Proposed Ordinance	Comments
	and 0-20% for institutional uses.	industrial uses according to Development Zones.	
Lodgings such as hotels and motels	Privately owned non-aviation related uses such as hotels and motels may be approved in the general public access areas (landside), except in terminal concourses.	Privately owned non-aviation related uses modified to non-aviation uses. Terminal concourse exception removed.	
Agricultural Development Standards	Does not cover Agricultural uses.	Agricultural uses subject to the site development standards of the AU district.	

In addition, this ordinance creates § 33-363.2 of the Code, the Site Plan Review standards, providing for development criteria and requiring any development to go through the Department of Planning and Zoning (DPZ) Administrative Site Plan Review (ASPR) process. If the site plan is disapproved, the applicant may appeal to the BCC.

Budgetary Impact

According to the County Manager's memo, this ordinance creates a positive fiscal impact by revising regulation to permit additional private third party leasehold development within the boundaries of the OPF.

Along with the additional development, this resolution should generate additional revenues from applications submitted for site plan review and other developmental processes.

Prepared by: Elizabeth N. Owens

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: May 5, 2009

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

Agenda Item No. 7(F)

Ordinance No. 09-35

From: George M. Burgess
County Manager

Subject: Ordinance Revising Chapter 18A of the Code of Miami-Dade County, the Landscape Ordinance.

This Substitute Item #2 differs from the original item as follows:

- **Replaces references to "Xeriscape" landscapes with "Florida Friendly" landscapes as promoted by the State.**
- **Updates the definition of "native" plants.**
- **Keeps the native plants requirement to 30% as provided in the current code. Original item increased the native requirement to 50%.**
- **Requires that 50% of the plant material be low maintenance and drought tolerant.**
- **Revises the definition of mulch and the pertinent criteria in order to reflect Florida Friendly landscapes.**
- **Substitute No. 2 differs from Substitute No. 1 in that it complies with the new rule change regarding substitutes and alternates as provided in Ordinance #09-13 adopted on March 3, 2009.**

Recommendation
It is recommended that the Board of County Commissioners (BCC) adopt the attached ordinance revising the Miami-Dade County Landscape Ordinance to supplement outdoor water conservation measures in accordance with the Miami-Dade Water Use Efficiency Plan adopted pursuant to Resolution No. R-468-06.

Scope
This ordinance is of countywide impact.

Fiscal Impact/Funding Source
The proposed ordinance creates no fiscal impact on Miami-Dade County.

Track Record/Monitor
Not applicable.

Background
On April 25, 2006 the Board adopted Resolution R-468-06 which approves the Miami-Dade Water Use Efficiency Plan (Plan) as a part of a larger effort to improve the management of traditional water supplies while improving the efficiency of the County's current water use. The Plan outlines the County's water efficiency measures and best management practices.

The South Florida Water Management District (District) approved the Plan as a condition of the County's 20-Year Water Use Permit issued on November 15, 2007. During the first year of the Plan, WASD kicked-off its conservation efforts by implementing a series of efficiency projects. It is calculated that the total water use savings from these projects will yield a savings of 20 million gallons a day through 2026, including indoor and outdoor water use.

In addition to the implementation of the Plan, an Advisory Committee was established in 2007 at the request of the Government Operations and Environment Committee Chair with the goal of developing countywide guidelines that address water conservation issues and alternative water supplies to assist the County in meeting the conditions of the 20-Year Water Use Permit.

The Advisory Committee is comprised of several county departments including DERM, GSA, Building, Park and Recreation, Planning and Zoning, Building Compliance, Fire, Public Works, and Water and Sewer. In addition to County staff, the Advisory Committee includes representation from stakeholder groups such as the American Society of Landscape Architects, South Florida Builders Association, Sierra Club, Latin Builders Association, Tropical Audubon Society, Association of Cuban Engineers, South Florida Regional Planning Council, Farm Bureau, South Florida Water Management District and the Greater Miami Chamber of Commerce.

On June 5, 2007, the Advisory Committee summarized its findings and presented them to the BCC. These findings included specific recommendations for indoor and outdoor water conservation measures such as the use of high efficiency plumbing fixtures and the use of Florida Friendly landscape principles and irrigation soil moisture sensors. With regards to landscape irrigation, the Advisory Committee's findings were consistent with the "Landscape Irrigation & Florida-Friendly Design Standards" issued by the Florida Department of Environmental Protection in December 2006.

On February 5, 2008 the BCC adopted Ordinance No. 08-14 establishing indoor water conservation measures. The adopted measures call for the installation of efficient water fixtures, appliances and other water saving measures and equipment in new developments. In order to meet the water conservation goals provided in the Plan, the County must also address outdoor water conservation measures.

The proposed revisions to the attached Landscape Ordinance assist the County in meeting the outdoor water conservation goals specified in the Plan for the duration of the County's 20-Year Water Use Permit. In the development of the proposed revisions to the ordinance, the staff of the Department of Planning and Zoning has been working closely with the membership of the Advisory Committee to address outdoor water conservation issues and alternative water supplies for the development community as well as with the members of the Community Image Advisory Board and its Tree and Landscape Projects Sub-Committees. Consultation with other municipalities was also facilitated through these committees.

The proposed ordinance seeks to address outdoor water conservation measures by amending the countywide Landscape Ordinance (Chapter 18A) in order to revise the required plant material, and update the outdoor irrigation language and criteria.

Section 1 of this ordinance revises the Purpose and Intent section of Chapter 18A in order to add by reference the Florida Friendly landscaping principles.

Section 2 of this ordinance revises the Definitions in order to provide additional definitions including definitions for Florida Friendly and the State's Florida Yards & Neighborhood Program. A definition of the County's newly adopted Street Tree Master Plan is also added to this section.

Section 3 of this ordinance revises the Plans Required section in order to include the location of rain switches and soil moisture sensors on the required plans.

Section 4 of this ordinance amends the Minimum Standards section in order to revise the irrigation, trees, shrubs, mulching and plant quality criteria. More specifically this section:

- Updates and rearranges the irrigation sub-section in order to address the design, operation and maintenance of effective irrigation systems. Efforts are made to minimize free water flow conditions and to maximize the uniformity of the system by considering the emitters type, the head spacing, the sprinkler patterns and the water pressure. The section also requires the use of rain switches such as soil moisture sensors.
- Requires that thirty (30) percent of the required plant material shall be native species. No more than 30% of the required shall be palms.
- Requires that fifty (50) percent instead of the required plant material shall be low maintenance and drought tolerant.
- Requires that eighty (80) percent of the plant material required listed in the Landscape Manual, the Street Tree Master Plan or the University of Florida's Low Maintenance Landscape Plants for South Florida list.
- Requires mulches to be applied and maintained in accordance with Florida Friendly Landscaping.

Section 5 of this ordinance revises the Landscape Plan Review Criteria section in order to provide reference to Florida Friendly landscaping.

This ordinance will be complemented by an ordinance establishing minimum landscaping and irrigation criteria for public rights-of-way.

Alex Muñoz
Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: May 5, 2009

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

SUBJECT: Agenda Item No. 7(F)

Please note any items checked.

____	**"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**
✓	**6 weeks required between first reading and public hearing**
✓	**4 weeks notification to municipal officials required prior to public hearing**
____	**Decreases revenues or increases expenditures without balancing budget**
____	**Budget required**
____	**Statement of fiscal impact required**
____	**Bid waiver requiring County Mayor's written recommendation**
____	**Ordinance creating a new board requires detailed County Manager's report for public hearing**
____	**Housekeeping item (no policy decision required)**
____	**No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(F)
5-5-09

ORDINANCE NO. 09-35

ORDINANCE REVISING CHAPTER 18A OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE"), MIAMI-DADE COUNTY LANDSCAPE ORDINANCE, AMENDING SECTIONS 18A-2 THROUGH 18A-4 AND SECTIONS 18A-6 THROUGH 18A-7, 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 18A-2 of the Code of Miami-Dade County, Florida is hereby amended as follows[1]:

Sec. 18A-2. Purpose and intent.

It is the intent of this chapter to establish minimum landscape standards for Incorporated and Unincorporated Miami-Dade County that enhance, improve and maintain the quality of the landscape, and to:

(A) Promote [[~~xeriscape and~~]] >>Florida Friendly landscaping<< principles through the use of drought-tolerant [[~~landscape~~]] >>plant<< species, grouping of plant material by water requirements, the use of irrigation systems that conserve the use of potable and nonpotable water supplies and restrictions on the amount of lawn areas. >>Florida Friendly landscape principles also promote planting the

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

right plant in the right place and appropriate fertilization and mulching.<<

* * *

Section 2. Section 18A-3 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 18A-3. Definitions.

The definitions contained in Chapters 24 and 33, Code of Miami-Dade County, Florida, shall apply to this chapter except as otherwise changed herein:

* * *

[[~~(A)~~]] *Accessways:* The maximum width of an accessway through the perimeter landscaped strip to an off-street parking or other vehicular use area shall be determined according to the Public Works Manual, Part I, Standard Details. No more than one (1) two-way accessway shall be permitted or any street frontage up to one hundred (100) lineal feet or no more than two (2) one-way accessways shall be permitted for any street frontage up to one hundred (100) lineal feet, such standards to be applicable to any property under one (1) ownership. Where such ownership involves over one hundred (100) feet of street frontage, one (1) additional two-way or two (2) additional one-way drives may be permitted for each additional one hundred (100) feet of frontage or major fraction thereof. The balance of such street frontage not involved with access ways shall be landscaped in accordance with the provisions of this chapter.

>>*ANSI A300 Standards:* Industry-developed standards of practice for tree care. Acronym for American National Standards Institute.<<

[[~~(B)~~]] *Automatic irrigation system:* An irrigation system with a programmable controller or timing mechanism.

[[~~(C)~~]] *Bonafide agricultural activities:* Land used for the growing of food crops, nurseries for the growing of landscape material, the raising of livestock, horse farms, and other good faith agricultural uses, except any portion of the property not eligible for agricultural exemption.

[[~~(D)~~]] *Buffer, perimeter landscape:* An area of land which is set aside along the perimeter of a parcel of land in which landscaping is required to provide an aesthetic transition between different land

uses and to eliminate or reduce the adverse environmental impact, and incompatible land use impacts.

[[~~(E)~~]] *Caliper:* For trees under four (4) inches in diameter, the trunk diameter measured at a height of six (6) inches above natural grade. For trees four (4) inches and greater in diameter, the trunk diameter measured at twelve (12) inches above natural grade.

[[~~(F)~~]] *Clearance pruning:* Pruning required to avoid damage or danger related to structures, power distribution and property, as defined in the current ANSI A300 Standards.

[[~~(G)~~]] *Colonnade:* A roof or building structure, extending over the sidewalk, open to the street and sidewalk, except for supporting columns or piers.

[[~~(H)~~]] *Common open space:* Area required as open space under Chapter 33 or municipal codes for various zoning districts.

[[~~(I)~~]] *Controlled plant species:* Those plant species listed in the Landscape Manual which tend to become nuisances because of their ability to invade proximal native plant communities or native habitats, but which, if located and cultivated properly may be useful or functional as elements of landscape design.

[[~~(J)~~]] *Diameter at breast height (DBH):* Diameter of a tree's trunk measured at a height four and one-half (4.5) feet above natural grade. In the case of multiple-trunk trees, the DBH shall mean the sum of each trunk's diameter measured at a height of four and one-half (4.5) feet above natural grade.

[[~~(K)~~]] *Differential operation schedule:* A method of scheduling an irrigation system to apply different quantities of water, and/or apply water at different frequencies as appropriate, for different hydrozones.

[[~~(L)~~]] *Dissimilar land uses:* Proximate or directly associated land uses which are contradictory, incongruous, or discordant such as higher intensity residential, commercial or industrial uses located adjacent to lower intensity uses.

[[~~(M)~~]] *Drip line:* An imaginary vertical line extending from the outermost horizontal circumference of a tree's branches to the ground.

[[~~(N)~~]] *Duplex dwelling:* A residence building designed for, or used as the separate homes or residences of two (2) separate and distinct families, but having the appearance of a single family dwelling house. Each individual unit in the duplex shall comply with the definition for a one-family dwelling.

>>*Emitters:* devices which are used to control the discharge of irrigation water from lateral pipes.<<

[[~~(O)~~]] *Existing development:* [[~~Existing development shall~~]] >>Shall<< mean a site with structures that were legally approved through the issuance of a certificate of use and occupancy or a certificate of completion as of the effective date of this chapter.

[[~~(P)~~]] *Energy conservation zone:* A zone located no more than twenty-two (22) feet from a structure in a one hundred eighty (180) degree band from due east of the northeast point of the structure, to due south, to due west of the northwest point of the structure.

>>*Environmentally Endangered Lands:* lands that contain natural forest, wetland or native plant communities, rare and endangered

plants and animals, endemic species, endangered species habitat, a diversity of species, outstanding geologic or other natural features, or land which functions as an integral and sustaining component of an existing ecosystem.<<

[[~~(Q)~~]] *Facultative:* Plants with a similar likelihood of occurring in both wetlands and uplands, which are not recognized indicators of either wetland or upland conditions.

>>*Florida Friendly Landscaping:* practices, materials or actions developed by the Florida Yards & Neighborhood Program that help to preserve Florida's natural resources and protect the environment.

Florida Yards & Neighborhood Program: Is a partnership of the University of Florida/Institute of Food and Agricultural Sciences, Florida's water management districts, the Florida Department of Environmental Protection, the National Estuary Program, the Florida Sea Grant College Program and other agencies, managed locally by the Miami-Dade Cooperative Extension Division of the Consumer Services Department.<<

[[~~(R)~~]] *Forbs:* Herbaceous plants other than grasses.

[[~~(S)~~]] *Geologic feature:* A natural rock or mineral formation.

[[~~(T) Gray water~~]] >>*Graywater*<<*:* That portion of domestic sewage emanating from residential showers, >>residential baths,<< residential bathroom washbasins, or residential clothes washing machines.

[[~~(U)~~]] *Ground cover:* A dense, extensive growth of low-growing plants, other than turfgrass, normally reaching an average maximum height of not more than twenty-four (24) inches at maturity.

[[~~(V)~~]] *Hatrack:* To flat-cut the top of a tree, severing the leader or leaders, or the removal of any branch three (3) inches or greater in diameter at any point other than the branch collar.

[[~~(W)~~]] *Hazard pruning:* The removal of dead, diseased, decayed, or obviously weak branches two (2) inches in diameter or greater.

[[~~(X)~~]] *Heat island:* An unnaturally high temperature [[~~microclimaie~~]] >>microclimate<< resulting from radiation from unshaded impervious surfaces.

[[~~(Y)~~]] *Hedge:* A landscape barrier consisting of a continuous, dense planting of shrubs, not necessarily of the same species.

[[~~(Z)~~]] *Herbaceous plant:* A plant having little or no woody tissue.

[[~~(AA)~~]] *Hydromulch:* A sprayed application of seed, mulch and water.

[[~~(BB)~~]] *Hydrozone:* A zone in which plant material with similar water needs are grouped together.

[[~~(CC)~~]] *Included bark:* Bark that is >>embedded in a crotch between a branch and trunk or between co-dominant stems<< [[~~pushed inside a developing crotch~~]], causing a weakened structure.

[[~~DD)~~]] *Irrigation detail:* A graphic representation depicting the materials to be used and dimensions to be met in the installation of the irrigation system.

[[~~(EE)~~]] *Irrigation plan:* A plan drawn at the same scale as the landscape plan, indicating location and specification of irrigation system components and other relevant information as required by this chapter.

[[~~(FF)~~]] *Irrigation system:* A system of pipes or other conduits designed to transport and distribute water to keep plants in a healthy and vigorous condition.

[[~~(GG)~~]] *Landscape feature:* Trellis, arbor, fountain, pond, garden sculpture, garden lighting, decking, patio, decorative paving, gazebo>>,<< and other similar elements.

[[~~(HH)~~]] *Landscape material:* Plants such as grass, ground cover, forbs, shrubs, vines, hedges, trees and non-living material such as rocks, pebbles, sand, mulch, or pervious decorative paving materials.

[[~~(II)~~]] *Landscape plan:* A plan indicating all landscape areas, stormwater retention/detention areas, areas which qualify to be excluded from maximum permitted lawn area, existing vegetation to be retained, proposed plant material, landscape legend, landscape features, planting specifications, and details, and all other relevant information in compliance with this chapter.

[[~~(JJ)~~]] *Lawn area:* An area planted with lawn grasses.

[[~~(KK)~~]] *Manual irrigation system:* An irrigation system in which control valves and switches are manually operated rather than operated by automatic controls.

[[~~(LL)~~]] *Mixed use:* A mixture of land uses such as provided in Traditional Neighborhood Development (TND), Planned Area Development (PAD), and Planned Development (PD).

[[~~(MM)~~]] *Moisture and rain sensor switches:* Devices which have the ability to switch off an automatic irrigation controller after receiving a predetermined amount of rainfall or moisture content in the soil.

[[~~(NN)~~]] *Mulch:* [[~~Non-living organic materials~~]] >>Materials<< customarily used in landscape design to retard erosion, weed infestation, and retain moisture and for use in planting areas.

[[~~(OO)~~]] *Multifamily residential development:* Any residential development other than attached or detached single family or duplex.

[[~~(PP)~~]] *Multiple single family developments:* Attached and detached single family developments that are planned as a total project and not as a single family unit on a single lot.

[[~~(QQ)~~]] *Native habitat:* An area enhanced or landscaped with an appropriate mix of native tree, shrub and groundcover species that resembles a native plant community or natural forest community in structure and composition or is naturally occurring.

[[~~(RR)~~]] *Native plant species:* Plant species with a geographic distribution indigenous to all or part of Miami-Dade County. Plants which are described as being native to Miami-Dade County in botanical manuals such as, but not limited to, "A Flora of Tropical Florida" by Long and Lakela [[~~and "The Biology of Trees Native to Tropical Florida" by P. B. Tomlinson~~]], are native plant species within the meaning of this definition. Plant species which have been introduced into Miami-Dade County by man are not native plant species.

[[~~(SS)~~]] *Native plant community:* A natural association of plants dominated by one (1) or more prominent native plant species, or a characteristic physical attribute.

[[~~(TT)~~]] *Natural [[~~forest community~~]]* >>*Forest Community*<<*:* All assemblages of vegetation designated as Natural Forest

Communities on the Miami-Dade County Natural Forest Community Maps and approved by the Board of County Commissioners, pursuant to Resolution No. R-1764-84 and further defined in Section 24-[[~~3~~]]>>5<< of the Miami-Dade County Code.

[[~~(UU)~~]] *Net lot area:* For the purpose of this chapter, net lot area shall be the area within lot boundaries of all lands comprising the site. Net lot area shall not include any portion of the abutting dedicated streets, alleys, waterways, canals, lakes or any other such dedications.

[[~~(VV)~~]] *One family dwelling:* 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 designated for the use of one (1) family only.

[[~~(WW)~~]] *Overhead irrigation system:* A high pressure, high volume irrigation system.

[[~~(XX)~~]] *Planting detail:* A graphic representation of the plant installation depicting the materials to be used and dimensions to be met in the placement of plants and other landscape materials.

[[~~(YY)~~]] *Prohibited plant species:* Those plant species listed in the >>Miami-Dade<< Landscape Manual which are demonstrably detrimental to native plants, native wildlife, ecosystems, or human health, safety, and welfare.

[[~~(ZZ)~~]] *Shrub:* A self-supporting woody perennial plant normally growing to a height of twenty-four (24) inches or greater, characterized by multiple stems and branches continuous from the base.

[[~~(AAA)~~]] *Site plan:* A comprehensive plan drawn to scale indicating appropriate site elevations, roadways, and location of all relevant site improvements including structures, parking, other paved areas, ingress and egress drives, landscaped open space and signage.

[[~~(BBB)~~]] *Specimen tree:* A tree with any individual trunk which has a DBH of eighteen (18) inches or greater, but not including the following:

(1) All trees listed in Section 24-[[~~60~~]]>>49<<(4)(f);

(2) Non-native fruit trees that are cultivated or grown for the specific purpose of producing edible fruit, including, but not limited to, mangos, avocados, or species of citrus;

(3) Non-native species of the genus *Ficus*, and

(4) All multitrunk trees in the palm family, except [[~~Accelorrhaphe~~]]>>*Acoelorrhaphe*<< *wrightii* >>*and Phoenix reclinata*<< which have a minimum overall height of fifteen (15) feet.

[[~~(CCC)~~]] *Spray head:* An irrigation device which applies water to the soil or plant surface by fixed spray or mist nozzles.

>>*Sprinkler Head:* a sprinkler head that provides above ground or overhead irrigation.<<

[[~~(DDD)~~]] *Stabilized lawn area:* An area of ground underlain with structural support in the form of grass pavers or stabilized soil prepared to withstand the load of intended vehicular use, such as automobiles, fire trucks and garbage trucks.

[[~~(EEE)~~]] *Stormwater retention/detention area:* An area designed, built and used for temporary storage of stormwater. For purposes of this chapter, these areas are intended to be permanently exempt from wetland regulations.

>>*Street Tree Master Plan:* A greenprint for Miami-Dade County as adopted by the Board of County Commissioners on March 6, 2007 as may be amended from time to time.<<

[[~~(FFF)~~]] *Tree abuse.* Tree abuse shall include:

(1) Damage inflicted upon any part of a tree, including the root system, by machinery, construction equipment, cambium layer penetration, storage of materials, soil compaction, excavation, chemical application or spillage, or change to the natural grade.

(2) Hatracking.

(3) Girdling or bark removal of more than one-third (1/3) of the tree diameter.

(4) Tears and splitting of limb ends or peeling and stripping of bark resulting from improper pruning techniques not in accordance with the current ANSI A300 Standards.

[[~~(GGG)~~]] *Tree canopy [[~~cover~~]]:* The aerial extent of the branches and foliage of a tree >>as defined by the drip line<<.

[[~~(HHH)~~]] *Temporary irrigation systems:* A system including surface distribution elements (hose, pipe, etc.) which may be easily removed when landscape is established.

[[~~(III)~~]] *Understory:* The complex of woody, fibrous, [[~~and~~]] herbaceous >>and graminoid<< plant species that are typically associated with a natural forest community, native plant community, or native habitat.

[[~~(JJJ)~~]] *Vegetation required to be preserved by law:* Portions of a site, including but not limited to specimen trees, natural forest communities and native vegetation which are clearly delineated on site plans, plats, or recorded restrictions, or in some other legally binding manner that are to be protected from any tree or understory removal or effective destruction and maintained without any development.

[[~~(KKK)~~]] *Vegetation survey:* A drawing provided at the same scale as the landscape plan which includes relevant information as required by this chapter.

[[~~(LLL)~~]] *Vehicular use area:* A hard surface area designed or used for off-street parking and/or an area used for loading, circulation, access, storage, including fire trucks, garbage trucks, or display of motor vehicles.

[[~~(MMM)~~]] *Vine:* A plant with a flexible stem which normally requires support to reach mature form.

Section 3. Section 18A-4 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 18A-4. Plans required.

* * *

(D) *Irrigation plans.* An irrigation plan shall be submitted if a sprinkler system is required by Chapter 33, or as required in the individual municipalities or where an irrigation system is to be provided regardless of code requirements. Where a landscape plan is required, an irrigation plan shall be submitted concurrently.

(1) For a new one-family or duplex dwelling the irrigation plan may be indicated on a plot plan or a separate drawing prepared by the owner or the owner's agent indicating area(s) to be irrigated, location and specifications of lines and heads and pump specifications.

(2) All other development other than those provided in a subsection (1) above shall:

(a) Be drawn on a base plan at the same scale as landscape plan(s).

(b) Delineate landscape areas, major landscape features, and hydrozones.

(c) Delineate existing and proposed structures, parking areas or other vehicular use areas, access aisles, sidewalks, driveways, the location of utilities and easements, and similar features,

(d) Include water source, design operating pressure and flow rate per zone, total volume required for typical depths of application, and application rate.

(e) Include locations of pipes, controllers, valves, sprinklers, back flow prevention devices>>, <u>rain switches or soil moisture sensors,</u><< and electrical supply.

(f) Irrigation details.

<u>Section 4.</u> Section 18A-6 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 18A-6. Minimum standards.

The following standards shall be considered minimum requirements unless otherwise indicated:

* * *

(B) *Irrigation.*

(1) All newly-planted and relocated plant material shall be watered by temporary or permanent irrigation systems until such time as they are established >>and subsequently on as needed basis to prevent stress and die off in compliance with existing water use restrictions<<.

(2) Irrigation shall be prohibited within native plant communities and natural forest communities, except for temporary systems needed to establish newly planted material. Temporary irrigation systems shall be disconnected immediately after establishment of plant communities.

[[~~(3) Irrigation systems shall be designed to]] conserve water by allowing differential operation schedules based on hydrozone.~~

~~(4) Irrigation systems shall be designed, operated, and maintained to not overthrow or overflow on to impervious surfaces.~~

~~(5) Low trajectory spray heads, and/or low volume water distributing or application devices, shall be used. Overhead irrigation systems shall only be permitted in bonafide agricultural activity areas.~~

~~(6) Gray water shall be used where approved systems are available.~~

~~(7) During dry periods, irrigation application rates of between one (1) and one and one-half (1 1/2) inches per week are recommended for turf areas.~~

~~(8) A moisture or rain sensor device shall be required on all irrigation systems equipped with automatic controls.~~

~~(9) Irrigation systems shall be timed to operate only during hours and on days permitted under Chapter 32 of the Code.~~

~~(10) If an irrigation system is not provided, a hose bib shall be provided within seventy-five (75) feet of any landscape area.~~]]

>>(3) Irrigation systems shall be designed, operated and maintained to:

(a) Meet the needs of all the plants in the landscape.

(b) Conserve water by allowing differential operation schedules based on hydrozone.

(c) Consider soil, slope and other site characteristics in order to minimize water waste, including overspray or overflow on to impervious surfaces and other non-vegetated areas, and off-site runoff.

(d) Minimize free flow conditions in case of damage or other mechanical failure.

(e) Use low trajectory spray heads, and/or low volume water distributing or application devices.

(f) Maximize uniformity, considering factors such as:

(1) Emitters types,

(2) Head Spacing,

(3) Sprinkler pattern, and

(4) Water pressure at the emitter.

(g) Use the lowest quality water feasible (graywater shall be used where approved systems are available).

(h) Rain switches or other devices, such as soil moisture sensors, shall be used with automatic controls.

Operate only during hours and on days permitted under Chapter 32 of the Code of Miami-Dade County.

(i) Where feasible, drip irrigation or micro-sprinklers shall be used.

(4) During dry periods, irrigation application rates of between one (1) and one and one-half (1 1/2) inches per week are recommended for turf areas.

(5) If an irrigation system is not provided, a hose bib shall be provided within seventy-five (75) feet of any landscape area.<<

(C) *Trees.*

(1) *Tree size.* All trees, except street trees [[~~and trees located beneath power lines~~]], shall be a minimum of ten (10) feet high and have a minimum caliper of two (2) inches at time of planting except that thirty (30) percent of the tree requirement may be met by native species with a minimum height of eight (8) feet and a minimum caliper of one and one-half (1 1/2) inches at time of planting.

* * *

(11) [[~~Thirty (30)~~]] [[~~>>Fifty (50)<<~~]] [[~~percent of the required trees and/or palms shall be native species.~~]] >>Of the required trees at least:
(a) Thirty (30) percent shall be native species; and
(b) Fifty (50) percent shall be low maintenance and drought tolerant; and
(c) No more than thirty (30) percent shall be palms.<<

>>(12) Eighty (80) percent of the trees shall be listed in the Miami-Dade Landscape Manual, the Miami-Dade Street Tree Master Plan and/or the University of Florida's Low-Maintenance Landscape Plants for South Florida list.<<

[[~~(12)~~]] >>(13)<< In order to prevent adverse environmental impacts to existing native plant communities, [[~~only existing Sabal Palmettos (Cabbage Palms)~~]] >>cabbage palms (Sabal palmetto) that are harvested from the wild shall not be used to satisfy minimum landscaping requirements.<< [[~~shall be used to satisfy minimum tree and native plant requirements, except that~~]] >>Only existing cabbage palms,<< [[~~Cabbage Palms~~]] which are rescued from government approved donor sites, transplanted within the site, or commercially grown from seed shall be counted towards the minimum tree and native plant requirements.

[[~~(13)~~]] >>(14)<< When trees are planted within the right-of-way, the owners of land adjacent to the areas where street trees are planted must maintain those areas including the trees, plants and sod, using pruning methods specified in this Code. A covenant executed by those owners is required, or a special taxing district must be created to maintain these areas. Where the State, County or municipality determines that the planting of trees and other landscape material is not appropriate in the public right-of-way, they may require that said trees and landscape material be placed on private property.

[[~~(14)~~]] >>(15)<< Consideration shall be given to the selection of trees, plants and planting site to avoid serious problems such as clogged sewers, cracked sidewalks, and power service interruptions.

[[~~(15)~~]] >>(16)<< Municipalities shall meet all the above requirements in the corresponding zoning districts or land use categories of the particular municipality.

(D) *Shrubs.*

(1) All shrubs shall be a minimum of eighteen (18) inches in height when measured immediately after planting. Shrubs shall be provided at ratio of ten (10) per required tree. [[~~Thirty (30)~~]] [[~~>>Fifty (50)<<~~]] [[~~percent of the shrubs shall be native species.~~]] >>Of the provided shrubs at least:
(a) Thirty (30) percent shall be native species; and
(b) Fifty (50) percent shall be low maintenance and drought tolerant; and
(c) Eighty (80) percent shall be listed in the Miami-Dade Landscape Manual, the Miami-Dade Street Tree Master Plan and/or the University of Florida's Low-Maintenance Landscape Plants for South Florida list.<<

(2) When used as a visual screen, buffer, or hedge, shrubs shall be planted at a maximum average spacing of thirty (30) inches on center or if planted at a minimum height of thirty-six (36) inches, shall

have a maximum average spacing of forty-eight (48) inches on center and shall be maintained so as to form a continuous, unbroken and solid visual screen within one (1) year after time of planting. Shrubs used as a buffer, visual screen, or hedge need not be of the same species.

* * *

(G) *Mulch.*

(1) [[~~Weed-free mulch~~]] [[~~Environmentally friendly organic mulches~~]] >>Mulches<< shall be applied and maintained in [[~~a minimum three (3) inch layer under and around all trees and shrubs, and in a minimum two (2) inch layer under and around all ground cover~~]] >>accordance with the most recent edition of the Florida Yards & Neighborhoods Handbook titled "A Guide to Florida Friendly Landscaping" by the University of Florida, Institute of Food and Agricultural Sciences (UF/IFAS) and available online at http://www.floridayards.org/landscape/FYN-Handbook.pdf.<<

[[~~(2) The use of mulch shall be restricted to planting areas.~~

~~(3)~~]] >>(2)<< Cypress mulch shall not be used because its harvest degrades cypress wetlands.

* * *

Section 5. Section 18A-7 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 18A-7. Landscape plan review criteria.

In the unincorporated area all landscape plans shall be reviewed by the Department of Planning and Zoning, and where existing trees or [[~~natural forest communities~~]] >>Natural Forest Communities or Environmentally Endangered Lands<< are involved, the Department of Environmental Resources Management. In the case of a municipality, landscape plans shall be approved by the department(s) or board(s) as deemed appropriate within the municipality. Landscape plans shall be reviewed in accordance with the following goals and objectives and the guidelines and illustrations provided in the Landscape Manual >>as well as the Guide to Florida-Friendly Landscaping provided by the Florida Yards and Neighborhoods Program<<:

(A) Landscape design shall enhance architectural features[[,]]>>;<< relate structure design to the site[[,]]>>;<< visually screen dissimilar uses and unsightly views[[,]]>>;<< reduce noise>>,glare and heat gain<< [[~~impacts~~]] from >>paved areas,<< major roadways and incompatible uses[[,]]>>;<< strengthen important vistas and reinforce neighboring site design and architecture.

(B) Existing specimen trees, native vegetation (including canopy, understory, and ground cover) and Natural Forest Communities shall be preserved to the maximum extent possible and all requirements of Section 24-[[~~60~~]]>>49<< of the Code >>of Miami-Dade County shall be met. Preserved Natural Forest Community areas shall be deducted from the total area used to calculate minimum landscaping requirements. Native vegetation in these Natural Forest Community areas shall not be used to satisfy minimum landscape requirements<<.

(C) In order to conserve water, reduce maintenance, and promote plant health, plant species shall be selected and installed based on their water needs, growth rate and size, and resource inputs. Plants with similar water needs shall be grouped in hydrozones. Adequate growth area >>, including rooting space<<, based on natural mature shape and size shall be provided for all plant materials.

* * *

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

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

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

PASSED AND ADOPTED: **May 5, 2009**

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

Prepared by: CHC

Craig H. Coller

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OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: May 5, 2009

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

Agenda Item No. 7(G)

Ordinance No. 09-36

From: George M. Burgess
County Manager

Subject: Ordinance Creating Chapter 18B of the Code of Miami-Dade County, the Miami-Dade County Right-of-Way Landscape Ordinance .

This Substitute Item #2 differs from the original item as follows:

- **It exempts from the ordinance zoned or dedicated rights-of-way adjacent to land being used for bonafide agricultural activities.**
- **Revises the mulching criteria in order to reflect Florida Friendly landscapes.**
- **Substitute No. 2 differs from Substitute No. 1 in that it complies with the new rule change regarding substitutes and alternates as provided in Ordinance #09-13 adopted on March 3, 2009.**

Recommendation
It is recommended that the Board of County Commissioners (BCC) adopt the attached ordinance creating the Miami-Dade County Right-of-Way Landscape Ordinance. This ordinance is being created to supplement outdoor water conservation measures in accordance with the Miami-Dade Water Use Efficiency Plan adopted pursuant to Resolution No. R-468-06.

Scope
This ordinance is of countywide impact.

Fiscal Impact/Funding Source
The proposed ordinance creates no fiscal impact on Miami-Dade County.

Track Record/Monitor
Not applicable.

Background
On April 25, 2006 the Board adopted Resolution R-468-06 which approves the Miami-Dade Water Use Efficiency Plan (Plan) as a part of a larger effort to improve the management of traditional water supplies while improving the efficiency of the County's current water use. The Plan outlines the County's water efficiency measures and best management practices. The South Florida Water Management District (District) approved the Plan as a condition of the County's 20-Year Water Use Permit issued on November 15, 2007. During the first year of the Plan, WASD kicked-off its conservation efforts by implementing a series of efficiency projects. It is calculated that the total water use savings from these projects will yield a savings of 20 million gallons a day through 2026, including indoor and outdoor water use.

In addition to the implementation of the Plan, an Advisory Committee was established in 2007 at the request of the Government Operations and Environment Committee Chair with the goal of developing countywide guidelines that address water conservation issues and alternative water supplies to assist the County in meeting the conditions of the 20-Year Water Use Permit.

The Advisory Committee is comprised of several county agencies including the departments of Building, Environmental Resources Management, Fire Rescue, Park & Recreation, Planning & Zoning, Public Works, and Water and Sewer; the Building Code Compliance Office and the General Services Administration. In addition to County staff, the Advisory Committee includes representation from stakeholder groups such as the American Society of Landscape Architects, South Florida Builders Association, Sierra Club, Latin Builders Association, Tropical Audubon Society, Association of Cuban Engineers, South Florida Regional Planning Council, Farm Bureau, South Florida Water Management District and the Greater Miami Chamber of Commerce.

On June 5, 2007, the Advisory Committee summarized its findings and presented them to the BCC. These findings included specific recommendations for indoor and outdoor water conservation measures such as the use of high efficiency plumbing fixtures and the use of Florida Friendly landscape principles and irrigation soil moisture sensors. With regards to landscape irrigation, the Advisory Committee's findings were consistent with the "Landscape Irrigation & Florida-Friendly Design Standards" issued by the Florida Department of Environmental Protection in December 2006.

On February 5, 2008 the BCC adopted Ordinance No. 08-14 establishing indoor water conservation measures. The adopted measures call for the installation of efficient water fixtures, appliances and other water saving measures and equipment in new developments. In order to meet the water conservation goals provided in the Plan, the County must also address outdoor water conservation measures.

The proposed Right-of-Way Landscape Ordinance assists the County in meeting the outdoor water conservation goals specified in the Plan for the duration of the County's 20-Year Water Use Permit. In the development of the proposed ordinance the staff of the Department of Planning and Zoning has been working closely with the membership of the Advisory Committee to address outdoor water conservation issues and alternative water supplies for the development community as well as with the members of the Community Image Advisory Board and its Tree and Landscape Projects Sub-Committees. Consultation with other municipalities was also facilitated through these committees.

The proposed ordinance seeks to address outdoor water conservation measures in connection with rights-of-ways in both unincorporated Miami-Dade and in municipalities. It creates a Right-of-Way Landscape Ordinance (Chapter 18B) that mirrors the existing Landscape Ordinance contained in Chapter 18A of the Code, including the proposed concurrent amendments to the same. Presently rights-of-ways are not specifically regulated for water conservation measures. Interlocal agreements with the municipalities will be subsequently executed in order to implement the proposed ordinance.

Section 1 of this ordinance establishes Chapter 18B as the Miami-Dade County Right-of-Way Landscape Ordinance and provides applicability, definitions, purpose and intent of the

same. It also provides the minimum standards for irrigation, plant material and mulch. More specifically this section:

- Establishes the irrigation sub-section in order to address the design, operation and maintenance of effective irrigation systems. Efforts are made to minimize free water flow conditions and to maximize the uniformity of the system by considering the emitters type, the head spacing, the sprinkler patterns and the water pressure. The section also requires the use of rain switches such as soil moisture sensors.
- Requires that fifty (50) percent of the plant material to be low maintenance and drought tolerant. Canopy trees are preferred where conditions are appropriate.
- Requires that eighty (80) percent of the trees and shrubs provided be listed in the Landscape Manual, the Street Tree Master Plan or the University of Florida's Low Maintenance Landscape Plants for South Florida list.
- Requires mulches to be applied and maintained in accordance with Florida Friendly Landscaping.

This ordinance is complementary to the Miami-Dade Landscape Ordinance and its proposed update.

Alex Muñoz
Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: May 5, 2009

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

SUBJECT: Agenda Item No. 7(G)

Please note any items checked.

____	**"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**
✓	**6 weeks required between first reading and public hearing**
✓	**4 weeks notification to municipal officials required prior to public hearing**
____	**Decreases revenues or increases expenditures without balancing budget**
____	**Budget required**
____	**Statement of fiscal impact required**
____	**Bid waiver requiring County Mayor's written recommendation**
____	**Ordinance creating a new board requires detailed County Manager's report for public hearing**
____	**Housekeeping item (no policy decision required)**
____	**No committee review**

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 7(G)

5-5-09

ORDINANCE NO. 09-36

ORDINANCE CREATING CHAPTER 18B OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE"), MIAMI-DADE COUNTY RIGHT-OF-WAY LANDSCAPE ORDINANCE, CREATING SECTIONS 18B-1 THROUGH 18B-4, 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. Chapter 18B of the Code of Miami-Dade County is hereby created as follows:

CHAPTER 18B MIAMI-DADE COUNTY RIGHT-OF-WAY LANDSCAPE ORDINANCE

Sec. 18B-1. Short title and applicability.

(A) This chapter shall be known and may be cited as the "Miami-Dade County Right-of-Way Landscape Ordinance".

(B) *Applicability.* This chapter shall be a minimum standard and shall apply to all public rights-of-way both in the incorporated and unincorporated areas >>except for zoned or dedicated rights-of-way adjacent to lands being used for bonafide agricultural activities as defined in Chapter 18A of this Code<<. Enforcement in the unincorporated area shall be by the County and in the incorporated areas by the municipalities; provided, any municipality may establish and enforce more stringent regulations as such municipality may deem necessary. In the event the provisions hereof are not enforced within any municipality, the County shall enforce same.

Sec. 18B-2. Purpose and intent.

It is the intent of this chapter to establish minimum landscape standards for public rights-of-way in incorporated and unincorporated Miami-Dade County that enhance, improve and maintain the quality of the landscape, and to:

(A) Promote [[~~xeriscape and~~]] Florida Friendly principles through the use of drought-tolerant landscape species, grouping of plant material by water requirements, the use of irrigation systems that conserve the use of potable and nonpotable water supplies and restrictions on the amount of lawn areas.

(B) Use landscape material, specifically street trees, to visually define the hierarchy of roadways, and to provide shade and a visual edge along roadways.

(C) Prevent the destruction of the community's existing tree canopy and promote its expansion.

(D) Provide for the preservation of existing natural forest communities and specimen sized trees in conformance with Section 24-49, as may be amended from time to time; re-establish native habitat where appropriate, and encourage the appropriate use of native plant material in the landscape.

(E) Promote the use of trees and shrubs for energy conservation by encouraging cooling through the provision of shade and the channeling of breezes, thereby helping to offset global warming and local heat island effects through the added absorption of carbon dioxide and reduction of heat islands.

(F) Contribute to the processes of air movement, air purification, oxygen regeneration, ground water recharge, and retention of stormwater runoff, as well as aiding in the abatement of noise, glare, heat, air pollution and dust generated by major roadways and intense use areas.

(G) Reduce the negative impacts of exotic pest plant species and prohibit the use of noxious exotic plants which invade native plant communities.

(H) Promote the use of trees to protect and buffer the effects of high winds on structures.

(I) Promote the concept of planting the right tree or plant in the right place to avoid problems such as clogged sewers, cracked sidewalk and power services interruptions.

Sec. 18B-3. Definitions.

The definitions contained in Chapters 18A, Code of Miami-Dade County, Florida, shall apply to this chapter.

Sec. 18B-4. Minimum standards.

(A) *Irrigation.*

(1) All newly-planted and relocated plant material shall be watered by temporary or permanent irrigation systems until such time as they are established and subsequently on as needed basis to prevent stress and die off in compliance with existing water use restrictions.

(2) Irrigation systems shall be prohibited within native plant communities and natural forest communities, except for temporary systems needed to establish newly planted material. Temporary irrigation systems shall be disconnected immediately after establishment of plant communities.

(3) Irrigation systems shall be designed, operated and maintained to:

(a) Meet the needs of the plants in the landscape.

(b) Conserve water by allowing differential operation schedules based on hydrozone.

(c) Consider soil, slope and other site characteristics in order to minimize water waste, including overspray or overflow on to impervious surfaces and other non-vegetated areas, and off-site runoff.

(d) Minimize free flow conditions in case of damage or other mechanical failure.

(e) Use low trajectory spray heads, and/or low volume water distributing or application devices.

(f) Maximize uniformity, considering factors such as:
(1) Emitters types,
(2) Head spacing,
(3) Sprinkler pattern, and
(4) Water pressure at the emitter.

(g) Use the lowest quality water feasible (graywater shall be used where approved systems are available).

(h) Rain switches or other devices, such as soil moisture sensors, shall be used with automatic controls.

(i) Operate only during hours and on days permitted under Chapter 32 of this Code.

(j) Where feasible, drip irrigation or micro-sprinklers shall be used.

(4) During dry periods, irrigation application rates of between one (1) and one and one-half (1 1/2) inches per week are recommended for turf areas.

(B) *Plant Material and Mulch.*

(1) At least fifty (50) percent of the plant material shall be low maintenance and drought tolerant. Canopy trees are preferred where conditions are appropriate.

(2) Eighty (80) percent of the plant material shall be listed in the Miami-Dade Landscape Manual, the Miami-Dade Street Tree Master Plan and/or the University of Florida's Low-Maintenance Landscape Plants for South Florida list.

(3) Right-of-way landscaping shall include the use of native plant species in order to re-establish an aesthetic regional quality and take advantage of the unique diversity and adaptability of native species to the environmental conditions of South Florida.

(4) Where feasible, the re-establishment of native habitats shall be incorporated into the landscaping.

(5) Existing specimen trees, native vegetation (including canopy, understory, and ground cover) and Natural Forest Communities shall be preserved to the maximum extent possible and all requirements of Section 24-49 of the Code of Miami-Dade County.

(6) In order to conserve water, reduce maintenance, and promote plant health, plant species shall be selected and installed based on their water needs, growth rate and size, and resource inputs. Plants with similar water needs shall be grouped in hydrozones. Adequate growth area (including rooting space), based on natural mature shape and size shall be provided for all plant materials.

(7) Trees and shrubs shall be planted in the energy conservation zone where feasible, in order to reduce energy consumption by shading buildings and other structures and shall be used to reduce heat island effects by shading paved surfaces.

(8) Street trees shall be used to shade roadways and provide visual order. Where feasible, selected species shall be used to establish a road hierarchy by defining different road types.

(9) Prohibited trees shall be removed.

(10) Special attention shall be given to the use of appropriate species located under, or adjacent to overhead power lines, and near native plant communities and near underground utility lines. Adequate growth area shall be provided for all plant materials.

(11) Landscaping shall be designed in such a way as to provide safe and unobstructed views at intersections of roadways, driveways, recreational paths and sidewalks in accordance with Section 33-11 of the Code of Miami-Dade County and in compliance with federal and state standards.

(12) Historic landscapes and landscape features designated by local, State or federal governments shall be preserved.

[[~~(13) Environmentally friendly organic mulches shall be applied and maintained in a minimum three (3) inch layer under and around all trees and shrubs, and in a minimum two (2) inch layer under and around all ground cover.~~

~~(14) The use of mulch shall be restricted to planting areas.~~]]

>>(13) Mulches shall be applied and maintained in accordance with the most recent edition of the Florida Yards & Neighborhoods Handbook titled "A Guide to Florida Friendly Landscaping" by the University of Florida, Institute of Food and Agricultural Sciences (UF/IFAS) and available online at http://www.floridayards.org/landscape/FYN-Handbook.pdf.<<

[[~~(14)~~]] >>(15)<< Cypress mulch shall not be used because its harvest degrades cypress wetlands.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall 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: **May 5, 2009**

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

Prepared by: CHC

Craig H. Coller

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: June 2, 2009

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

From: George M. Burgess
County Manager

Agenda Item No. 7(F)

Ordinance No. 09-47

Subject: Ordinance pertaining to zoning; amending Sections 33-13, 33-238, and 33-259 to permit outdoor dining as an ancillary use in business and industrial zones

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The Budget, Planning and Sustainability Committee on May 12, 2009, amended Item IF3 Substitute, Legistar no. 091143, by removing Sections 33-238 (25.1) (H) and (I) of the ordinance .

Recommendation
It is recommended that this proposed ordinance pertaining to zoning, amending Sections 33-13, 33-238, and 33-259 to permit ancillary outdoor dining be adopted.

Scope
This ordinance would pertain to all Commission Districts for property in unincorporated Miami-Dade County.

Fiscal Impact/Funding Source
This ordinance will have no fiscal impact on Miami-Dade County.

Tract Record/Monitor
Not applicable.

Background
The County's current zoning code provides that outdoor dining facilities can only be permitted after the approval at a public hearing of an "unusual use" application. For years the food and service industry has requested that the County revisit these regulations in order to reflect local and national trends. The ordinance, which contains regulatory language similar to that used by the Cities of Miami and Miami Beach among others, proposes to allow outdoor dining as an ancillary use to a facility where the primary use is the preparation of food for consumption on premises. This proposed ordinance removes the public hearing requirement for outdoor dining in business and industrial districts and conditions the new ancillary use to the following criteria:

- The outdoor dining area shall be managed, operated and maintained as an integral part of the food service business.
- The outdoor dining area shall not reduce the amount of required parking or landscaping for the site.
- The outdoor seating area shall be included in the calculations for required parking.
- There shall be no outdoor cooking or food preparation.
- No outdoor dining area shall obstruct or impede pedestrian traffic.

- The outdoor dining area shall comply with handicapped accessibility requirements.
- No outside public address system shall be permitted. Un-amplified music shall be permitted in the outdoor dining area, subject to compliance with Section 21-28 of this code.
- The outdoor dining area may be operated between the hours of 7 a.m. and 11 p.m.
- No signage shall be permitted on any outdoor furniture, umbrellas or fixtures.
- Blinking and flashing type lighting shall be prohibited.
- Alcoholic beverages may be served where such service is strictly incidental to the service of food and is from a service bar only, subject to compliance with the regulations specified in Article X (Alcoholic Beverages) of this chapter.
- The use shall be subject to plan review and approval through the building permit review process. The plans for such use shall include all furniture, umbrellas, lighting, and other related services and functions associated with the proposed use, together with all required and provided parking calculations.
- The use shall require a Certificate of Use which shall be renewed annually and shall be subject to revocation upon violation of any applicable regulation, or when a continuation of the permit would constitute a hazard or nuisance.

Alex Muñoz
Assistant County Manager

MEMORANDUM
(Revised)

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

DATE: June 2, 2009

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

SUBJECT: Agenda Item No. 7(F)

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

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

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

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(F)
6-2-09

ORDINANCE NO. **09-47**

ORDINANCE PERTAINING TO ZONING; AMENDING SECTIONS 33-13, 33-238 AND 33-259 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AMENDING UNUSUAL USES; PERMITTING ANCILLARY OUTDOOR DINING USE SUBJECT TO CONDITIONS; 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 33-13 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

* * *

(e) *Unusual and new uses.* Unless approved upon public hearing, the following unusual uses or uses similar thereto shall not be permitted in any district save and except in those districts that permit such uses without a public hearing: Airport; airplane crop dusting field; all zoning applications by State and municipal entities and agencies; amusement rides and enterprises; amusement center (except in BU-1A Zone in which such use is permitted); archery ranges; art galleries and museums (educational and philanthropic) in districts more restrictive than RU-4; auction sales; auto, truck, machinery salvage yards; bathing beach; boat salvage; bombing field, canal excavation, where not a part of C. & S. F. F. C. D. and County secondary canal system; carnivals, circuses; convalescent homes; day camp, day nursery in zone more restrictive than RU-3; dog kennel, dog training track; electric substation; electric power plant; frog farm; garbage and waste dumps; gas distribution system and plant; golf course except in RU-1 and other Districts where the same is a permitted use; golf course clubhouse and incidental uses in all districts more restrictive than the BU-1 District; golf driving range; gypsy camp; heliports; homes of the aged (except group homes and community residential homes where same is a permitted use); homes for dependent children (except

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

group homes and community residential homes where same is a permitted use); hospitals (not animal hospital) in district more restrictive than RU-4; incinerators; Indian village; institutions for handicapped persons (except group homes and community residential homes where same is a permitted use), including but not limited to incidental related facilities such as workshops, sales of products fabricated therein, residential quarters, educational training facilities; infirmary, commissary, or any one (1) or combination of such related incidental facilities; junkyard; kindergarten in zones more restrictive than RU-3; lake excavation and asphalt plant, concrete batching plant, concrete block plant, prestressed and precast concrete products plant, rock crushing and screening plant ancillary thereto or in connection with lake excavation(s), excluding those uses expressly allowed in the "Rockmining Overlay Zoning Area" as defined in Section 33-152; landing field; movie (open air) except as provided in BU-1A Zone; nightclub in BU-2 or more liberal districts; nursing homes; oil and gas well drilling and essential, incidental uses thereto, such as minimum storage facilities; in AU and GU Districts subject to conformance to all applicable Florida State statutes and rules and regulations of the State Board of Conservation and other applicable state rules and regulations; outdoor display; outdoor paint testing laboratory; outdoor patios and table service in connection with restaurants >>in zones more restrictive than BU-1 and IU-1<<; palmist and psychic readers; parking (noncommercial parking in zones more restrictive than in which the use it serves is located); pistol ranges; pony rings; private club in RU-3B and RU-3 and more restrictive districts, including but not limited to AU and GU Districts; private playgrounds and recreational area; except for those allowed pursuant to Section 33-199; public and private utility facilities such as electricity, gas, water, telephone, telegraph, cable TV., and including work centers (repair and storage areas for trucks, heavy equipment, pipe, meters, valves, cable, poles) as accessory uses, and including sewage treatment plants and lift stations and water treatment plants and pumping stations, excluding temporary package water and sewage treatment plants approved by the Environmental Quality Control Board and until December 31, 2008, excluding any telecommunications antenna owned and operated by a telecommunications company providing services to the public for hire attached to any pole or H-frame or lattice structure owned by a utility which is used in and is part of the utility's network for the provision of electric services, provided that (a) equipment appurtenant to the antenna is maintained on the utility pole or structure, (b) the utility pole or structure does not exceed 125 feet in height above ground unless the utility pole or structure is located in an easement or right-of-way which is greater than fifty (50) feet in width or, if less than fifty (50) feet in width, such easement or right-of-way is adjacent to and parallel with road right-of-way which is one hundred (100) feet or greater in width, and (c) the antenna was attached to the utility pole or structure prior to January 1, 1997; race tracks; retirement villages, including as an accessory use commercial facilities of the BU-1 type; rifle range; rock pits (filling of); rock quarries; shopping center promotional activities; skeet range; subdivision entrance gates and entrance features not conforming to regulations; testing laboratory or plant; tourist attractions; radio and TV transmitting stations; trailer as watchman's quarters; trailers or tourist camp; trap range; water tank and tower; water treatment plant; water use facilities; Wireless Supported Service Facilities except as provided for in Section 33-63.2 and 33-63.3; wood burning barbecue (commercial); zoo (except in public park).

* * *

Section 2. Section 33-238 of the Code of Miami-Dade County is hereby amended as follows:

Sec. 33-238. 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, reconstructed or structurally altered or maintained in any BU-1 District, which is designed, arranged or intended to be used or occupied for any purpose, except for one (1) or more of the following uses:

* * *

>>(25.1) Outdoor dining as an ancillary use in conjunction with restaurants, snack shops and other food service facilities where the primary use is the preparation of food for consumption on premises shall be permitted, subject to the following restrictions:

(a) The outdoor dining area shall be managed, operated and maintained as an integral part of the immediately adjacent food service facility; and

(b) The outdoor dining area shall not reduce required parking or landscaping for the site; and

(c) The outdoor seating area shall be included in the calculations for required parking; and

(d) There shall be no outdoor cooking or food preparation; and

(e) No outdoor dining area shall obstruct or impede pedestrian traffic; and

(f) The outdoor dining area shall comply with handicapped accessibility requirements; and

(g) No outside public address system shall be permitted. Un-amplified music shall be permitted in the outdoor dining area, subject to compliance with Section 21-28 of this code; and<<

[[~~(h) The outdoor dining area may be operated between the hours of 7 a.m. and 11 p.m; and~~

~~(i) No signage shall be permitted on any outdoor furniture, umbrellas or fixtures; and~~]][2]

[[~~(j)~~]]>>(h)<< >>Blinking and flashing type lighting shall be prohibited; and<<

[[~~(k)~~]]>>(i)<< >>Alcoholic beverages may be served where such service is strictly incidental to the service of food and is from a service bar only, subject to compliance with the regulations specified in Article X (Alcoholic Beverages) of this chapter; and<<

[[~~(l)~~]]>>(j)<< >>The use shall be subject to plan review and approval through the building permit review process. The plans for such use shall include all restrooms, furniture, umbrellas, lighting, and other related services and functions associated with the proposed use, together with all required and provided parking calculations.<< >>Plans shall be subject to all the applicable building and zoning code regulations; and<<

[[~~(m)~~]]>>(k)<< >>The use shall require a Certificate of Use which shall be renewed annually and shall be subject to revocation upon violation of any applicable<< >>building and zoning code<< >>regulations, or when a continuation of the permit would constitute a hazard or nuisance.<<

* * *

Section 3. Section 33-259 of the Code of Miami-Dade County is hereby amended as follows:

Section 33-259. Uses permitted.

No land, body of water or structure shall be used or permitted to be used and no structure shall be erected, constructed, moved or reconstructed, structurally altered, or maintained, which is designed, arranged or intended to be used or occupied for any purpose, unless otherwise provided herein, in IU-1 District, excepting for one (1) or more of the following:

* * *

>>(56.1) Outdoor dining as an ancillary use in conjunction with restaurants, snack shops and other food service facilities where the primary use is the

[2] Committee amendments are indicated as follows: words within [[double brackets]] and double strike-through are deleted, words within >>double arrows<< and double underlining are added.

preparation of food for consumption on premises, shall be permitted subject to the following restrictions:

(a) The outdoor dining area shall be managed, operated and maintained as an integral part of the immediately adjacent food service facility; and

(b) The outdoor dining area shall not reduce required parking or landscaping for the site; and

(c) The outdoor seating area shall be included in the calculations for required parking; and

(d) There shall be no outdoor cooking or food preparation; and

(e) No outdoor dining area shall obstruct or impede pedestrian traffic; and

(f) The outdoor dining area shall comply with handicapped accessibility requirements; and

(g) No outside public address system shall be permitted. Un-amplified music shall be permitted in the outdoor dining area, subject to compliance with Section 21-28 of this code; and<<

[[~~(h) The outdoor dining area may be operated between the hours of 7 a.m. and 11 p.m; and~~

~~(i) No signage shall be permitted on any outdoor furniture, umbrellas or fixtures; and~~]]

[[~~(j)~~]]>>(h)<< >>Blinking and flashing type lighting shall be prohibited; and<<

[[~~(k)~~]]>>(i)<< >>Alcoholic beverages may be served where such service is strictly incidental to the service of food and is from a service bar only, subject to compliance with the regulations specified in Article X (Alcoholic Beverages) of this chapter; and<<

[[~~(l)~~]]>>(j)<< >>The use shall be subject to plan review and approval through the building permit review process. The plans for such use shall include all restrooms, furniture, umbrellas, lighting, and other related services and functions associated with the proposed use, together with all required and provided parking calculations.<< >>Plans shall be subject to all the applicable building and zoning code regulations; and<<

[[~~(m)~~]]>>(k)<< >>The use shall require a Certificate of Use which shall be renewed annually and shall be subject to revocation upon violation of any applicable<< >>building and zoning code<< >>regulations, or when a continuation of the permit would constitute a hazard or nuisance.<<

* * *

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 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 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: **June 2, 2009**

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Andrew B. Boese

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item: 7(F)

File Number: 091524

Committee(s) of Reference: Board of County Commissioners

Date of Analysis: May 18, 2009

Type of Item: Code Amendment

Summary

This ordinance amends the Code of Miami Dade County (Code), permitting outside dining as an ancillary use in business and industrial zones.

This item was amended at the May 12, 2009, Budget, Planning and Sustainability Committee to remove both the operation hours for outside dining and the prohibition of signage on any outdoor furniture, umbrellas or fixture.

Background and Relevant Legislation

Current Code

Currently under § 33-13, 33-238 and 33-259 of the Code, outdoor patios and table service in connection with restaurants are considered unusual uses and are not allowed unless a variance for such use is approved by the Community Zoning Appeals Board (CZAB) or the Board of County Commissioners (BCC).

Policy Change and Implication

The proposed ordinance allows outdoor dining as an ancillary use to a structure where the primary use is a food service establishment.

It removes the public hearing requirement for outdoor dining in business and industrial districts, subjecting such use to plan review and approval through the building permit review process, and requiring an annually renewed Certificate of Use.

In addition, this item requires that site plans include restrooms that conform to building and zoning codes, and denotes that the Certificate of Use can be revoked upon violation of any applicable building and zoning code.

Comparison to Other Jurisdictions

A cursory review of other jurisdictions found the following in comparison to the proposed ordinance:

- The proposed ordinance contains regulatory language similar to the Cities of Miami and Miami Beach.
- The City of Raleigh North Carolina requires a written Indemnity Agreement that holds the City, its officers, councilors, and employees harmless of any property damage or personal injury.

In addition, the City of Miami's Code includes a section establishing the Dog Friendly Dining Program, allowing for patrons' dogs within certain approved outdoor seating areas of food service establishments in the City of Miami.

Budgetary Impact

This regulation provides for an annually renewed Certificate of Use providing a positive economic impact to the County.

Prepared by: Elizabeth N. Owens

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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(B)

(Second Reading 9-1-09)

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

DATE: June 30, 2009

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

SUBJECT: Ordinance pertaining to Zoning; amending Section 33-259 of the Code; permitting plant nursery use within utility easements and railroad rights-of-way in Industrial Zoning Districts

Ordinance No. 09-69

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

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: September 1, 2009

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

From: George M. Burgess
County Manager

Subject: Ordinance Pertaining to Zoning; Amending Section 33-259 of the Code; Permitting Plant Nursery Use Within Utility Easements and Railroad Rights-of-Way in Industrial Zoning Districts

---

The ordinance pertaining to zoning, amending Section 33-259 of the Code permitting plant nursery use within utility easements and railroad rights-of-way in industrial zoning districts will not have a fiscal impact on Miami-Dade County.

Alex Munoz
Assistant County Manager

fls04809

MEMORANDUM

(Revised)

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

DATE: September 1, 2009

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

SUBJECT: Agenda Item No. 7(B)

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

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

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

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(B)
9-1-09

ORDINANCE NO. 09-69

ORDINANCE PERTAINING TO ZONING; AMENDING SECTION 33-259 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PERMITTING PLANT NURSERY USE WITHIN UTILITY EASEMENTS AND RAILROAD RIGHTS-OF-WAY IN IU (INDUSTRIAL ZONING DISTRICTS) SUBJECT TO CONDITIONS; 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 33-259 of the Code of Miami-Dade County is hereby amended as follows:[1]

Sec. 33-259. Uses permitted.

No land, body of water or structure shall be used or permitted to be used and no structure shall be erected, constructed, moved or reconstructed, structurally altered, or maintained, which is designed, arranged or intended to be used or occupied for any purpose, unless otherwise provided herein, in IU-1 District, excepting for one (1) or more of the following:

* * *

>>(89.1) Plant nurseries are authorized in utility easements and railroad rights-of-way, with the consent of the property owner, subject to the following conditions:

(a) The nursery use shall be conducted by a not-for-profit corporation and shall be incidental to an on-site educational program that provides career training or medical or educational therapy programs.
(b) No on-site sales shall be permitted;
(c) The use shall be conducted on sites with a minimum of one (1) acre net lot area;
(d) A Certificate of Use shall be obtained, and shall be renewed annually subject to the conditions contained in this subsection; and

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

(e) The use shall not be permitted on property abutting residentially zoned properties or properties designated on the Land Use Plan (LUP) map for residential use.<<

* * *

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall 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: September 1, 2009

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

Prepared by: _____

Andrew B. Boese

Prime Sponsor: Vice-Chairman Jose "Pepe" Diaz

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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(D)

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

DATE: September 1, 2009

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

SUBJECT: Ordinance relating to zoning and other land development regulations; providing for the Bird Road Design and Industrial Zoning District creating Sections 33-278.5 through 33-278.9 of the Code

Ordinance 09-71

This ordinance was amended at the July 14, 2009 Budget, Planning and Sustainability Committee to identify the boundaries of the area in which the zoning district may apply and to correct scrivener's errors.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Carlos A. Gimenez.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: September 1, 2009

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

From: George M. Burgess
County Manager

Subject: Ordinance Relating to Zoning and Other Land Development Regulations; Providing for the Bird Road Design and Industrial Zoning District Creating Sections 33-278.5 through 33-278.9 of the Code

---

The ordinance relating to zoning and other land development regulations; providing for the Bird Road Design and Industrial Zoning District creating Sections 33-278.5 through 33-278.9 of the Code, will not have a fiscal impact on Miami-Dade County.

Alex Munoz
Assistant County Manager

fis05109

MEMORANDUM
(Revised)

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

DATE: September 1, 2009

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

SUBJECT: Agenda Item No. 7(D)

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

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

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

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(D)
9-1-09

ORDINANCE NO. 09-71

ORDINANCE RELATING TO ZONING AND OTHER LAND DEVELOPMENT REGULATIONS; PROVIDING FOR THE BIRD ROAD DESIGN AND INDUSTRIAL ZONING DISTRICT ("BRDI"); CREATING SECTIONS 33-278.5 THROUGH 33-278.9 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Article XXXIIA (BIRD ROAD DESIGN AND INDUSTRIAL DISTRICT) and Sections 33-278.5 through 33-278.9 of the Code of Miami-Dade County, Florida are hereby created as follows:[1]

Sec. 33-278.5. Applicability.
The Bird Road Design and Industrial District (BRDI) District shall be applied only to those lands >>, in the area bounded on the north by S.W. 40th Street (Bird Road), on the south by S.W. 48th Street, on the east by S.W. 70th Avenue, and on the west by S.W. 74th Avenue,<<[2] that appropriately may be used and utilized to provide for uncommon commercial uses and other commercial uses with unusual [[~~sitting~~]]>>siting<< requirements in areas designated as "Industrial and Office" on the Comprehensive Development Master Plan Land Use Plan map that are of the nature, type and character commensurate with the public health, safety, comfort, convenience, and the general welfare of the County.

Sec. 33-278.6 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, reconstructed, moved, structurally altered, or maintained for any

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

[2] Committee amendments are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

purpose in the Bird Road Design and Industrial (BRDI) District, except as provided in this article. The uses delineated herein shall be permitted only in compliance with the general requirements provided in this article.

(1) Antique and secondhand goods shops.
(2) Apparel stores.
(3) Art galleries.
(4) Artisanal use.
(5) Artists' studios.
(6) Bakeries.
(7) Banquet halls.
(8) Bars and lounges.
(9) Brewery.
(10) Cabinet shops.
(11) Card and stationery shops.
(12) Confectionery, ice cream stores.
(13) Custom woodworking.
(14) Dance studios.
(15) Decorative home items.
(16) Designing, making and assembling of art and craft products including sale of finished products, art and craft type products and curios designed, made and assembled in the district.
(17) Florist shops.
(18) Furniture stores less than ten thousand (10,000) square feet.
(19) Gift stores.
(20) Interior design shops.
(21) Ironworks.
(22) Jewelry stores.
(23) Lamps and lighting fixtures.
(24) Leather goods and luggage shops.
(25) Live-work units defined as follows: Single-family unit containing a maximum of two bedrooms in connection with one of the uses delineated in this section.
(26) Office uses.
(27) Paint and wallpaper stores less than ten thousand (10,000) square feet.
(28) Photograph studio and photo supply.
(29) Plant sales (no nurseries or fertilizer).
(30) Pottery shops.
(31) Religious facilities.
(32) Self-service mini-warehouse storage facility
(33) Shoe stores and shoe repair shops.
(34) Stained glass art and windows.
(35) Tobacco shops for hand rolling cigars and sale of tobacco products.

(36) Training schools for arts and crafts work.
(37) Restaurants and coffeehouses.
(38) Uses determined by the Director to be similar to those enumerated above. In determining similarity between a proposed use and the uses enumerated above the Director shall be guided by the intent of this Section and shall consider common characteristics including the nature of products offered for sale, the generation of pedestrian and vehicular traffic, and incompatibility with the primary uses permitted in this district.

Sec. 33-278.7. General requirements.

(a) *Building Placement and Design Parameters.* Each use shall comply with the building content, setback, area, height, and landscape requirements for the IU-1 zoning district set forth in Section 33-49 (Table of minimum widths, area of lots; maximum lot coverage, and minimum building sizes), Section 33-51 (Setbacks in business and industrial districts), Section 33-58 (Height of building limited to width of street in certain districts), and Section 33-261 (Minimum landscaped open space, greenbelts, trees, and maintenance).

(b) *Outdoor Display Areas.* Products sold on the premises may be displayed against the front façade of the bay or building.

(c) *Parking.*

(1) For all uses except for banquet halls, bars, lounges, breweries, restaurants, and coffeehouses, parking shall be provided at a minimum of 1.25 parking spaces for each 1,600 square feet of gross floor area in the building, or fractional part thereof. Live-work units shall provide an additional 1.75 parking spaces per unit.

(2) Parking for banquet halls, bars, lounges, breweries, restaurants, and coffeehouses shall be provided in accordance with Section 33-124 of this chapter. Notwithstanding the foregoing, if the required amount of parking is not available on the same lot, parcel, or premises as the banquet hall, bar, lounge, brewery, restaurant, or coffeehouse to be served, then parking may be provided on a lot or parcel of land that is in a BRDI, IU, or BU District and is within 300 feet from the site of the use to be served by submitting a covenant in accordance with Section 33-128(a) of this chapter. It is further provided that, if the availability of parking on the other lot or parcel is dependent on the hours of operation of the uses, then parking may be provided through such a covenant where the covenant specifies that the uses on the lot or parcel providing the parking are not in operation at the same time that the use to be served is in operation.

Sec. 33-278.8. Conflicts with other chapters and regulations.

This article shall govern in the event of conflicts with other zoning, subdivision, or landscape regulations of this code, or with the Miami-Dade Department of Public Works Manual of Public Works.

Sec. 33-278.9. Non-conforming structures, uses and occupancies.

Nothing contained in this article shall be deemed or construed to prohibit a continuation of a legal nonconforming structure, use, or occupancy in the Bird Road Design and Industrial (BRDI) District that either (1) was existing as of the date of the district boundary change on the property to BRDI District, or (2) on or before said date, had received final site plan approval through a public hearing pursuant to this chapter or through administrative site plan review or had a valid building permit. However, any structure, use, or occupancy in the BRDI District that is discontinued for a period of at least six months, or is superseded by a lawful structure, use or occupancy permitted under this chapter, or that incurs damage to the roof or structure to an extent of 50 percent or more of its market value, shall be subject to Section 33-35(c) of this code.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall 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: **September 1, 2009**

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Dennis A. Kerbel

Prime Sponsor: Commissioner Carlos A. Gimenez

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(H)

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

DATE: September 1, 2009

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

SUBJECT: Ordinance amending Section 33-19 of the Code to provide for permanent donation collection bins on improved property owned by a charity and providing for buffering, set backs and permit requirements

Ordinance No. 09-75

This Substitute No. 2 differs from the original substitute in that it revises the cover memorandum to read as follows:

It differs from the original item in that it improves the organization of the provisions; clarifies that the proceeds from the donation collection bins must be used in accordance with the not-for-profit's charitable purpose to benefit persons in Miami-Dade County or outside of Miami-Dade County to provide emergency relief for victims of natural, man-made or economic disasters and must be operated by the not-for-profit organization, not by a licensee, subcontractor or agent of said not-for-profit; provides that the not-for-profit organization may contract with a licensed common carrier to transport donated goods to a disaster site for distribution of same to victims of the disaster; requires that the donation collection bins be shown on site plans, whenever a site plan is legally required; and requires a declaration of use in a form meeting with the approval of the Director of Zoning in connection with the issuance of an annually renewable certificate of use and occupancy.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: September 1, 2009

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

From: George M. Burgess
County Manager

Subject: Ordinance amending Section 33-19 of the Code to provide for permanent donation collection bins on improved property owned by a charity and providing for buffering, set backs and permit requirements

---

The ordinance providing for permanent donation collection bins will not have a fiscal impact on Miami-Dade County.

Alex Munoz
Assistant County Manager

fis03309

MEMORANDUM

(Revised)

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

DATE: September 1, 2009

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

SUBJECT: Agenda Item No. 7(H)

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

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

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

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(H)
7-21-09

ORDINANCE NO. 09-75

ORDINANCE AMENDING SECTION 33-19 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO PROVIDE FOR PERMANENT DONATION COLLECTION BINS ON IMPROVED PROPERTY OWNED BY A CHARITY AND PROVIDING FOR BUFFERING, SET BACKS AND PERMIT REQUIREMENTS; 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 33-19 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-19. Donation collection bins prohibited; exceptions.

(a) *Donation collection bins prohibited*[[~~; exceptions~~]]. It shall be unlawful to deposit, store, keep or maintain or to permit to be deposited, stored, kept or maintained a donation collection bin in or on any lot, parcel or tract of land or body of water in any zoning district. A donation collection bin is hereby defined as a receptacle designed with a door, slot or other opening and which is intended to accept and store donated items[[~~; provided, however, the definition of donation collection bins shall not include non-motorized vehicles which comply with the following criteria:~~]]>>.<<

>>(b) Exceptions. The following shall be exempted from the provision of section (a) above:

(1) Non-motorized vehicles which comply with the following criteria:<<

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

4

(i) The non-motorized vehicles must be operated by an organization which has been incorporated as a not-for-profit organization under the laws of the State of Florida for a charitable purpose and which has been declared exempt from the payment of federal income taxes by the United States Internal Revenue Service;

(ii) Personnel directly employed by or volunteers for the not-for-profit organization must be present at the non-motorized vehicles at least five days a week (except holidays) to accept donations;

(iii) The monetary proceeds resulting from the sale of donations collected at a non-motorized vehicle must be used in accordance with the organization's charitable purpose pursuant to Section 33-19(a)(i) to benefit persons within the boundaries of Miami-Dade County or outside of Miami-Dade County to provide emergency relief for victims of natural, man-made or economic disasters;

(iv) The operation of the non-motorized vehicles, the collection and distribution of donations and proceeds thereof must be conducted by said not-for-profit organization and not by a licensee, subcontractor or agent of the not-for-profit organization; and

(v) The non-motorized vehicles shall be located on sites in accordance with the requirements of Section 33-238(5); provided further that said non-motorized vehicles shall operate in a safe manner, be neat in appearance, well maintained, free of graffiti, fully painted and shall be buffered from adjacent properties by on-site landscaping, walls or similar screening; and

(vi) For each non-motorized vehicle said not-for-profit organization shall submit a declaration

of use in a form meeting with the approval of the Director in connection with the issuance of an annually renewable certificate of use and occupancy. Said declaration of use shall specify compliance with the foregoing conditions.

Non-motorized vehicles which comply with the foregoing criteria are not required to be shown on site plans which are required by the Code to be submitted for approval at public hearing or by administrative site plan review.

>>(2) Permanently placed donation collection bins <<[[~~that~~]][2]>>which comply with the following criteria:

(i) The donation collection bins<< >>are contained wholly upon improved property owned<< >>and operated<< >>by an organization which has been incorporated as a not-for-profit organization under the laws of the State of Florida for a charitable purpose and which has been declared exempt from the payment of federal income taxes by the United States Internal Revenue Service<<[[~~provided that the collection bin~~]]>>;<<

>>(ii) The monetary proceeds resulting from the donations collected at said donation collection bins must be used in accordance with the organization's charitable purpose to benefit persons within the boundaries of Miami-Dade County or outside of Miami-Dade County to provide emergency relief for victims of natural, man-made or economic disasters. The collection and distribution of donations and proceeds thereof must be conducted by the non-for-profit organization owning and operating the donation collection bins and not by a licensee, subcontractor or agent of said not-for-profit organization; provided, however, that this subsection shall not prevent the not-for-profit

[2] The differences between the substitute and the original item are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

organization from contracting with a licensed common carrier to transport donated goods to a disaster site for distribution of same to victims of the disaster;

(iii) The donation collection bins<< >>shall be permanently affixed to the property and shall have been approved by the Director of the Building Department as meeting the requirements for wind resistance established for Miami-Dade County.<<[[~~Said permanent~~]]>>;<<

>>(iv) The donation collection<< >>bins shall be buffered from view from any location off of the property of said charity and shall not be closer than 75 feet from any property line. Each<<[[~~such permanent bin~~]] >>donation collection bin<< >>shall require a permit from the Department prior to placement on the property. No<<[[~~permanently placed~~]] >>donation collection<< >>bin shall have a floor area in excess of 20 square feet and shall not exceed a height of 6 feet.<< >>Donation collection bins must be shown on site plans which are required by the Code to be submitted for approval at public hearing or by administrative site plan review.<< >>Said bins shall not be required to comply with the windborne debris impact standards of the Florida Building Code. Electrical connections to the bins shall be prohibited<<[[;]]>>; and<<

>>(v) For each donation collection bin said not-for-profit organization shall submit a declaration of use in a form meeting with the approval of the Director in connection with the issuance of an annually renewable certificate of use and occupancy. Said declaration of use shall specify compliance with the foregoing conditions.<<

[[~~(b)~~]]>>(c)<< *Designation of enforcement officer.* The Director shall designate an enforcement officer who shall be responsible for the removal of >>illegal<< donation collection boxes.

[[~~(c)~~]]>>(d)<< *Notification.* Whenever the enforcement officer ascertains that a>>n illegal<< donation collection bin is present on any property within unincorporated Miami-Dade County,

the officer shall cause a notice to be placed on such bin in substantially the following form:

NOTICE

This donation collection bin is unlawfully upon property known as (setting forth brief description of location) and must be removed within seventy-two (72) hours from the time of this notice. Failure to remove the bin shall result in the removal and destruction of the bin by order of Miami-Dade County.

Dated this: (setting forth the date, time of posting of the notice)

Signed: (setting forth name, with the address and telephone number of the enforcement officer). Such notice shall be not less than eight (8) inches by ten (10) inches and shall be sufficiently weatherproof to withstand normal exposure to the elements.

[[~~(d)~~]]>>(e)<< *Removal of donation collection bin.* If at the end of seventy-two (72) hours after posting of such notice, the donation collection bin has not been removed from the property, the enforcement officer shall cause the bin to be removed.

[[~~(e)~~]]>>(f)<< *Assistance of Miami-Dade Police Department.* If the enforcement officer is unable to successfully remove a donation collection bin subject to seizure under this section, the enforcement officer or his designated representatives may secure the assistance of the Miami-Dade Police Department to effect the removal of said bin.

[[~~(f)~~]]>>(g)<< *Obstructing an enforcement officer in the performance of duties.* Whoever opposes, obstructs or resists the enforcement officer in the discharge of duties as provided in this section, upon conviction, shall be guilty of a misdemeanor of the second degree and shall be subject to punishment as provided by law.

[[~~(g)~~]]>>(h)<< *Destruction of donation collection bin.* Whenever a donation collection bin remains unclaimed as provided in Subsection (d) above, it shall be destroyed by order of

Miami-Dade County. The contents of the bin may be destroyed or donated to charity.

[[~~(h)~~]]>>(i)< *Recovery of costs.* All costs incurred pursuant to this section shall be paid by the owner of the donation collection bin. The enforcement officer may institute a suit to recover such expenses against the bin owner.

[[~~(i)~~]]>>(j)<< *Responsibility for compliance.* The owner of the donation collection bin and the tenant and/or owner of the property on which the bin is maintained shall be responsible for compliance with this chapter.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made 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 4. 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: **September 1, 2009**

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Thomas H. Robertson

Prime Sponsor: Commissioner Joe A. Martinez

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Amended
Agenda Item No. 7(I)

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

DATE: September 1, 2009

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

SUBJECT: Ordinance relating to zoning; modifying notice requirements and procedures for applications

Ordinance No. 09-76

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Natacha Seijas.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: September 1, 2009

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

From: George M. Burgess
County Manager

Subject: Ordinance Relating to Zoning; Modifying Notice Requirements and Procedures for Applications

---

The ordinance relating to zoning, modifying notice requirements and procedures for applications to extend expiration dates, build-out dates, phasing deadlines in certain previously approved development of regional impact development orders, and related zoning actions, will not have a fiscal impact on Miami-Dade County.

Alex Munoz
Assistant County Manager

fis05009

MEMORANDUM

(Revised)

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

DATE: September 1, 2009

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

SUBJECT: Agenda Item No. 7(I)

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

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

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

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 7(I)
9-1-09

ORDINANCE NO. **09-76**

ORDINANCE RELATING TO ZONING; MODIFYING NOTICE REQUIREMENTS AND PROCEDURES FOR APPLICATIONS TO EXTEND EXPIRATION DATES, BUILD-OUT DATES AND PHASING DEADLINES IN CERTAIN PREVIOUSLY APPROVED DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDERS AND RELATED ZONING ACTIONS; 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 33-303.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-303.1. Developmental Impact Committee.

* * *

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

* * *

(2) Review and make recommendations concerning all applications for development approval of a development of regional impact and notices of change to a previously approved development of regional impact which would change in any respect the conditions existing in a current development order, resolution or declaration of restrictions governing land

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

development; >>provided, however, applications to extend a build-out date, expiration date, or phasing deadline for the maximum period of time declared by state law not to constitute a substantial deviation from existing development orders in developments of regional impact development orders that were under active construction on July 1, 2007, and related applications for zoning actions to accomplish only the requested extension, shall not be subject to review by the Developmental Impact Committee.<<

Section 2. Section 33-310 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

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

* * *

(c) No action on any application shall be taken by the Community Zoning Appeals Boards 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:

(1) Said notice shall be published twice in newspapers of general circulation in Miami-Dade County, as follows: (A) a full legal notice, to be published no later than twenty (20) days and no earlier than thirty (30) days prior to the public hearing, to contain the date, time and place of the hearing, the property's location (and street address, if available) and legal description, and nature of the application, including all specific variances and other requests; and (B) a layman's notice, to be published in the newspaper of largest circulation in Miami-Dade County, no later than twenty-five (25) days and no earlier than thirty-five (35) days prior to the public hearing, to contain the same information as the above described full legal notice except that the property's legal description may be omitted and the nature of the application and requests contained therein may be summarized in a more concise, abbreviated fashion. The layman's notice may be published in a section or a supplement of the newspaper distributed only in the locality where the property subject to the application lies. In the event that any time periods specified in this subsection shall conflict with any applicable provision of the Florida Statutes, the provision of the Florida Statutes shall govern.

(2) Mailed notice containing general information, including, but not limited to, the date, time and place of the hearing, the property's location (and street address, if available), and nature of the application shall be sent as provided by Subsection 33-310(d) no later than thirty (30) days prior to the hearing.

(3) The property shall be posted no later than twenty (20) days prior to the hearing in a manner conspicuous to the public, by a sign or signs containing information including but not limited to the applied for zoning action and the time and place of the public hearing.

(d) Mailed notice shall be accomplished by placing in the United States mail a written notice to all property owners of record, as reflected on the Miami-Dade County Property Appraiser's tax roll as updated, within the following radius of the property described in the application, or such greater distance as the Director may prescribe:

(1) Approvals of or modifications to Developments of Regional Impact ("DRI"), including substantial deviation determinations or modifications thereof, one (1) mile; >>except applications to extend a build-out date, expiration date, or phasing deadline for the maximum period of time declared by state law not to constitute a substantial deviation from existing development orders in developments of regional impact development orders that were under active construction on July 1, 2007, and related applications for zoning actions to accomplish only the requested extension (1500 feet).<<

* * *

Section 3. Section 33-311 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-311. Community Zoning Appeals Board – Authority and duties.

(A) Except as otherwise provided by this chapter, the Community Zoning Appeals Boards 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 Boards will consider the application has been first published as provided in Section 33-310. The Community Zoning Appeals Boards 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 Boards shall have authority over the following zoning applications except where the Board of County Commissioners has direct jurisdiction.

* * *

(9) Hear and make recommendations to the Board of County Commissioners on applications for developments of regional impact and related requests, including requests for modifications thereof and substantial deviation determinations pursuant to Section 380.06(19), Fla. Stat., as amended, as provided by Section 33-314 except an application for modification or elimination of a condition or restrictive covenant that is not a substantial deviation, >>or an application to extend a build-out date, expiration date, or phasing deadline for the maximum period of time declared by state law not to constitute a substantial deviation from existing development orders in developments of regional impact development orders that were under active construction on July 1, 2007, and related applications for zoning actions to accomplish only the requested extension,<< 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.

* * *

Section 4. Section 33-309 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

> 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. 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.

* * *

>>For property that is the subject of a DRI development order that was under active construction as of July 1, 2007, the director shall file an application to extend the buildout date, expiration date, and phasing deadlines contained in such development order for the maximum period of time declared by state law not to constitute a substantial deviation from the existing development order, provided that the owner of the property consents to the application and that funds sufficient to pay the costs of advertising and notice as required under Section 33-310 of this code, or sufficient security for such sums, have been provided by or on behalf of the property owner.<<

Section 5. 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 6. 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 7. 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: **September 1, 2009**

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Joni Armstrong Coffey

Prime Sponsor Commissioner Natacha Seijas

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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: (Second Reading 9-1-09)
March 17, 2009

Agenda Item No. 7(N)
Ordinance No. 09-81

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

From: George M. Burgess
County Manager

Subject: Ordinance Revising Zoning and other Land Development Regulations Pertaining to the Downtown Kendall Urban Center District

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Recommendation
It is recommended that the Board of County Commissioners (BCC) adopt the attached ordinance updating the Downtown Kendall Urban Center District Regulations.

Scope
This ordinance impacts the Downtown Kendall area in Commission District 7.

Fiscal Impact/Funding Source
The proposed ordinance creates no fiscal impact on Miami-Dade County.

Track Record/Monitor
Not applicable.

Background
Ordinance 99-166 was adopted on December 16, 1999 and created article XXXIII(I) of the Code of Miami-Dade County – Downtown Kendall Urban Center District Regulations (DKUCD). This article contains zoning regulations applicable to the Downtown Kendall area. The purpose of this proposed ordinance is to revise certain regulatory criteria within this article to address district regulation compliance issues surfacing during the administrative site plan review process as well as to streamline some of the criteria in line with the Standard Urban Center District Regulations (Article XXXIII(K) of the Code) that govern all other urban center districts.

Section 1 of this ordinance revises the Definitions section of the DKUCD in order to clarify the definition of colonnades.

Section 2 of this ordinance revises the Zoning Hearing Review section in order to allow variances of the signage regulations.

Section 3 of this ordinance revises the Regulating Plans section in order to provide for changes resulting from the administrative site plan review approval process for projects in the area. Specifically, the Street Frontage and the Designated Open Space Plans are revised to provide for reconfigured streets and open spaces.

Section 4 of this ordinance amends the Development Parameters section by:

- Deleting the development parameters summary chart. This chart summarized the building placement parameters included in the ordinance which was repetitive and confusing.
- Updating the placement diagrams or text for the Core Sub-District – A, B, C and D Streets; Center Sub-District – A, B, C, and D Streets. These updates are intended to clarify the buildings setback, spacing and expression lines.
- Revising the General Requirements sub-section by:

    1. Deleting the building placement priority criteria. This criteria forced development to be built along major corridors first. The deletion would allow development along any street regardless of its hierarchy. This would also benefit phased development.
    2. Revising Lots and Building criteria in order to clarify the language for floorplates, glazing and transparency.
    3. Revising Street, Alleys and Paseos criteria in order to require that all new "A," "B," and "D" streets be provided with curb, gutter and sidewalks on both sides.
    4. Revising Courtyard Gardens, Street and Garden Walls, Fences and Hedges criteria.
    5. Revising the Open Space criteria in order to clarify the requirement for private open spaces.
    6. Expanding the Open Space section in order to address recreation areas pertaining to child care/day care facilities.
    7. Updating the Parking criteria in order to provide for mechanized parking and exemption from auto-stacking requirement for daycare facilities.

Section 5 of this ordinance amends the Additional Parameters section by:

- Revising the landscape sub-section by requiring that 100% of canopy coverage for 80% of the area of squares be provided within five instead of two years of installation.
- Revising the signage sub-section in order to provide for zoning hearing approval of non-use variances related to signage. Without this update and the one in Section 2, signage regulation cannot be varied within DKUCD.

Section 6 of this ordinance amends Section 33-314 of the Code in order to provide that applications for development approval and modifications within the DKUCD be acted on by the Community Zoning Appeals Boards (CZABs) and the appeals from the CZABs be heard by the BCC. This is in response to requests from the neighboring communities of the DKUCD.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: September 1, 2009

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

SUBJECT: Agenda Item No. 7(N)

Please note any items checked.

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

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

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

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

_____ **Budget required**

_____ **Statement of fiscal impact required**

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

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

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

_____ **No committee review**

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 7(N)
9-1-09

ORDINANCE NO. 09-81

ORDINANCE REVISING ZONING AND OTHER LAND DEVELOPMENT REGULATIONS PERTAINING TO THE DOWNTOWN KENDALL URBAN CENTER ZONING DISTRICT ("DKUCD"), AMENDING SECTIONS 33-284.56 THROUGH 33-284.63 AND SECTION 33-314, CODE OF MIAMI-DADE COUNTY, FLORIDA, PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 33-284.56 of the Code of Miami-Dade County, Florida is hereby amended as follows[1]:

Sec 33-284.56. Definitions.

Terms used throughout this Article shall take their commonly accepted meaning unless otherwise defined in Chapter 33 or Chapter 28 of the Code of Miami-Dade County. Terms requiring interpretation specific to this ordinance are as follows:

* * *

(8) Colonnade: A roofed structure, extending over the sidewalk, open to the street [[~~except for supporting~~]] >>that is supported by<< columns or piers.

* * *

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

Section 2. Section 33-284.58 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-284.58. Zoning Hearing Review.

Applications for zoning hearing which seek relief from the regulations contained within this Article shall be in accordance with the procedures set forth in Article XXXVI of this Code. In no event, however, shall the following provisions of this Article be varied:

Building height restrictions.

Habitable space regulations.

Colonnade regulations.

[[~~Signage regulations.~~]]

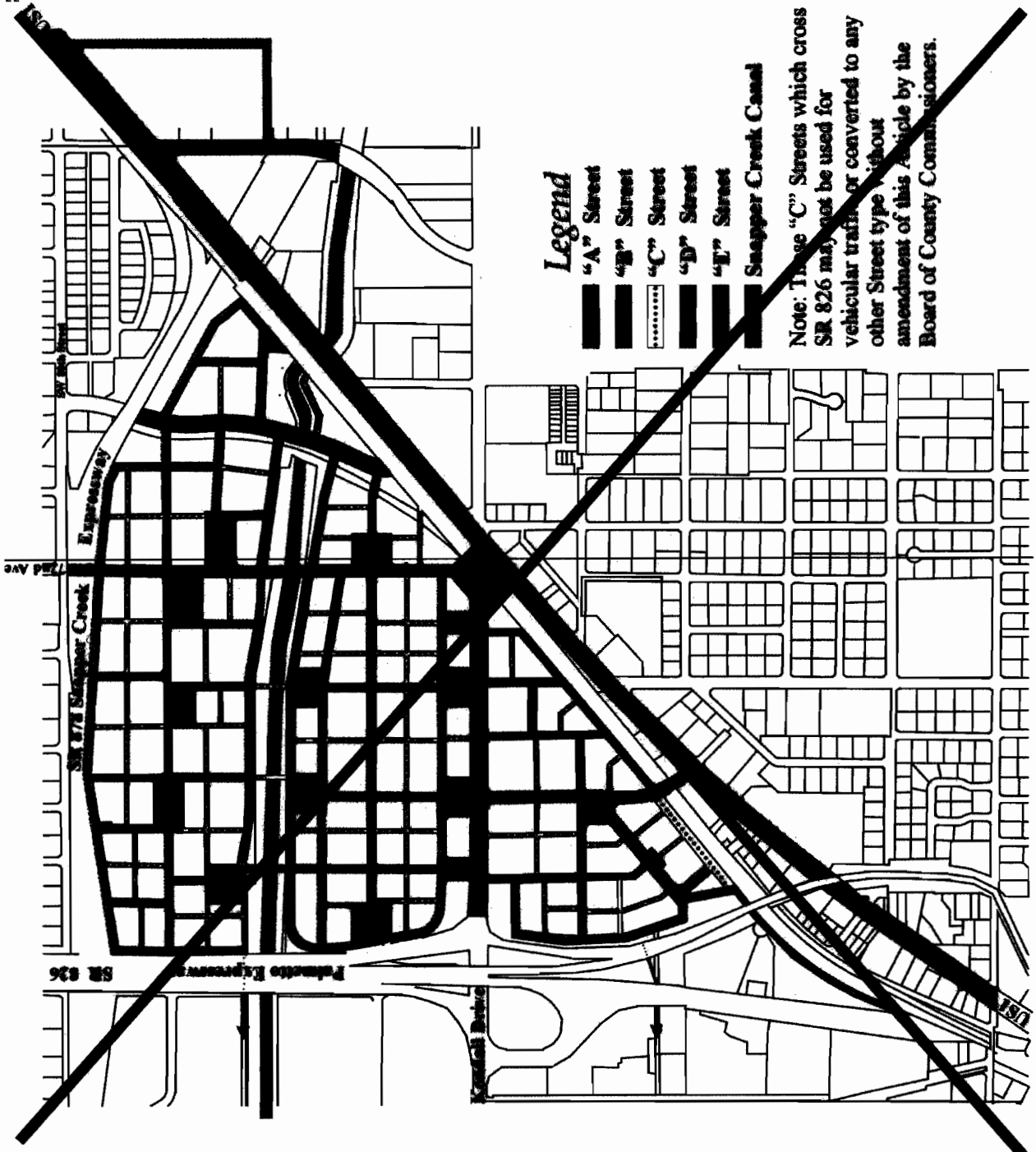
Landscape regulations for streets, squares, and medians.

Section 3. Section 33-284.61 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec 33-284.61. Regulating Plans.

(B) Street Frontage Plan.

[[



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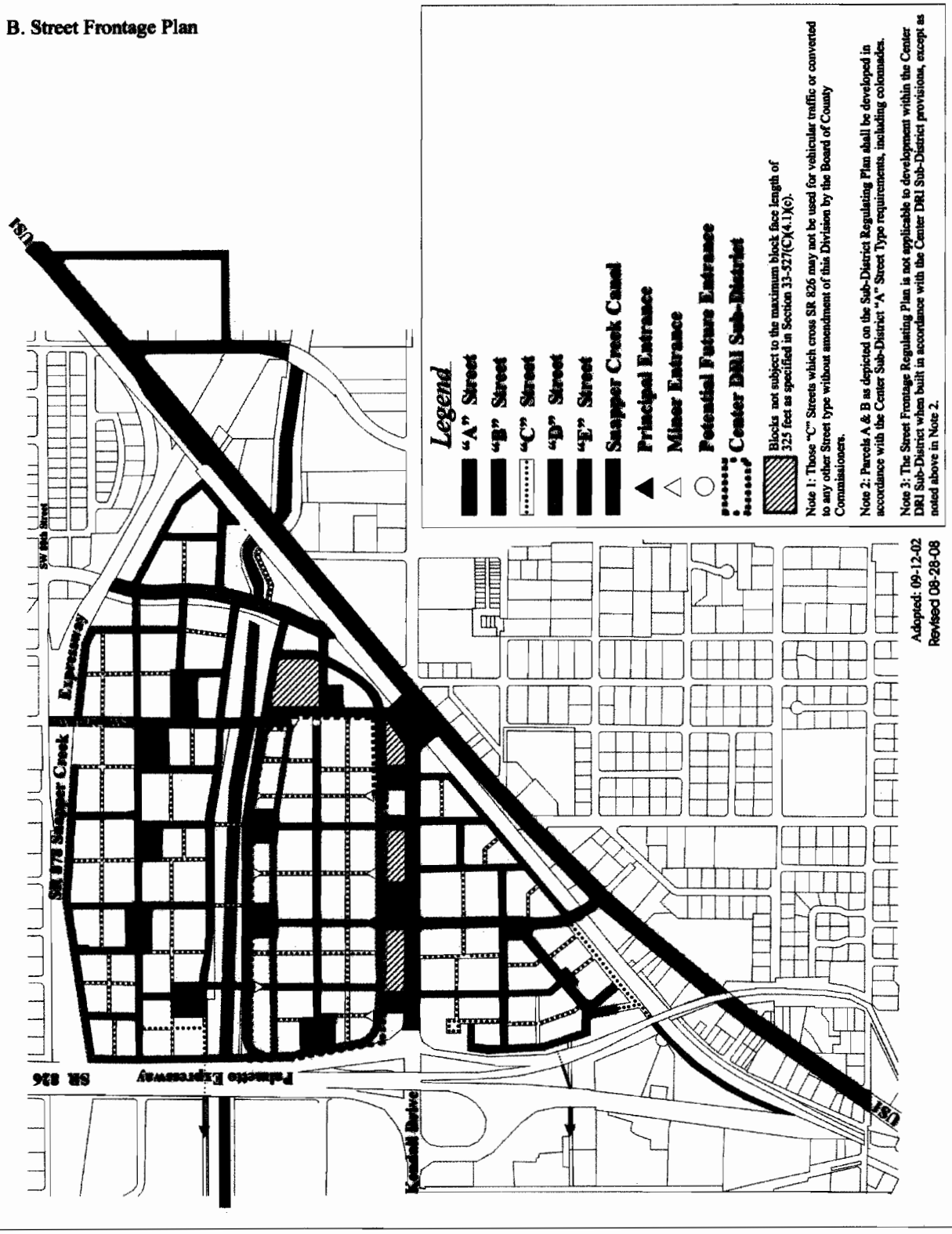
B. Street Frontage Plan



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(C) Designated Open Space Plan.

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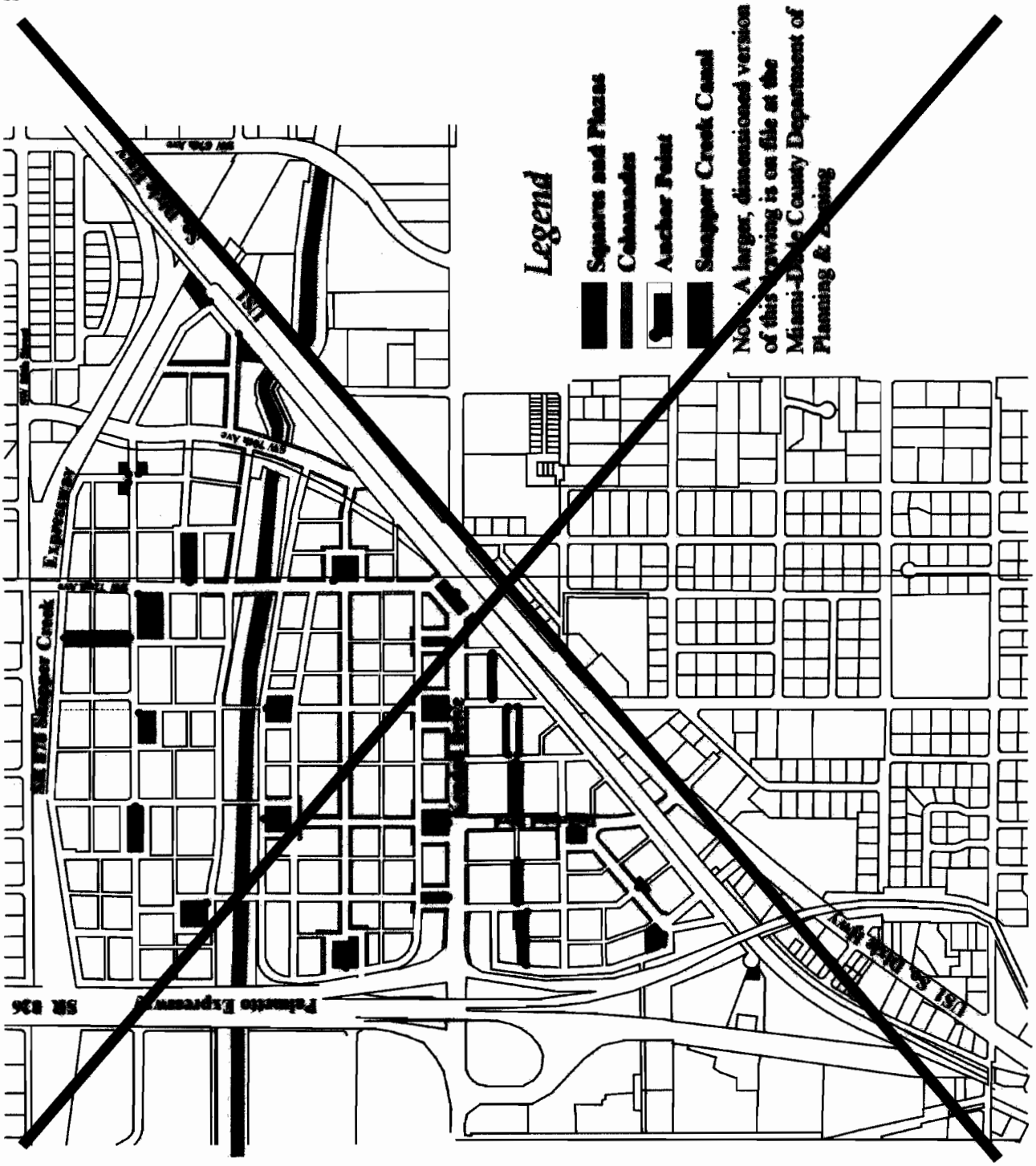

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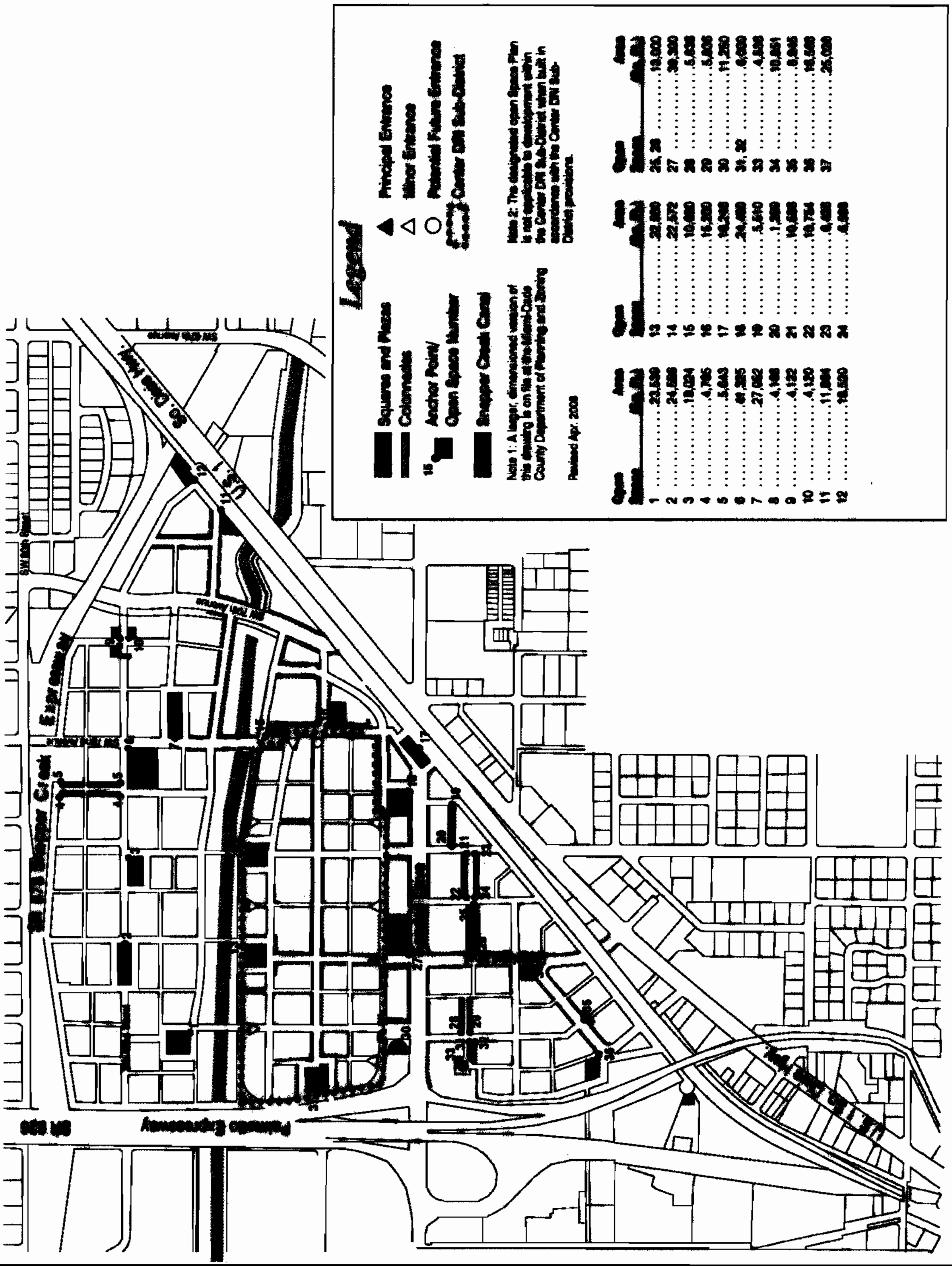

Legend
Squares and Plazas
Colonnades
Anchor Point/ Open Space Number
Snapper Creek Canal
Principal Entrance
Minor Entrance
Potential Future Entrance
Center DRI Sub-District
Note 1: A larger, dimensioned version of this drawing is on file at the Miami-Dade County Department of Planning and Zoning
Revised Apr. 2008
Note 2: The designated open Space Plan is not applicable to development within the Center DRI Sub-District when built in accordance with the Center DRI Sub-District provisions.
U.S. 1
Palmetto Expressway

<<

Section 4. Section 33-284.62 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-284.62. Development Parameters.

[[~~(A) Summary Chart - The chart below summarizes the parameters of the thirteen (13) zone and frontage type situations.~~

	Building Element Height		Build-To Line / Setback	Interior Side & Rear Setbacks	Building Frontage (Minimum Length)[3]	Habitable Space (Minimum Depth)	Driveway Access
	Minimum	Maximum					
[redacted]							
A Street							
Pedestal	4 stories	7 stories	0 ft. Build-To Line	0 ft.	80%	20 ft. min for 1st seven stories	restricted[1]
Tower	n/a	13 stories	20 ft. min.	30 ft. min.	n/a		
Penthouse[2]	n/a	5 stories	20 ft. min.	30 ft. min.	n/a		
B Street							
Pedestal	3 stories	7 stories	0 ft. Build-To Line	0 ft.	75%	20 ft. min for 1st seven stories	33 ft. maximum width. 60 ft. min. habitable space between openings
Tower	n/a	13 stories	20 ft. min.	30 ft. min.	n/a		
Penthouse[2]	n/a	5 stories	20 ft. min.	30 ft. min.	n/a		
C Street							
Pedestal	1 story	7 stories	0 ft. Build-To Line	0 ft.	75%	20 ft. min for 1st two stories	33 ft. maximum width. 60 ft. min. habitable space between openings
Tower	n/a	13 stories	n/a	30 ft. min.	n/a		
Penthouse[2]	n/a	5 stories	n/a	30 ft. min.	n/a		
D Street							
Pedestal	1 story	7 stories	0 ft. Build-To Line	0 ft.	50%	No Limitations	No Limitations
Tower	n/a	13 stories	20 ft. min.	30 ft. min.	n/a		
Penthouse[2]	n/a	5 stories	20 ft. min.	30 ft. min.	n/a		
[redacted]							
A Street							
Pedestal	3 stories	5 stories	0 ft. Build-To Line	0 ft.	80%	20 ft. min for 1st five stories	restricted[1]
Tower	n/a	3 stories	20 ft. min.	30 ft. min.	n/a		
Penthouse[2]	n/a	2 stories	20 ft. min.	30 ft. min.	n/a		
B Street							
Pedestal	3 stories	5 stories	0 ft. Build-To Line	0 ft.	75%	20 ft. min for 1st five stories	33 ft. maximum width. 60 ft. min. habitable space between openings
Tower	n/a	3 stories	20 ft. min.	30 ft. min.	n/a		
Penthouse[2]	n/a	2 stories	20 ft. min.	30 ft. min.	n/a		
C Street							
Pedestal	1 story	5 stories	0 ft. Build-To Line	0 ft.	50%	20 ft. min for 1st two stories	33 ft. maximum width. 60 ft. min. habitable space between openings
Tower	n/a	3 stories	0 ft.	0 ft. min.	n/a		
Penthouse[2]	n/a	2 stories	0 ft.	30 ft. min.	n/a		
D Street							
Pedestal	1 story	5 stories	0 ft. Build-To Line	0 ft.	50%	No Limitations	No Limitations
Tower	n/a	3 stories	30ft.	0 ft. min.	n/a		
Penthouse[2]	n/a	2 stories	30ft.	30 ft. min.	n/a		
E Street							
Pedestal	1story	6 stories	0 ft.	20 ft.	50%	20 ft. min for 1st story	33 ft. maximum width. 70 ft. min. habitable space between openings
Tower	n/a	2 story	0 ft. min.	30 ft. min.	n/a		
[redacted]							
B Street							
Pedestal	2 stories	5 stories	10 ft.	8ft.[4]	75%	20 ft. min for 1st five stories	33 ft. maximum width. 60 ft. min. habitable space between openings
Tower	n/a	2 stories	18 ft. min.	14ft. min.	n/a		
C Street							
Pedestal	1 story	5 stories	0 ft. Build-To Line	0 ft.	25%	20 ft. min for 1st two stories	33 ft. maximum width. 60 ft. min. habitable space between openings
Tower	n/a	2 stories	0 ft.	30ft. min.	n/a		
D Street							
Pedestal	2 stories	5 stories	10 ft.	8ft.[4]	50%	No Limitations	No Limitations
Tower	n/a	2 stories	18 ft. min.	14ft. min.	n/a		
E Street							
Pedestal	1 story	6 stories	75 ft.	20 ft.	50%	20ft. min for 1st story	33 ft. maximum width. 70 ft. min. habitable space between openings
Tower	n/a	2 stories	95 ft. min.	30 ft. min.	n/a		

Notes:

[1] permitted only if lot has no subordinate Street access. When permitted, entry may be up to 33 ft. wide, with a minimum interval of 60 ft. of Habitable Space between each entry.

[2] Penthouse must occur above the tower level and is limited to 50% of the largest tower floorplate below.

[3] Minimum frontage buildout of a block or lot, whichever is smallest

[4] Each story above the second story must be set back on additional two (2) feet.

]]

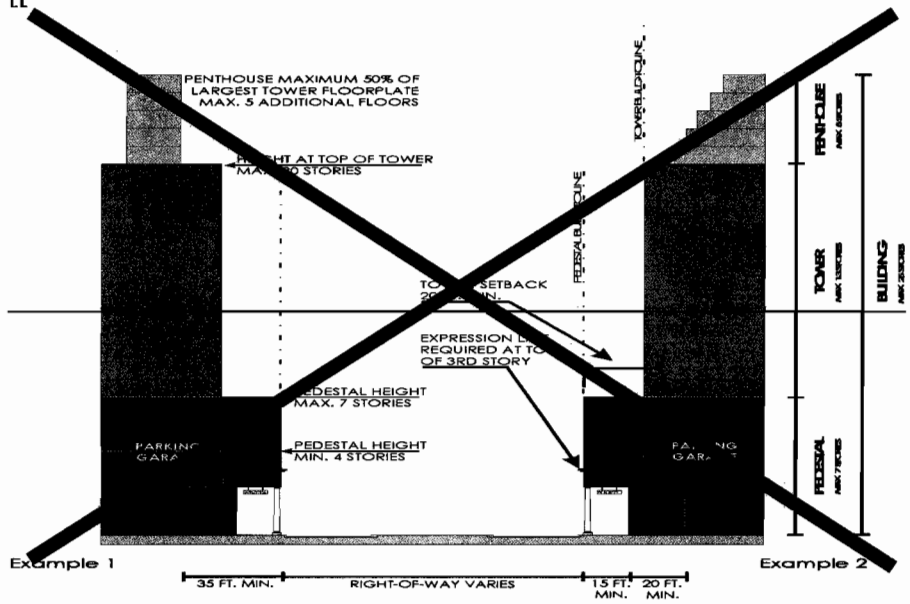
[[~~(B)~~]]>>(A)<< Placement Diagrams.

The following diagrams in this section identify design parameters specifically for the thirteen (13) Sub-district and frontage type situations.

* * *

Core Sub-District – "A" Street

[[



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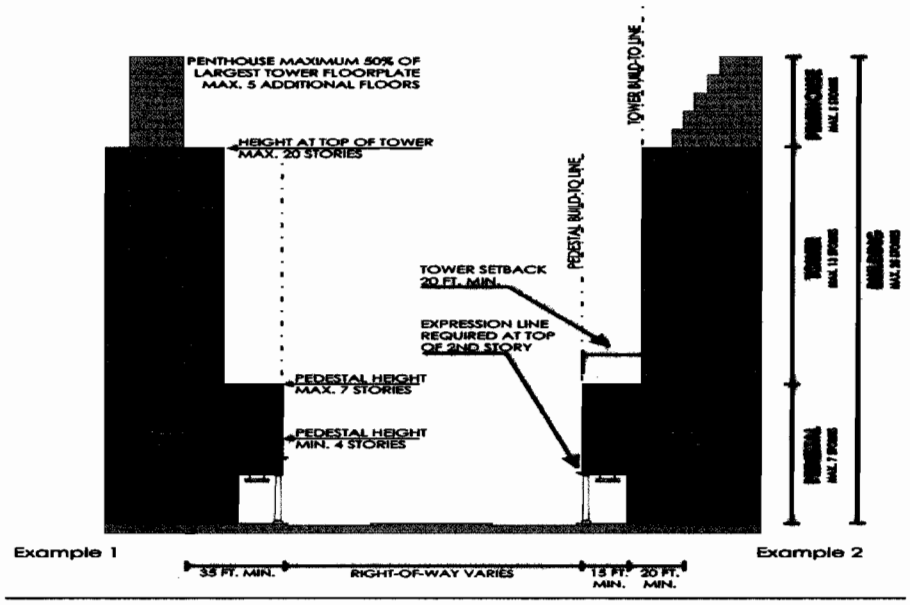

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Building Placement

Front – Zero (0) foot build-to line for pedestal / twenty (20) foot minimum setback for tower and penthouse.
Interior Side/Rear – Zero (0) foot >>minimum<< setback for pedestal>>,<< [[~~/thirty (30) foot minimum setback for~~]] tower and penthouse.
Frontage Length – Minimum eighty (80) percent of lot width. Free standing colonnades shall not count for frontage length.

Streetwalls

Colonnade – Two (2) story high for full required frontage at build-to line. Fifteen (15) foot minimum depth. Colonnade depth shall not exceed colonnade height. Exterior of colonnade shall be no closer than two (2) feet from curb line. [[~~Interior wall of colonnade shall be a minimum of sixty (60) percent clear glazed area except for jewelry stores, which may be a minimum of twenty (20) percent, and for residential uses which may be a minimum of forty (40) percent.~~]]
Vehicular Entries – Not permitted, except when not accessible from a street of lesser hierarchy. If other frontages do not permit vehicular entries, the maximum vehicular entry width permitted shall be thirty-three (33) feet.
Habitable Space – Twenty (20) foot minimum depth for full height and length of pedestal.
Expression Line – Required at the top of the [[~~third~~]] >>second<< story.

* * *

Core Sub-District – "B" Street

* * *

Building Placement

Front – Zero (0) foot build-to line for pedestal / twenty (20) foot minimum setback for tower and penthouse.
Interior Side / Rear – Zero (0) foot >>minimum<< setback for pedestal>>,<< [[~~/thirty (30) foot minimum setback for~~]] tower and penthouse.
Frontage Length – Minimum seventy-five (75) percent of lot width.

* * *

Core Sub-District – "C" Street

* * *

Building Placement

Spacing – A minimum clear width of twelve (12) feet is required between buildings. For vehicular access, a minimum clear width of sixteen (16) feet is required. [[~~For a minimum fifty (50) percent of its length, C street width shall be at a minimum thirty-three (33) percent of its abutting building height. If a C street abuts a property~~

~~line, there shall be a twelve (12) foot minimum setback for the pedestal and thirty (30) foot minimum setback for the tower.~~]]

Interior Side / Rear – [[~~Thirty (30)~~]] >>Zero (0)<< foot minimum setback for >>pedestal,<< tower and penthouse.

Overhead Cover – A maximum of twenty-five (25) percent of the street may be covered above the first floor with structures connecting buildings including roofs, upper story terraces, pedestrian bridges, or automobile bridges between parking garages.

Frontage Length – Minimum seventy-five (75) percent of lot width.

* * *

Core Sub-District – "D" Street

* * *

Building Placement

Front – Zero (0) foot build-to line for pedestal / twenty (20) foot minimum setback for tower and penthouse.

Interior Side/Rear – Zero (0) foot >>minimum<< setback for pedestal>>,<< [[~~/thirty (30) foot minimum setback for~~]] tower and penthouse.

Frontage Length – Minimum fifty (50) percent of lot width.

* * *

Center Sub-District – "A" Street

* * *

Building Height

Pedestal – At street front three (3) stories minimum / five (5) stories maximum.

Tower – Three (3) stories maximum.

Penthouse – Two (2) stories maximum. Floorplate maximum is fifty (50) percent of largest tower floorplate below.

Building Placement

Front – Zero (0) foot build-to line for pedestal / twenty (20) foot minimum setback for tower and penthouse.

Interior Side/Rear – Zero (0) foot >>minimum<< setback for pedestal>>,<< [[~~/thirty (30) foot minimum setback for~~]] tower and penthouse.

Frontage Length – Minimum eighty (80) percent of lot width. Free standing colonnades shall not count for frontage length.

Streetwalls

Colonnade – Two (2) story high for full required frontage at build-to line. Fifteen (15) foot minimum depth. Colonnade depth shall not exceed colonnade height. Exterior of colonnade shall be no closer than two (2) feet from curb line. [[~~Interior~~

~~wall of colonnade shall be a minimum of sixty (60) percent clear glazed area except for jewelry stores, which may be a minimum of twenty (20) percent, and for residential uses which may be a minimum of forty (40) percent.~~]]

Vehicular Entries – Not permitted, except when not accessible from a street of lesser hierarchy. If other frontages do not permit vehicular entries, the maximum vehicular entry width permitted shall be thirty-three (33) feet.

Habitable Space – Twenty (20) foot minimum depth for full height and length of pedestal.

Expression Line – Required at the top of the [[~~third~~]] >>second<< story.

Off-Street Parking

Colonnade Levels – Twenty (20) foot minimum setback from interior wall of colonnade.

Other Levels – Twenty (20) foot minimum setback from pedestal's build-to line.

Center Sub-District – "B" Street

* * *

Building Height

Pedestal – At street front three (3) stories minimum / five (5) stories maximum.

Tower – Three (3) stories maximum.

Penthouse – Two (2) stories maximum. Floorplate maximum is fifty (50) percent of largest tower floorplate below.

Building Placement

Front – Zero (0) foot build-to line for pedestal / twenty (20) foot minimum setback for tower and penthouse.

Interior Side/Rear – Zero (0) foot >>minimum<< setback for pedestal>>,<< [[~~/thirty (30) foot minimum setback for~~]] tower and penthouse.

Frontage Length – Minimum seventy-five (75) percent of lot width.

Streetwalls

Vehicular Entries – Allowed. Each entry may be up to thirty-three (33) feet wide, with a minimum interval of sixty (60) feet of habitable space between each vehicular entry along frontage.

Habitable Space – Twenty (20) foot minimum depth for full height and length of pedestal.

Expression Line – Required at the top of the second story.

Off-Street Parking **All Levels** – Twenty (20) foot minimum setback from pedestal's build-to line.

Center Sub-District – "C" Street

* * *

Building Height

Pedestal – At street front one (1) story minimum/ five (5) stories maximum .
Tower – Three (3) stories maximum.
Penthouse – Two (2) stories maximum. Floorplate maximum is fifty (50) percent of largest tower floorplate below.

Building Placement

Spacing – A minimum clear width of twelve (12) feet is required between buildings. For vehicular access, a minimum clear width of sixteen (16) feet is required. [[~~For a minimum fifty (50) percent of its length, C street width shall be at a minimum thirty-three (33) percent of its abutting building height. If a C street abuts a property line, there shall be a twelve (12) foot minimum setback for the pedestal and thirty (30) foot minimum setback for the tower and penthouse.~~]]
Interior Side / Rear – [[~~Thirty (30)~~]] >>Zero (0)<< foot minimum setback for >>pedestal,<< tower and penthouse.
Overhead Cover – A maximum of twenty-five (25) percent of the street may be covered above the first floor with structures connecting buildings including roofs, upper story terraces, pedestrians bridges, or automobile bridges between parking garages.
Frontage Length – Minimum fifty (50) percent of lot width.

Streetwalls

Vehicular Entries – allowed. Each entry may be up to thirty-three (33) feet wide, with a minimum interval of sixty (60) feet of habitable space between each vehicular entry along frontage.
Habitable Space – Twenty (20) foot minimum depth for first story and full length of pedestal.
Expression Line – None required.

Off-Street Parking

Street Level – Twenty (20) foot minimum setback from pedestal's build-to line.
Other Levels – No setback required from pedestal's build-to line.

Center Sub-District – "D" Street

Building Height

Pedestal – At street front one (1) story minimum / five (5) stories maximum.
Tower – Three (3) stories maximum.
Penthouse – Two (2) stories [[~~additional~~]] maximum. Floorplate maximum is fifty (50) percent of largest tower floorplate below.

Building Placement

Front – Zero (0) foot build-to line for pedestal / twenty (20) foot minimum setback for tower and penthouse.
Interior Side/Rear – Zero (0) foot >>minimum<< setback for pedestal>>,<< [[~~/thirty (30) foot minimum setback for~~]] tower and penthouse.
Frontage Length – Minimum fifty (50) percent of lot width.

Streetwalls

Vehicular Entries – Vehicular entries and utility entries are permitted.

Habitable Space – No limitations.
Expression Line – None required.

Off-Street Parking **Street Level** – Twenty (20) foot minimum setback from pedestal's build-to line.
Other Levels – No setback required from pedestal's build-to line.

* * *

[[~~(C)~~]]>>(B)<< **General Requirements.** All new >>development<< and [[~~renewal development~~]] >>redevelopment<< shall comply with the following parameters irrespective of Sub-District and frontage categories:

* * *

[[~~(2) Building Placement Priority.~~

~~Building placement shall give priority to the street of higher pedestrian quality. Building construction shall meet the regulations contained herein, with priority given in the order of "A", "B", "C" and "E" Streets as defined herein, and as applicable. Construction of each phase shall be directed first toward the street of higher pedestrian quality, according to the regulations herein; however, minimum building frontage length requirements may be disregarded in approving each individual phase.~~

~~(3)~~]] >>(2)<< Lots and Buildings.

* * *

(f) Maximum building floorplates above eight stories for all uses shall be twenty thousand (20,000) square feet. Cantilever balconies six (6) feet or less in depth >>shall not be counted towards the maximum building floorplate area<< [[~~, open on three (3) sides or more that have a combined aggregate length of no more than fifty (50) percent of each floor perimeter shall not be included in floorplate calculation~~]].

* * *

(i) Where an "A" "B" or "D" street intersects with another street, the corner of the building may need to be chamfered (angled) or rounded to satisfy view triangle and minimum sidewalk width requirements, and to make room for traffic signal poles (see diagram 1). The angled wall of the building shall count toward frontage requirements for both streets that it [[~~en~~]]fronts. In situations where the view triangle causes the front façade to "bend" at a shallow angle from the street, the angled or rounded wall may set back farther from the street intersection for esthetic and structural reasons. However, the setback shall not

be farther than twenty (20) feet measured from the intersection of the two (2) property lines perpendicularly to the front plane of the angled wall. For curved walls this will be measured to the midpoint of the curve. The depth of the colonnade underneath the angled wall of the building shall also be a minimum of fifteen (15) feet.

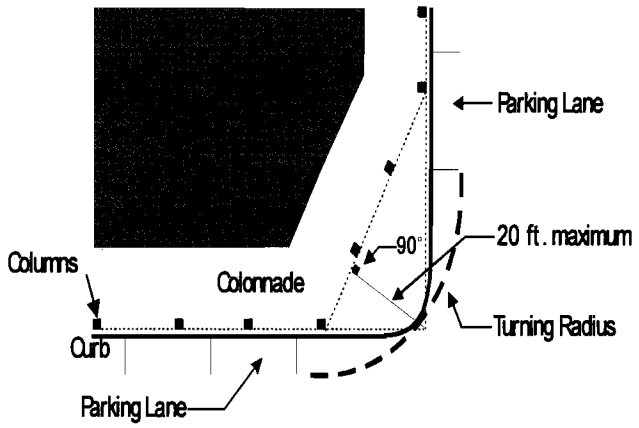

Diagram 1

* * *

(m) >>Glazing and Transparency Requirements:

(1)<< Building streetwall surfaces shall be a minimum thirty (30) percent glazed. Mirror-type glass shall not be allowed. All glazing shall be of a type that permits view of human activities and spaces within. [[~~The first floor streetwall shall be a minimum thirty (30) percent glazed.~~]] Glazing shall be clear or very lightly tinted [[~~for the first five stories~~]], except where used for screening garages [[~~above the second floor~~]], where it may be translucent.

>>(2) Storefronts shall be provided on the first floor, directly accessible from Public Space. Storefronts shall be a minimum of sixty (60) percent clear-glazed except for jewelry stores, which may be a minimum of twenty (20) percent, and for residential uses which may be a minimum of forty (40) percent. Except for entrance doors, the bottom edge of the glazed areas shall be between eighteen (18) and thirty-six (36) inches above the sidewalk.

(3) Storefront security screens, if any, shall be of the mesh type that pedestrians can see through and shall be located behind storefront displays. Storefronts shall remain open to view and lit from within at night.

(4) Parking garage and loading area security<< [[~~Security~~]] screens and gates shall be a minimum of fifty (50) percent transparent.

>>(l)<< Colonnade column spacing, windows, and doors shall have a vertical proportion. The spacing of the columns of a colonnade, measured from the centerline of the columns,

shall not be greater than the height of the colonnade. [[~~The height of the colonnade shall be the vertical distance measured from the finished floor to the ceiling of the colonnade.~~

~~(n)~~]] >>(m)<< Cantilevers and mouldings shall not exceed three (3) feet in extension beyond the vertical wall surface, unless visibly supported by brackets or other supports.

[[~~(o) Storefronts shall be provided on the first floor, directly accessible from Public Space, and shall have a transparent clear glazed area of not less than seventy (70) percent of its facade area. Except for entrance doors, the bottom edge of the glazed areas shall be between eighteen (18) and thirty-six (36) inches above the sidewalk. Security enclosures, if any, shall be of the mesh type that pedestrians can see through and shall be located behind storefront displays. Storefronts shall remain open to view and lit from within at night.~~

~~(p)~~]] >>(n)<< Parking garages shall have all architectural expression facing public open space consistent and harmonious with that of habitable space. >>The architectural expression shall include vertically proportioned openings, balconies, glazing, awnings, or other similar architectural elements.<< Ramping is encouraged to be internalized wherever possible. Exposed spandrels are prohibited. The exposed top level of parking structures shall be covered a minimum of sixty (60) percent with a shade producing structure such as a vined pergola or retractable canvas shade structure. >>All garage lighting installations shall be designed to minimize direct spillage, sky glow and hazardous interference with vehicular traffic on adjacent rights-of-way and all adjacent properties; this may be achieved through the use of down-turned building beams, garage screening, landscaping, or other similar architectural elements.

(o) No building fixtures such as backflow preventers, pumps, underground ventilation exhausts, substations or similar shall be permitted above the ground within colonnades, sidewalks and open spaces.<<

[[~~(4)~~]] >>(3)<< Streets, Alleys, and Paseos.

New streets shall be located according to the Street Frontage Plan. These locations are schematic to allow flexibility in the design of the site plan. The design of new streets and modifications to existing streets shall follow the requirements below:

(a) Streets shall provide access to all building lots and tracts.

(b) All streets, alleys and paseos shall connect to other streets. Cul-de-sacs, and T-turnarounds are not permitted. Dead-end streets are only permitted for those shown on the Street Frontages Plan when the adjacent property has not been developed or redeveloped.

(c) No block face shall have a length greater than three hundred and twenty-five (325) feet without a street, paseo, courtyard garden or alley providing through access to another street, alley, or paseo.

(d) All new "A", "B" and "D" streets, both public and private, shall have a minimum right-of-way width of fifty-four (54) feet. All new "A" [[~~and~~]]>>,<< "B" >>and "D"<< [[~~S~~]] >>s<<treets shall have curb and gutter, and have sidewalks on both

side>>s<< of the travel lanes. Where possible, there shall be parking lanes which in addition to on-street parking may be used for "drop off" areas, valet stands, or bus stops. [[~~"D" Streets shall have a sidewalk on at least one side of the street.~~]]

i. All sidewalks shall have a minimum width of eight [[~~(8)~~]] >>(10)<< feet, and a continuous unobstructed area of a width no less than sixty (60) inches [[~~on "A" and "B" streets and no less than forty-two (42) inches on all other streets~~]]. This area shall be unobstructed by utility poles, fire hydrants, benches or any other temporary or permanent structures. Free and clear public use of sidewalk area outside of the right-of-way shall be protected by a public access easement.

* * *

[[~~(5)~~]] >>(4)<< Courtyard Gardens, Street and Garden Walls, Fences and Hedges.

Street and garden walls, fences and hedges may be placed along property lines, at a height not to exceed ninety-six (96) inches, except in the Edge Sub-District, where side and rear yard walls are limited to seventy-two (72) inches in height. At street frontages, street and garden walls[[~~,~~]] >>and<< fences [[~~and hedges~~]] shall be minimum fifty (50) percent transparent, and between thirty-six (36) inches and seventy-two (72) inches above grade for at least eighty (80) percent of the length. Pillars and posts shall average no more than ten (10) feet apart. Chain link fences are not permitted, except for temporary construction fences.

* * *

[[~~(6)~~]] >>(5)<< Open Space >>and Recreation Areas.

(a) Private Open Spaces<<

A minimum of fifteen (15) percent of each net site shall be reserved for >>private<< open space. >>Colonnades, greens, landscaped roof terraces on buildings or garage structures can be counted towards this requirement.

(b) Designated Open Spaces
Designated open<< [[~~Open~~]] space in the form of colonnades, squares and plazas shall be located according to the Designated Open Space Plan [[~~and shall not exceed fifteen (15) percent of the net site as recorded as of July 1, 1998~~]]. >>All designated open spaces<<[[~~It~~]] shall be at grade level and [[~~it~~]] shall be accessible to the public. [[~~The area required for designated open space includes colonnades, squares, and plazas.~~]] No replatting or other land division shall divide property in such a way that the provision of the required designated open space is avoided or its location changed. >>Designated open space areas provided in compliance with this section of the code shall count towards the private open space requirement provided herein.<<

Location, area and dimensions of the designated open spaces shall conform with the Designated Open Space Plan. [[~~Dimensions of the squares and plazas may be modified by up to fifteen (15) percent on each side; provided said squares and plazas remain wholly within the property in which they were designated.~~]] Total square area must be in accordance with the Designated Open Space Plan; and the square must include the anchor point specified on the Designated Open Space Plan. At least three (3) corners of a square shall have a street intersection; and squares shall have a minimum dimension of one hundred fifty (150) feet between surrounding vehicular access ways.

Squares and plazas shall be densely shaded and provide seating. Trees and shrubs (shrubs are not permitted in plazas) shall be of sufficient quantity and located as to define a specific geometry of open space and shall promote security by allowing visibility through all areas. Ground surface shall be a combination of paving, lawn or ground cover integrated in design with trees and shrubs. Fountains, sculpture, and works of art are encouraged. Street furniture in squares such as trash containers and bus benches shall be permanently secured to the sidewalk. Street furniture shall not obstruct sight visibility triangles at street intersections. [[~~Newspaper and other vending boxes shall be placed collectively in consultations with the Department.~~]]

>>(c) Recreation Areas

Educational and child care facilities located within an Urban Center District shall be exempt from the outdoor recreation area requirements of Section 33-151.18(a) of this Code and shall be required to provide indoor and/or outdoor recreation areas subject to the following requirements:

Categories	Required Recreation Area (*)
Child care/day nursery/kindergarten and preschool and after-school care	22.5 square feet per child calculated in terms of half of the proposed maximum number of children for attendance at the school at one (1) time.
* Recreation Area consists of indoor and outdoor recreation areas. Indoor-recreation areas may consist of indoor playgrounds, indoor pools, gymnasiums and/or indoor ball courts and/or similar indoor recreation facilities. Outdoor recreation areas may include rooftop facilities.<<	

[[~~(7)~~]] >>(6)<< Parking.

(a) Parking shall be provided as per Section 33-124 of this Code, except as follows:

* * *

>>(l) Mechanized parking shall be allowed for residential multi-family and non-residential buildings and when provided it shall be exempt from the provisions of section 33-122 of this code. For the purpose of this article, mechanized parking shall be defined as a mechanism with vertical and horizontal transport capability that provides for automobile storage or retrieval. A mechanized parking space may be counted as a parking space required in this section provided that:

a. A queuing analysis is submitted and approved during the Administrative Site Plan and Architectural Review.
b. Mechanized parking shall be located within an enclosed building/garage which shall be screened along all frontages, except along a service road or a pedestrian passage, by a liner building containing a minimum depth of 20 feet of habitable space.

(m) The provisions of Sec. 33-131 of this code shall not apply to the required parking for mixed-use developments.
(n) Child care facilities located within a mixed-use building shall be exempt from the auto-stacking requirements of section 33-151.18(c) of this code.<<

Section 5. Section 33-284.63 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-284.63. Additional Parameters.

The following are required irrespective of frontage and Sub-District categories:

(A) Landscape.

With the exception of Sections 18A-7, 18A-8, 18A-9, 18A-11, 18A-12 and 18A-13, the provisions of Chapter 18A of the Code of Miami-Dade County, Florida, shall not apply, except as provided for below. Trees and landscape shall be required for streets, medians, squares, plazas, and private property in accordance with the following:

* * *

(3) Square and Plaza Trees: Trees on squares and plazas shall have a minimum caliper of six (6) inches and shall have a minimum clear trunk of eight (8) feet. Trees on squares and plazas shall provide a one-hundred (100) percent canopy coverage for eighty (80) percent of the entire square within [[~~two (2)~~]] >>five (5)<< years of installation. Trees for squares

and plazas may be ten (10) percent palms of the following species: phoenix canariensis (Canary Island Date Palm); phoenix dactylifera (North African Date Palm); 'Medjool' (Date Palm); and 'Zahidi' (Date Palm); phoenix sylvestris (Wild Date Palm); roystonea elata (Florida Royal Palm) and regia (Cuban Royal Palm).

* * *

(8) To ensure quality and longevity, the following additional conditions for tree planting in streets, medians, squares, and plazas shall apply:

i. All trees shall be Florida Grade #1 or better.
ii. All trees shall be shaped and branched typical for the species and variety.
iii. A signed and sealed "Professional Preparer's Statement of Compliance" shall be submitted by the Project Landscape Architect at time of submission for Administrative Site Plan Approval (ASPR), zoning, or other approval.
iv. A signed and sealed "Professional Preparer's Certification at time of Final Inspection" shall be submitted by the project Landscape Architect before a Certificate of Occupancy may be issued.
v. A minimum of thirty (30) percent of the total of all trees or palms planted shall be of a native species.
vi. A minimum six (6) foot by six (6) foot opening, clear of utilities, shall be provided for all trees.
vii. Root barriers shall be provided for all tree plantings.
viii. Tree grates or other approved devices shall be provided around all trees in hard surfaced areas to ensure adequate water and air penetration.

[[~~Street furniture such as trash containers and bus benches shall be permanently secured to the sidewalk. Street furniture shall not obstruct sight visibility triangles at street intersections.~~]]

(B) Signage.

Three (3) types of signs are allowed: temporary signs, point of sale signs and directional signs. Outdoor advertising signs, automatic electric changing signs, and entrance features are not permitted [[~~, and shall not be the subject of a public hearing~~]]. All signs shall not obstruct sight visibility triangles at street intersections.

* * *

Section 6. Section 33-314 of the Code of Miami-Dade County, Florida is hereby amended as follows:

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

* * *

(B) The County Commission shall have jurisdiction to hear appeals from decisions of the Community Zoning Appeals Boards 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 Boards 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 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:

* * *

[[~~(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)~~]]>>(4)<< 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)~~]]>>(5)<< 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)~~]]>>(6)<< 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.

[[~~(8)~~]]>>(7)<< Applications to modify or delete declarations of restrictive covenants recorded prior to December 16, 1999, encumbering property wholly located within the Downtown Kendall Urban Center District, as defined in Section 33-284.55 of this code.

[[~~(9)~~]]>>(8)<< Any application seeking a variance from adult entertainment establishment spacing requirements imposed by State Statute, as specified in Section 33-259.1.

[[~~(10)~~]]>>(9)<< Applications to modify or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution regulating any parcel of land located within the Downtown Kendall Urban Center District, or other Urban Center zoning district, where and to the extent that modification or elimination of the condition or part thereof is necessary to allow development conforming in all respects to the Downtown Kendall Urban Center District or other Urban Center zoning district regulations.

[[~~(11)~~]]>>(10)<< Upon application for, hear and decide appeals of decisions of the Rapid Transit Developmental Impact Committee pertaining to site plan approvals and related zoning actions issued pursuant to Section 33C-2(D)(9)(d) of the Code of Miami-Dade County.

[[~~(12)~~]]>>(11)<< Hear application for and, upon recommendation of the Developmental Impact Committee, grant or deny those special exceptions for public charter school facilities permitted by the regulations only upon approval after public hearing, provided the applied for special exception, in the opinion of the Board of County Commissioners, is found to be in compliance with the standards contained in Article XI and Section 33-311 (A)(3) of this code.

[[~~(12.1)~~]]>>(11.1)<< Applications for uses ancillary to bona fide rockmining pursuant to Section 33-154(c) of this Article.

[[~~(12.2)~~]]>>(11.2)<< Hear application for and, upon recommendation of the Airport Developmental Impact Committee Executive Council, grant or deny applications for those special exceptions and variances pursuant to Article XXXVII of this code (Miami International Airport (Wilcox Field) Zoning).

[[~~(13)~~]]>>(12)<< Applications for public charter school facilities and expansions or modifications to existing public charter school facilities.

[[~~(14)~~]]>>(13)<< Applications for development approval or modifications thereof for projects located within the Core sub-district of the Naranja Community Urban Center District and all other Urban Center zoning districts after hearing and recommendation by the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the project.

[[~~(15)~~]]>>(14)<< Applications to modify or delete declarations of restrictive covenants recorded prior to July 27, 2005 (the effective date of this ordinance), encumbering property wholly located within any Urban Center zoning district, as defined in this code, where and to the extent that modification or elimination of the declaration of restrictive covenant or part thereof is necessary to allow development conforming in all respects to the applicable Urban Center District regulations.

[[~~(16)~~]]>>(15)<< Applications for zoning action on the property that is subject to a deed restriction or a restrictive covenant placed on the property in connection with its conveyance by the County, or in connection with a subsequent modification or release by the County of such restriction or covenant.

[[~~(17)~~]]>>(16)<< Except where permitted in the IU-3 district, applications for unusual use pertaining to electric power plants and ancillary uses.

[[~~(18)~~]]>>(17)<< Hear application for and grant or deny Director's applications for single-family and duplex lots owned by Miami-Dade County which have been designated for development under "The Infill Housing Initiative" pursuant to Article VII, Chapter 17 of this code.

Section 7. 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 8. It is the intention of the Board of County Commissioners, and is hereby ordained that the provisions of this ordinance shall become and made a part of the Code of Miami-Dade County, Florida. The section 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.

PASSED AND ADOPTED: **September 1, 2009**

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Dennis A. Kerbel

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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM Agenda Item No. 7(A)

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

DATE: November 17, 2009

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

SUBJECT: Ordinance pertaining to Zoning; establishing definition of Commuter College; establishing regulations and zoning districts where permitted; exempting from the requirements of private colleges and universities

Ordinance No. 09-102

This ordinance was amended at the October 27, 2009 Budget, Planning and Sustainability Committee with the following amendment:
Section 6 of this ordinance has been added after public hearing at committee. The new Section 6 amends the original proposed ordinance to provide for Commuter Colleges/Universities as an additional permitted use in the OPD (Office Park District) zoning district.

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

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: November 17, 2009

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

From: George M. Burgess
County Manager

Subject: Ordinance pertaining to Zoning; establishing definition of Commuter College; establishing regulations and zoning districts where permitted; exempting from the requirements of private colleges and universities

---

The ordinance establishing the definition of Commuter College and establishing regulations and zoning districts where Commuter Colleges are permitted will not have a fiscal impact to Miami-Dade County.

Assistant County Manager

fis00210

MEMORANDUM

(Revised)

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

DATE: November 17, 2009

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

SUBJECT: Agenda Item No. 7(A)

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 _____

Agenda Item No. 7(A)

11-17-09

ORDINANCE NO. **09-102**

ORDINANCE PERTAINING TO ZONING; ESTABLISHING DEFINITION OF COMMUTER COLLEGE; ESTABLISHING REGULATIONS AND ZONING DISTRICTS WHERE PERMITTED; EXEMPTING FROM THE REQUIREMENTS OF PRIVATE COLLEGES AND UNIVERSITIES; 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 33-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 33-1. Definitions.

* * *

(30.1) *Community residential home.* A dwelling unit licensed to serve clients of the State of Florida Department of Health and Rehabilitative Services, which provides a living environment for seven (7) to fourteen (14) unrelated residents who operate as the functional equivalent of a family. Supervisory and supportive staff as may be necessary to meet the physical, emotional, and social needs of the resident clients shall be excluded from said count.

>>(30.2) *Commuter college/university.* Any private college or university campus which is intended primarily to meet the needs of part-time and working students, which is located within a shopping center or office park, and which meets the following criteria: i) the campus is designed without any

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

residential dormitories, athletic facilities, performance venues, and other facilities which are typically provided in college campuses to service full-time students, and ii) the square footage of all college and university campuses within the shopping center or office park consists of no more than 150,000 square feet of total building space or 10% of the square footage of the shopping center or office park, whichever is lower. A cafeteria/food court and school store selling new and used books and sundries for the convenience of students shall be considered as an ancillary use in connection with commuter college/university facilities provided that the square footage of such uses does not exceed ten (10) percent of the total square footage of the facility.<<

* * *

Section 2. Section 33-151.14 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-151.14. Private colleges and universities.

* * *

>>(C) Exception for Commuter Colleges/Universities. The requirements set forth in subsection (a) above or any other section of this Article shall not apply to commuter colleges/universities.<<

Section 3. Section 33-253 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-253. Uses permitted.

No land, body of water and/or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, occupied or maintained for any purpose in any BU-2 District except for one (1) or more of the following uses:

* * *

>>(2.05) Commuter Colleges/Universities.<<

* * *

Section 4. Section 33-259 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-259. Uses permitted.

No land, body of water or structure shall be used or permitted to be used and no structure shall be erected, constructed, moved or reconstructed, structurally altered, or maintained, which is designed, arranged or intended to be used or occupied for any purpose, unless otherwise provided herein, in IU-1 District, excepting for one (1) or more of the following:

* * *

>>(24.1) Commuter Colleges/Universities.<<

* * *

Section 5. Section 33-268 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-268. Permitted uses.

No land, body of water, or structure in an IU-C District shall be used or permitted to be used, and no structure shall be erected, constructed, moved or reconstructed, structurally altered, used, occupied or maintained for any purpose (except as a legal nonconforming building or use), except for one (1) or more of the uses hereinafter enumerated, and then only in accordance with the conditions hereinafter set forth:

(1) Every use permitted in the IU-1 District, except adult entertainment uses as defined in Section 33-259.1, and private schools and nonpublic educational facilities as defined in Section 33-151.11 are prohibited in the IU-C District, and every use permitted in the IU-3 Districts (uses permitted in IU-2 District specifically prohibited) and all other industrial uses similar in character shall be permitted in the IU-C District, and shall include utility plants and substations such as, but not limited to, sewage, water, power, communications and gas. >>Notwithstanding the preceding sentence, commuter colleges/universities are permitted within the IU-C District.<<

Section 6. Section 33-284.30 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-284.30. Uses permitted.

No land, body of water or structure shall be used or permitted to be used and no structure shall be erected, constructed, moved or reconstructed, structurally altered, or maintained in any OPD District, which is designed, arranged or intended to be used or occupied for any purpose, unless otherwise herein provided, excepting for one (1) or more of the following uses:

(1) *Principal uses.* Principal uses are those permitted uses that will form the major use concentration within the office park complex and include the following:

* * *

>>(c) Commuter Colleges/Universities.<<[2]

* * *

Section 7. 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 8. 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.

[2] Section 6 of this ordinance has been added after public hearing at committee. The new Section 6 amends the original proposed ordinance to provide for Commuter Colleges/Universities as an additional permitted use in the OPD (Office Park District) zoning district, as indicated by double underlining and >>double arrows<< within the new section.

Section 9. 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: **November 17, 2009**

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

Prepared by: _____

Joni Armstrong Coffey

Prime Sponsor: Vice-Chairman Jose "Pepe" Diaz

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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(D)

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

DATE: November 17, 2009

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

SUBJECT: Ordinance pertaining to zoning; amending section 33-151.13 of the Code; permitting horses for use with therapy in conjunction with certain private schools

Ordinance No. 09-105

This Ordinance was amended at the October 27, 2009, Budget, Planning, and Sustainability Committee to make it clear that the proposed new use is not intended to override any of the County's environmental ordinances.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto and Co-Sponsor Commissioner Sally A. Heyman.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: November 17, 2009

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

From: George M. Burgess
County Manager

Subject: Ordinance pertaining to zoning; amending section 33-151.13 of the Code; permitting horses for use with therapy in conjunction with certain private schools

---

The proposed ordinance permitting horses for use with therapy in conjunction with certain private schools will not have a fiscal impact to Miami-Dade County.

Assistant County Manager

fis05509

MEMORANDUM

(Revised)

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

DATE: November 17, 2009

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

SUBJECT: Agenda Item No. 7(D)

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 _____

Agenda Item No. 7(D)

11-17-09

ORDINANCE NO. 09-105

ORDINANCE PERTAINING TO ZONING; AMENDING SECTION 33-151.13 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PERMITTING HORSES FOR USE WITH THERAPY IN CONJUNCTION WITH CERTAIN PRIVATE SCHOOLS; 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 33-151.13 of the Code of Miami-Dade County is hereby amended as follows:[1]

Sec. 33-151.13. Zoning district requirements.

(a) All day nurseries, after-school centers, kindergartens and private schools shall meet the requirements included herein and the requirements of the particular zoning district in which they are located if that district is one (1) in which the facility is a permitted use; facilities in other districts shall meet RU-3 requirements.

* * *

>>(c) Notwithstanding any other provisions of [[~~this~~]][2] chapter [[~~or code~~]] >>33<< to the contrary, horses used to provide therapy as a part of the curriculum of private schools primarily dedicated to the education of developmentally disabled children as specified in Section 393.063, Fla. Statutes, shall be permitted in conjunction with school use that has been approved in the EU-1, EU-2, GU and AU zoning districts. The number of horses and the location of the accessory structure(s) to house them shall comply with the underlying zoning district regulations.<<

---

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

[2] Committee amendments are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or >>double arrowed<< constitute the amendment proposed.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall 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: **November 17, 2009**

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

Prepared by: ABB

Andrew B. Boese

Prime Sponsor: Senator Javier D. Souto
Co-Sponsor: Commissioner Sally A. Heyman

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item:	**7(D)**
File Numbers:	**093017**
Committee(s) of Reference:	**Board of County Commissioners**
Date of Analysis:	**November 4, 2009**
Type of Item:	**Zoning Code Amendment**
Prime Sponsor:	**Senator Javier D. Souto**

Summary

This ordinance amends §33-151.13 of the Code of Miami-Dade County (Code), permitting the use of horses with therapy in conjunction with certain private schools.

In addition, the County Manager's Supplemental Report is requesting that all parcels located within the ten (10) day travel line in any of the County's well fields be exempt from the proposed amendments to the Code.

Background and Relevant Legislation

Currently the Code does not address the use of horses with therapy in conjunction with certain private schools.

Section 24-43 of the Code, Protection of Public Potable Water Supply Wells, safeguards the public health, safety and welfare by providing scientifically established standards for land uses within the cones of influence thereby protecting public potable water supply wells from contamination.

On December 2, 2008, the Board of County Commissioners (BCC) approved Resolution No. R-1319-08, authorizing a lease agreement between the County and Creative Children Therapy, Inc., a Florida Not-for-Profit Corporation located at 8000 S. W. 123 Avenue. This lease agreement prohibited the use of Hippotherapy at this location. Furthermore, this property is located within the 10 days well field protection area of the South West well field. In a revised letter of interpretation dated April 30, 2008, the Department of Environmental Resources Management (DERM) determined that horse stables on this property <u>could not</u> be administratively approved because it could generate potentially infectious waste or similar materials that could be discharged into the South West well field.

Other Florida Jurisdictions

In addition, a cursory review of the Zoning Code for Broward, Palm Beach and Orange County found that their Zoning Code does not address private schools that use horses for therapeutic purposes.

Policy Change and Implication

This ordinance amends §33-151.13, Zoning District Requirements, of the Code to allow the following:

- Horses to be used to provide therapy as part of the curriculum of private schools primarily dedicated to the education of developmentally disabled children;
- This use has to be in conjunction with school use that has been approved in the EU-1 (single-family, one-acre estate), EU-2 (single-family five-acre estate), GU (interim) and AU (agricultural) zoning districts; and
- The number of horses and the location of the accessory structures(s) to house them will comply with the underlying zoning district regulations.

Comments

On July 21, 2009, the School Board of Sarasota County entered into an agreement with InStride Therapy, Inc. to provide Hippoterapy Services for eligible exceptional students. According to the American Hippotherapy Association, Inc., Hippotherapy is a physical occupational and speech therapy treatment strategy that utilizes equine movements to improve neurological function and sensory processing.

According to the article, *Horses Help Disabled Learn Motor Skills*, about 30,000 people participate in the more than 600 accredited therapeutic riding programs in North America. The therapy works because as a horse walks, its gait causes the rider to react with movements at the trunk and hip. These movements are very similar to the natural strides of humans (The Associated Press, July 16, 2001).

NARHA, the North America Riding for the Handicapped Association, lists 41 Handicapped and Therapeutic Riding Centers throughout Florida.

Prepared by: Elizabeth N. Owens

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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Substitute
Special Item No. 1

Ordinance No. 09-106

Date: December 1, 2009

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

From: George M. Burgess
County Manager

Subject: Ordinance Acting Upon Capital Improvements Element Amendment Application Filed During The April 2009 Cycle Of Applications To Amend The CDMP.

This Substitute item differs from the original item (legistar no. 092585) as follows:

- **Item was amended to reflect the correction of a scrivener's error in Application No. 7. Project 145 on table 6 is not a Capital Improvements Element project and was therefore deleted.**

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) adopt the attached Ordinance, (Special Item No. 1), which provides for the Board to adopt, adopt with change, not adopt, or deny the proposed April 2009 Cycle Application No. 7 to amend and update the text, policies, and the Six-Year Schedule of Improvements in the Capital Improvements Element (CIE) of the Comprehensive Development Master Plan (CDMP). The CDMP application No.7 will be transmitted to the Planning Advisory Board (PAB) on October 5, 2009 as "proposed" as of this writing, since actions taken by the Board on the debt service millage will require modifications to the Building Better Communities General Obligation Bond Program project schedules. ~~as included in the final adopted FY 2009-10 Capital Budget and Multi-Year Capital Plan. The Board will take final action on the Ordinance at the CDMP transmittal hearing of November 4, 2009.~~ Application No. 7 includes proposed CIE projects.

SCOPE

The CDMP is a broad-based countywide policy-planning document to guide future growth and development to insure the adequate provision of public facilities and services for existing and future populations, and to maintain and/or improve the quality of the natural and man-made environment in Miami-Dade County. The April 2009 Cycle update to the Capital Improvements Element of the CDMP has a countywide impact.

FISCAL IMPACT

Fiscal impact means the cost to Miami-Dade County of implementing the activities or actions that would be incurred after approval of the Ordinance. Changes and updates to the text and policies of the Capital Improvements Element of the CDMP proposed during the April 2009 Cycle of amendments would have no fiscal impact to the County.

TRACK RECORD/MONITOR

The Department of Planning and Zoning monitors the schedule of improvements in the Capital Improvements Element. This allows for the County's plan to maintain compliance with the state requirements as a financially feasible plan.

BACKGROUND

Chapter 163, Part II, of the Florida Statutes (F.S.), requires that additions or deletions of capital projects to/from Miami-Dade County's Six-year Schedule of Improvements in the CIE, including the identification of a change at the start or completion date of a capital project, be accomplished by a plan amendment. Furthermore, under Section 163.3177(3)(b)1, F. S., Miami-Dade County is required to review and update, on an annual basis, the Capital Improvements Element of the CDMP and its Six-Year Schedule of Capital Improvements. This section of the Florida Statutes also requires the implementation of this new requirement to be completed no later than December 1, of each year. In addition, Sections 163.3187(1)(f) and 163.3177(3)(b)2, F.S., allow Miami-Dade County to adopt annual updates to the CIE up to three times per year, each through an expedited process that requires only one public hearing before the Board.

The attached Ordinance provides for separate actions by the Board specific to Application No. 7 filed by the Department of Planning and Zoning (DP&Z) during the April 2009 Cycle of Applications requesting amendments to the CDMP. In compliance with Chapter 163, Part II, F.S., Application No. 7 is a request to amend the text and policies of the Capital Improvements Element of the CDMP and amend the Miami-Dade County's Six-Year Schedule of Capital Improvements. Additionally, Application No. 7 contains the updated tables with the schedules of Miami-Dade County's programmed capital improvements.

Attachments

Alex Muñoz
Assistant County Manager

Summary of Recommendations
April 2009 Applications to Amend the Comprehensive Development Master Plan for Miami-Dade County, Florida
November 4, 2009

Application Number/ Type	Location/Acreage/ Requested Amendment	BCC District/ Commissioner	DP&Z Initial Recommendation August 25, 2009	Community Council* Recommendation, Resolution # and Date	Local Planning Agency Recommendation October 5, 2009	BCC Recommendation November 4, 2009
7 Standard	Department of Planning and Zoning/ Marc LaFerrier, AICP, Director **Requested Amendment** Annual update to the projects found on the Table of future Capital Improvements. CAPITAL IMPROVEMENTS ELEMENT Tables of Proposed Projects. Modify the following currently adopted tables as indicated in the application and related information: Table 2, Aviation; Table 3, Coastal Management; Table 4, Conservation; Table 5, Drainage; Table 6, Park and Recreation; Table 7, Seaport; Table 8, Sewer Facilities; Table 9, Solid Waste Management; Table 10, Traffic Circulation; Table 11, Mass Transit; and Table 12, Water Facilities.	Countywide	Adopt	NA	Adopt	Pending BCC – Recommendation Deferred to December 1, 2009

W

MEMORANDUM

(Revised)

TO:	Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners	**DATE:**	December 1, 2009
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Substitute Special Item No. 1

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 _____

Substitute
Special Item No. 1
12-01-09

ORDINANCE NO. 09-106

ORDINANCE RELATING TO MIAMI-DADE COUNTY COMPREHENSIVE DEVELOPMENT MASTER PLAN; ACTING UPON CAPITAL IMPROVEMENTS ELEMENT AMENDMENT APPLICATION FILED IN APRIL 2009 CYCLE TO AMEND, MODIFY, ADD TO OR CHANGE THE COMPREHENSIVE DEVELOPMENT MASTER PLAN; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

WHEREAS, the Miami-Dade County Board of County Commissioners (Board) has provided a procedure, codified as Section 2-116.1 of the Code of Miami-Dade County, Florida (the Code) to amend, modify, add to or change the Miami-Dade County Comprehensive Development Master Plan (CDMP); and

WHEREAS, Miami-Dade County's procedures reflect and comply with the procedures for adopting or amending local comprehensive plans as set forth in Section 163, Part II, F. S.; and

WHEREAS, Miami-Dade County is required to review and/or update the Capital Improvements Element (CIE) of the CDMP, including the Six-Year Schedule of Capital Improvements on an annual basis as set forth in Section 163.3177(3)(b)1, F. S.; and

WHEREAS, Section 163.3177(3)(b)2, F. S. provides for an expedited process for adopting the updates to the Capital Improvements Element of the CDMP by requiring only a single public hearing before the Board which shall be an adoption hearing; and

WHEREAS, the annual update to the CIE is exempt from the twice-per-year limitation on plan amendment adoptions, as per s.163.3187(1)(f), F.S., and from the procedures set forth in s. 2-116.1(1)-(7) of the Code; and

WHEREAS, the Department of Planning and Zoning (DP&Z) filed an application on June 1, 2009, to amend the text of the Capital Improvements Element of the CDMP and to update the Six-Year Schedule of Capital Improvements; and

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WHEREAS, Staff application is identified as Application No. 7 in the document titled "April 2009 Applications to Amend the Comprehensive Development Master Plan," dated June 5, 2009; and

WHEREAS, the DP&Z published its initial recommendation addressing Application No. 7 in a report titled "Initial Recommendations April 2009 Applications to Amend the Comprehensive Development Master Plan" dated August 25, 2009; and

WHEREAS, the Board can, by ordinance, take final action to Adopt, Adopt With Change, or Deny Application No. 7 at the public hearing conducted; and

WHEREAS, this Board has conducted the public hearings required by the referenced procedures preparatory to enactment of this ordinance,

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

Section 1. All matters set forth in the preamble are found to be true and are hereby incorporated by reference as if set forth verbatim and adopted.

Section 2. This Board hereby desires to take further action on the pending April 2009 Cycle Application No. 7 for amendments, modifications, additions, or changes to the Capital Improvements Element of the Miami-Dade County Comprehensive Development Master Plan as follows:

Application No.	Applicant/Representative REQUESTED CHANGE TO THE CDMP LAND USE PLAN MAP, POLICIES OR TEXT	Final Commission Action
7	Miami-Dade County Department of Planning and Zoning / Marc C. LaFerrier, AICP, Director CAPITAL IMPROVEMENTS ELEMENT A. In the CIE Schedules of Improvements--Tables of Proposed Projects. Modify the following currently adopted tables as indicated in the application and related	ADOPT

Application No.	Applicant/Representative REQUESTED CHANGE TO THE CDMP LAND USE PLAN MAP, POLICIES OR TEXT	Final Commission Action
	information: Table 2, Aviation; Table 3, Coastal Management; Table 4, Conservation; Table 5, Drainage; Table 6, Park and Recreation; Table 7, Seaport; Table 8, Sewer Facilities; Table 9, Solid Waste Management; Table 10, Traffic Circulation; Table 11, Mass Transit; and Table 12, Water Facilities. B. Revise any other summary table or related text in the Capital Improvements Element as necessary to be consistent with the additions, deletions, or changes made by Part A of this application.	

Section 3. If any section, subsection, sentence, clause, or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected thereby. If any portion of Application No. 7 is found to be not in compliance pursuant to Section 163.3184, F.S., the remainder of the Application shall not be affected thereby.

Section 4. It is the intention of the Board, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Miami-Dade County, Florida.

Section 5. This ordinance (overall amendment) shall become effective ten (I0) days after the date of enactment, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, however, the effective date of any individual plan amendment included within the overall amendment shall be in accordance with the following language which is included at the request of the Florida Department of Community Affairs without any admission by Miami-Dade County of the authority of the Department of Community Affairs or any other governmental entity to request or require such language: "The effective date of any [individual] plan amendment approved by this ordinance [and included within the overall amendment] shall be the date a final order is issued by the Department of Community Affairs or Administration

Commission finding the [individual] amendment in compliance in accordance with Section 163.3184(1)(b), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on such [individual] amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this [individual] amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be filed with the Clerk of the Board and sent to the Department of Community Affairs, Division of Resource Planning and Management, Plan Processing Team. The Department's notice of intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed."

PASSED AND ADOPTED: **December 1, 2009**

Approved by County Attorney as
to form and legal sufficiency.

Prepared by: CAC for

Joni Armstrong Coffey