

MEMORANDUM

Substitute
Agenda Item No. 5(G)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: November 15, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to zoning in the incorporated and unincorporated areas; amending section 33-2 and creating article XXXIIID.3 of the Code; establishing the Urban Development Boundary Plan Area Development Zoning District (UDBPAD); creating standards and procedures for UDBPAD; amending section 33-314 of the Code; providing jurisdiction for Board of County Commissioners under certain circumstances

This substitute differs from the original version in that it revises references to density in paragraph 33-284.28.17(A)(1) from “gross” to “net”; in the same paragraph, revises the calculation of the jobs-to-housing ratio to include direct, indirect, and induced jobs, and defines each category; revises the required phasing schedule in paragraph 33-284.28.17(A)(3) to simply refer to CDMP Policy LU-8H, as may be amended; specifies, in subparagraph 33-284.28.17(B)(2)(a), that transit and other mobility improvements may be used to mitigate roadway level of service impacts; and specifies that the options for agricultural preservation set forth in paragraph 33-284.28.17(E)(3) are available for all preservation required by subsection (E).

Rule 5.06(i) of the Board’s Rules of Procedure provides that where double underlining and double strike-through would not clearly show the differences between an original item and the substitute, comments may instead be provided. Pursuant to this rule, the preceding comprehensive description of the differences between the original item and the substitute is provided in lieu of double underlining and double strike-through for this item.

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



Geri Bonzon-Keenan
County Attorney

GBK/uw

MDC001



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: November 15, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Substitute
Agenda Item No. 5(G)

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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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
Agenda Item No. 5(G)
11-15-22

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING IN THE INCORPORATED AND UNINCORPORATED AREAS; AMENDING SECTION 33-2 AND CREATING ARTICLE XXXIIID.3 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; ESTABLISHING THE URBAN DEVELOPMENT BOUNDARY PLAN AREA DEVELOPMENT ZONING DISTRICT (UDBPAD); CREATING STANDARDS AND PROCEDURES FOR UDBPAD; AMENDING SECTION 33-314 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING JURISDICTION FOR BOARD OF COUNTY COMMISSIONERS UNDER CERTAIN CIRCUMSTANCES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, in July and October 2020, as part of the Evaluation and Appraisal Report (EAR) process of the County’s Comprehensive Development Master Plan (CDMP), this Board adopted Ordinance Nos. 20-77 and 20-116 which amended Land Use Element Policy LU-8H to establish the criteria required for applications requesting expansion of the County’s Urban Development Boundary (UDB); and

WHEREAS, the amended Policy LU-8H requires, among other matters, that: (1) applicants requesting a UDB expansion must seek designation of the property as a “Special District” and establish the Special District’s development parameters, such as allowable uses, maximum density, and maximum floor area ratio; (2) applicants must also file a concurrent zoning application to be heard together with the CDMP amendment; and (3) the County must develop land development regulations to implement the adopted CDMP criteria and process concurrent zoning applications for UDB amendments; and

WHEREAS, this ordinance establishes the required land development regulations by creating a new zoning district, the Urban Development Boundary Planned Area Development (UDBPAD) district, to codify the development criteria established in Policy LU-8H and provide for orderly and efficient development utilizing sound urban design principles, effective multi-modal transportation connections, adequate open space, and housing diversity; and

WHEREAS, the approval process contained herein employs the same procedures this Board previously adopted in Ordinance No. 17-43, codified as section 33-284.28.6 of the Code for the Employment Center Planned Area Development zoning district, which provides for a quasi-judicial hearing by the Board and for subsequent approvals to be granted administratively; and

WHEREAS, this Board wishes to provide for its jurisdiction over zoning applications relating to the UDBPAD; and

WHEREAS, properties that are outside the UDB but within municipal jurisdiction and that seek to expand the UDB are currently required to apply to this Board for approval of the UDB amendment, and this Board wishes to specify a process for such properties now that UDB amendments must be accompanied by concurrent zoning applications,

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

Section 1. The Board ratifies and adopts the matters set forth in the accompanying justification memorandum as if fully set forth herein.

Section 2. Section 33-2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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.

Sec. 33-2. – Districts enumerated.

* * *

For the purpose of this chapter, all unincorporated area of the County is hereby divided into the following districts:

* * *

REDPAD – Retail Entertainment District Plan Area Development

>>UDBPAD – Urban Boundary Planned Area Development<<

OPD – Office Park District

Section 3. Article XXXIIID.3 of Chapter 33 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

>>**ARTICLE XXXIIID.3**

**URBAN DEVELOPMENT BOUNDARY PLANNED AREA
DEVELOPMENT DISTRICT (UDBPAD)**

Sec. 33-284.28.13. – Legislative Findings, Intent, Purpose, and Applicability in the Incorporated and Unincorporated Areas.

- (A) The Board hereby declares and finds that the uncoordinated use of lands around the Urban Development Boundary (UDB) designated on the Comprehensive Development Master Plan (CDMP) Land Use Plan map threatens the orderly development and the health, safety, order, convenience, prosperity, and welfare of the present and future residents of this County. The Board further finds that the CDMP was enacted, among other reasons, to accomplish the purposes set forth in section 2-113.
- (B) The purpose of this article is to provide a regulatory framework for orderly and efficient development when the Board finds a need to expand the UDB in accordance with the policies set forth in the CDMP for such expansions.

- (1) The Urban Development Boundary Planned Area Development District (UDBPAD) implements the “Special District” requirements of CDMP Land Use Element Policy LU-8H and provides for the concurrent zoning application required by that policy to address allowable uses, maximum density, maximum floor area ratio, and compliance with other applicable CDMP criteria.
 - (2) This article shall be the exclusive method to present a concurrent zoning application with a CDMP amendment to expand the UDB.
- (C) Jurisdiction over initial application. Section 2-116.1.2 requires that all plan amendments to modify the UDB depicted on the CDMP Land Use Plan Map be processed exclusively by the County in accordance with article XV of chapter 2, regardless of whether the relevant portion of the UDB is located within a municipality. In accordance with those provisions and CDMP Policy LU-8H, which requires the filing of a concurrent zoning application when expanding the UDB, the following provisions shall apply:
- (1) All applications for a district boundary change to UDBPAD that are filed concurrently with an application for a plan amendment to expand the UDB shall be decided by the County and shall be governed by this article, regardless of whether the subject property is located within a municipality.
 - (2) If the plan amendment and concurrent zoning application receive final approval from the County, including resolution of any legal challenges, planning and land development regulatory decisions for lands covered by said application that would otherwise be within the jurisdiction of the applicable municipality may thereafter be made by that municipality, subject to the requirements of the CDMP, section 2-116.1.2, and this article, including any instruments accepted by the County in furtherance of the applicable requirements, as may be amended.
 - (3) The County shall retain jurisdiction over the modification or deletion of any development agreement, declaration of restrictive covenants, or other legal instrument that is accepted by the County in connection with a district boundary change to UDBPAD, regardless of whether such instrument provides for modification or deletion by a successor

governmental body.

- (i) Any modification or deletion of such instrument shall not become effective until it is approved by the municipality and is thereafter approved by the Board of County Commissioner in accordance with the applicable procedure.
- (ii) It is provided, however, that the Board of County Commissioners may not exercise such jurisdiction unless the applicable municipality has first approved the modification or deletion.

(D) *Jurisdiction over subsequent proposed amendments.*

- (1) Pursuant to the authority granted in the Miami-Dade County Home Rule Charter, the regulations set forth in this article shall serve as minimum standards applicable to development in the incorporated areas, and shall be enforced by the applicable municipalities for development within their respective jurisdictions.
- (2) The municipality shall notify the Director of any proposals to adopt or revise the municipal land development regulations applicable to any property that was the subject of an application approved pursuant to this article, as well as applications for district boundary changes or other development orders or extension of water and sewer infrastructure on such property (collectively, “proposed amendments”).
- (3) Proposed amendments shall be subject to the following procedures:
 - (i) The Director shall determine whether the proposed amendment is consistent with the CDMP and this article.
 - (ii) If the Director determines that the proposed amendment is consistent with the CDMP and this article, the Director shall issue notice to the municipality that it may approve the proposed amendment.
 - (iii) If the Director determines that the proposed amendment is inconsistent with the CDMP or this article, including any instruments accepted by the County in furtherance of the applicable requirements, the municipality shall not approve the proposed amendment

- unless the Director's determination is revised or overturned in accordance with the provisions set forth in this subsection (D).
- (iv) The Director's determination pursuant to this section shall be binding on a municipality and may only be challenged in accordance with the provisions of section 33-314 for appeals of administrative decisions.

Sec. 33-284.28.14. – Definitions.

Terms used throughout this article shall be as defined in section 33-284.82, or if not defined therein, as defined in this chapter or chapters 18A or 28, and where not so defined, shall take their commonly accepted meaning. It is provided, however, that for purposes of this article, "subject property" means all of the property that is the subject of an application for designation as UDBPAD.

Sec. 33-284.28.15. – Site requirements.

A property to be developed as a UDBPAD shall have a minimum size of 10 gross acres.

Sec. 33-284.28.16. - Land Use Categories and Permitted Uses.

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, occupied, or maintained for any purpose in the UDBPAD, except as provided in this article. The uses delineated herein shall be permitted only in compliance with the development standards provided in this article.

(A) Land use categories.

- (1) Properties, or portions thereof, within the UDBPAD shall be assigned one of the following land use categories:
- (i) Residential (UDB-R)
 - (ii) Residential Modified (UDB-RM)
 - (iii) Mixed-Use Corridor (UDB-MC)
 - (iv) Mixed-Use Industrial (UDB-MCI)
 - (v) Industrial (UDB-ID)
 - (vi) Institutional (UDB-I)
 - (vii) Conservation Area (UDB-CON)
- (2) Land use categories (i)-(vi) above are collectively referred to as "urban land uses."

- (B) Permitted uses. Unless expressly provided otherwise in this article, permitted uses within each land use category shall be in accordance with the referenced land use category as set forth in section 33-284.83:
- (1) In areas designated UDB-R, all uses allowed in the Residential (R) land use category.
 - (2) In areas designated UDB-RM, all uses allowed in the Residential Modified (RM) land use category.
 - (3) In areas designated UDB-MC, all uses allowed in the Mixed-Use Corridor (MC) land use category.
 - (4) In areas designated UDB-MCI, all uses allowed in the Mixed-Use Industrial (MCI) land use category.
 - (5) In areas designated UDB-ID, all uses allowed in the Industrial (ID) land use category. For purposes of this paragraph:
 - (a) References to an “A” Street in section 33-284.83 shall mean a “Major Roadway,” as designated on the CDMP’s Land Use Plan Map or on the regulating plan; and
 - (b) Development in this category shall comply with the requirements of the Center Sub-district as set forth in article XXXIII(K) of this chapter.
 - (6) In areas designated UDB-I, all uses allowed in the Institutional (I) land use category.
 - (7) Lands with environmental resources that are protected by a conservation easement, restrictive covenant, or other legal instrument in favor of the County that provides for the protection of the resource may be assigned to the UDB-CON land use category.
 - (a) Use of lands designated UDB-CON shall be limited to environmental conservation.
 - (b) Environmental conservation uses may include low-impact recreational uses such as nature trails, boardwalks, and associated restrooms, provided that such uses cumulatively do not exceed 10 percent of the designated lands.
 - (c) This paragraph (7) shall not be construed to authorize any use that is otherwise prohibited by the applicable legal instrument.
- (C) Regulating Plans. A district boundary change to UDBPAD shall be accompanied by adoption of a set of regulating plans. Regulating plans shall be prepared in accordance with

section 33-284.84 and shall be maintained and administered in accordance with section 33-305 and article XXXIII(K) of this chapter.

- (1) The regulating plans shall consist of a series of controlling plans that include the following:
 - (a) The Land Use Plan, which delineates the areas where specified land uses shall be permitted.
 - (b) The Sub-district Plan, which depicts the areas designated as Center and Edge Sub-districts; a development may consist of only one type of sub-district.
 - (c) The Density Plan, which depicts the maximum density.
 - (d) The Building Heights Plan, which depicts the maximum building heights.
 - (e) The Designated Open Space Plan, which depicts the designated open spaces, including areas designated UDB-CON.
 - (f) The New Streets and Street Type Plan, which depicts all new streets and their types based on the following:
 - (i) Major Roadway
 - (ii) Minor Roadway
 - (iii) Main Street
 - (iv) Service Road
 - (v) Pedestrian Passage
 - (g) The Bike and Trails Route Plan, which depicts the designated bike routes.
- (2) Multiple regulating plans may be combined, provided that the information on the combined plan is clearly discernable.

Sec. 33-284.28.17. - Development Parameters and Design Standards.

- (A) Requirements for specific uses:
 - (1) Residential uses. Developments that include residential land uses are subject to all of the following:
 - (a) The development shall provide a mix of housing types at a minimum average net density of 10 du/acre for those portions of the subject property that contain residential development or mixed-use buildings that include residential uses.

- (i) Mix of housing types includes, without limitation, single-family homes, duplexes, townhomes, or multi-family buildings.
 - (ii) For purposes of this section, net density shall include the area between an existing or proposed lot right-of-way line and the centerline of a right-of-way proposed for dedication; areas proposed to be occupied by vertically-integrated mixed uses; and parks, schools, and other community facilities. Areas to be occupied by solely commercial or industrial uses shall not be included in net density.
- (b) Proposed residential units shall include, to the extent provided in CDMP Policy LU-8H, as may be amended, units that are priced affordably for individuals earning up to 140 percent of the area median income, as defined in section 17-140.
- (c) Areas designated UDB-R are only allowed in the Edge Sub-district and shall have a maximum net density of 18 du/acre.
- (d) The maximum density in the Edge Sub-district for categories other than UDB-R shall be determined as follows:
 - (i) when adjoining or adjacent to a residential community designated as Estate, Low, or Low-Medium Density on the CDMP Land Use Plan Map, the maximum net density shall be 18 du/acre; and
 - (ii) when adjoining or adjacent to a residential community designated as Medium Density or higher on the CDMP Land Use Plan Map, the maximum density shall be that of the adjoining or adjacent property; and
 - (iii) when adjoining or adjacent to a property designated Urban Center on the CDMP Land Use Plan Map, the maximum net density shall be that of the adjoining or adjacent property; and
 - (iv) where no adjacent or adjoining

property is designated as a residential community or as an Urban Center, the maximum allowable amount of residential development, including height, bulk, and floor area ratio, shall be that which would be permitted for non-residential use of the site.

- (e) To address the future residents' needs for retail uses, schools, parks, and other non-residential uses or public facilities and services not otherwise addressed by subsection (B) that the applicable board deems to be appropriate for the subject property, the development shall:
- (i) provide such non-residential uses within the subject property; or
 - (ii) demonstrate that such non-residential uses are available within two miles of the subject property. It is provided, however, that the applicable board may determine a greater distance to be acceptable when considering: transportation options to and from the subject property; or other standards that govern provision of such non-residential uses; or
 - (iii) provide for such non-residential uses through a combination of (i) and (ii).
- (f) The application shall demonstrate consistency with the jobs-to-housing ratio provided in CDMP Policy LU-8H, as may be amended, in accordance with the following:
- (i) Calculation of jobs shall include direct jobs, indirect jobs, and induced jobs. For the purposes of this subparagraph (f):
 - a. "Direct jobs" refers to jobs created on the subject property.
 - b. "Indirect jobs" refers to jobs in industries related to the direct jobs.
 - c. "Induced jobs" refers to jobs in other economic sectors in which the direct and indirect workers spend their earnings.

- (b) Proposed development shall not be served by an on-site domestic well system or an on-site sewage treatment and disposal system, as defined in section 24-5.
 - (c) The recordable instrument required by this article, or other recordable instrument acceptable to the Department, shall require that the development be connected to a utility water and sewer system before any buildings, except temporary buildings, such as construction trailers, and non-habitable structures, may be occupied.
- (2) The development is or will be adequately served, prior to any buildings, except temporary buildings, such as construction trailers, being occupied, by the following public services and facilities: roadways, solid waste, flood protection, police, and fire and emergency services.
- (a) For purposes of this subsection:
 - (i) adequate mass transit service means mass transit with at least 20-minute peak-hour headways; and
 - (ii) adequate roadway service means the development will not cause a roadway to exceed its adopted level of service standard, as established pursuant to the CDMP Capital Improvement Element, or further erode such level of service on a failing roadway; provided, however, nothing in this subsection shall prevent the application from mitigating roadway impacts through a transit center or other mobility improvements.
 - (b) To comply with this requirement, the application shall:
 - (i) demonstrate that the required public services and facilities are available at the time the application is approved;
or
 - (ii) provide the required public services and facilities through the recordable instrument required by this article; or
 - (iii) demonstrate compliance through a combination of (i) and (ii).

- (3) The development will provide a positive net fiscal impact to Miami-Dade County. Positive net fiscal impact shall include, without limitation, consideration of:
 - (a) Any increase to the taxable value of the subject property based on the proposed development; and
 - (b) The cost of providing public services and facilities to serve the proposed development.
- (4) The development shall provide for appropriate transitions from surrounding uses with regard to density, height, and building placement.

(C) Urban design, open spaces and connectivity. Applications for district boundary change to UDBPAD shall demonstrate that the proposed development:

- (1) Uses sound urban design principles contained in the County's Urban Design Manual or other document approved by the Board of County Commissioners.
- (2) Is compatible with adjacent land uses, when considering noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety.
- (3) Does not cause damaging encroachment into nearby areas with agricultural or other uses that generate significant noise, dust, odor, vibration, or truck or rail traffic.
- (4) Provides a minimum of 15 percent of the gross area as designated open space. For purposes of this requirement:
 - (a) Up to 50 percent of the lands designated UDB-CON shall count toward the designated open space requirement.
 - (b) Open space shall include exterior surface areas within the subject property consisting of:
 - (i) outdoor, at-grade space, including but not limited to greens, squares, plazas, courtyards, terraces, lawns, entrance features, greenbelts, unpaved passive and active recreation areas, paseos that are designed predominantly for pedestrians, pedestrian or bicycle paths and associated ornamental or

- shading landscaped areas;
 - (ii) above-grade landscaped roof terraces or gardens on garage structures or other buildings; and
 - (iii) water retention areas, lakes, canals, or other water bodies, provided that such water areas shall not be credited for more than 50 percent of the required open space.
 - (5) Provides for motorized and non-motorized bicycle and pedestrian accessibility throughout the development, with connections to adjacent areas where appropriate.
 - (6) Provides a 25-foot landscaped buffer within the subject property where a dissimilar land use on the subject property adjoins agricultural land outside the UDB.
- (D) *Environmentally sensitive areas and threatened and endangered species.* Applications for district boundary change to UDBPAD shall demonstrate how the proposed development protects environmentally sensitive areas, including consideration of impacts to threatened and endangered species.
- (E) *Agricultural preservation.* Each application for district boundary change to UDBPAD shall provide for the preservation of agricultural land in accordance with this subsection.
 - (1) Except as provided in this section for properties within the designated Urban Expansion Area, for each acre of agriculturally designated land or portion thereof that is proposed to be designated for an urban land use, the application shall provide for the off-site preservation of an equal amount of agricultural land within Miami-Dade County
 - (2) Within the designated Urban Expansion Area, the Board shall determine, on a case-by-case basis, the amount of preservation, measured in acres, of off-site agricultural land that would be commensurate with the impact that the particular application is expected to have on the agricultural usage of the subject property.
 - (a) In no event shall the Board require preservation at a one-to-one ratio or greater.
 - (b) In determining the amount of preservation

- that will be required, the Board shall consider, at a minimum, the following:
- (i) the amount of current agricultural activity on the subject property;
 - (ii) the value of the land for agricultural practices, including property size, soil type, and historical agricultural use;
 - (iii) proximity to urban development;
 - (iv) proximity to other agricultural properties; and
 - (v) other factors affecting the use of the property for agricultural production.
- (3) Preservation required by paragraphs (1) and (2) may be accomplished through:
- (a) participation in one or more programs approved by the County for transfer of development rights or purchase of development rights for each acre that is required to be preserved; or
 - (b) other form of preservation acceptable to the Board of County Commissioners, including the acceptance of any declarations of restrictions or legal instruments in favor of the County deemed necessary by the Director or the Board and subject to review by the County Attorney's Office as to form and legal sufficiency.
- (4) Notwithstanding any other provision to the contrary, where participation in a transfer of development rights program or purchase of development rights program approved by the County is used to satisfy the requirements of this section, participation shall only permit development of the subject property in accordance with this article and shall not authorize additional development bonuses. In addition, no other severable use rights, transferable development rights, or similar development bonus programs shall be utilized for development of the subject property.
- (5) Notwithstanding any other provisions to the contrary, and notwithstanding any future annexations or incorporations, the County shall retain exclusive jurisdiction over any instruments accepted with respect to this subsection (E), and municipalities shall have no jurisdiction over any such instruments accepted by the County.

- (6) Notwithstanding any other provision to the contrary, an application filed by the Director shall not be required to provide for agricultural preservation before being approved. It shall be the responsibility of the property owner to provide for agricultural preservation in accordance with this section prior to obtaining any further development orders or development permits.

Sec. 33-284.28.18. - Building Placement Standards.

- (A) Development within the UDBPAD shall conform to the building placement standards in section 33-284.85 for the following building types in the Center or Edge Sub-districts, as applicable:

<u>Building Type</u>	<u>Building Placement Diagram No.</u>
<u>Mixed-use and Multi-family</u>	<u>2</u>
<u>Industrial</u>	<u>3</u>
<u>Rowhouse and Multi-family</u>	<u>4</u>
<u>Rowhouse</u>	<u>5</u>
<u>Courtyard, Sideyard</u>	<u>6</u>
<u>Single-family</u>	<u>7 and 8</u>
<u>Duplex</u>	<u>9 and 10</u>
<u>Civic</u>	<u>11</u>
<u>Urban Villa</u>	<u>12</u>
<u>Gas and service station</u>	<u>13</u>

- (B) Notwithstanding any other provisions to the contrary, developments containing only industrial uses may be developed in accordance with the building content, setback, and site area provisions of article II applicable to the IU-1 District.

Sec. 33-284.28.19. - General Requirements, Signs, Special Exceptions, and Nonconformities; Variances and other Zoning Relief.

- (A) Except as provided in this article, development within the UDBPAD shall conform with the general requirements and the regulations pertaining to signs and nonconforming lots, uses, and structures set forth in article XXXIII(K).
- (B) Variances.

- (1) Use variances.
 - (a) No variances from minimum average density or minimum average floor-area ratio requirements may be granted, except if approved as use variances in accordance with subparagraph (ii) below.
 - (b) The Board shall approve a use variance only where it would not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions herein will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided that the variance will be in harmony with the general purpose and intent of the regulations, and that the same is the minimum variance that will permit the reasonable use of the premises:

- (2) Area variances. Variances from other provisions may be granted where the applicant demonstrates that the benefits to granting the area variance outweigh any detriments to the community.
 - (a) The Board shall consider the following factors in making this determination:
 - (i) Whether the area variance would create an undesirable change in the character of the neighborhood or a detriment to nearby properties;
 - (ii) Whether the benefit can be achieved by some other method;
 - (iii) Whether the area variance is substantial;
 - (iv) Whether the area variance will have an adverse effect on physical or environmental conditions in the neighborhood or district; and
 - (v) Whether the alleged difficulty was self-created, provided that the existence of a self-created difficulty shall be relevant to a board's decision but shall not necessarily preclude the granting of the area variance.
 - (b) The applicant shall also demonstrate that granting the area variance maintains the basic intent and purpose of the zoning, subdivision, and other land use regulations, which is to

protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the area variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community.

- (c) No showing of unnecessary hardship to the land is required for an area variance.

Sec. 33-284.28.20. - Review and Approval Procedures.

The review procedure for a UDBPAD is divided into two steps: (A) initial development plan review (including public hearing approval) for the district boundary change to UDBPAD; and (B) final plan review/Administrative Site Plan Review (ASPR).

- (A) The initial development plan review shall follow section 33-284.28.6, including, without limitation, the requirement to submit a recordable instrument with the application, except that:
- (1) References to compliance with standards and criteria shall be deemed to require compliance with this article.
 - (2) References to ECPAD shall be deemed to refer to UDBPAD.
 - (3) The required quantitative data shall specify the acreage to be attributed to each urban land use category provided in this article.
 - (4) The required graphic documents shall include the regulating plans required by this article.
 - (5) An application filed by the Director shall not be required to include a recordable instrument and may instead demonstrate compliance with the applicable requirements based on the regulating plans.
- (B) Final Development Plan Review. After the initial development plan has been approved, final development plans shall be subject to approval through an ASPR process in accordance with section 33-284.88.<<

Section 4. Section 33-314 of Chapter 33 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

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

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

* * *

(8) Any application for district boundary change to, or modification of: an Employment Center Planned Area Development District (ECPAD), subject to the requirements of Article XXXIIID.1; ~~[[øf]]~~ a Retail Entertainment District Planned Area Development District (REDPAD), subject to the requirements of Article XXXIIID.2>>; or Urban Development Boundary Planned Area Development (UDBPAD), subject to the requirements of Article XXXIIID.3<<.

* * *

Section 5. *Retroactive application.* Applications for UDB-related CDMP amendments filed prior to the effective date of this ordinance shall be subject to this ordinance, except for any such application for which the Board has held a public hearing on final action prior to the effective date of this ordinance.

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 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 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:

Approved by County Attorney as
to form and legal sufficiency:

Handwritten signature in black ink that reads "EWJ for". The signature is written in a cursive style with a horizontal line underneath the letters "EWJ".

Prepared by:

Handwritten signature in black ink that reads "DK". The signature is written in a cursive style with a horizontal line underneath the letters "DK".

Dennis A. Kerbel
James Eddie Kirtley

Prime Sponsor: Commissioner Rebeca Sosa