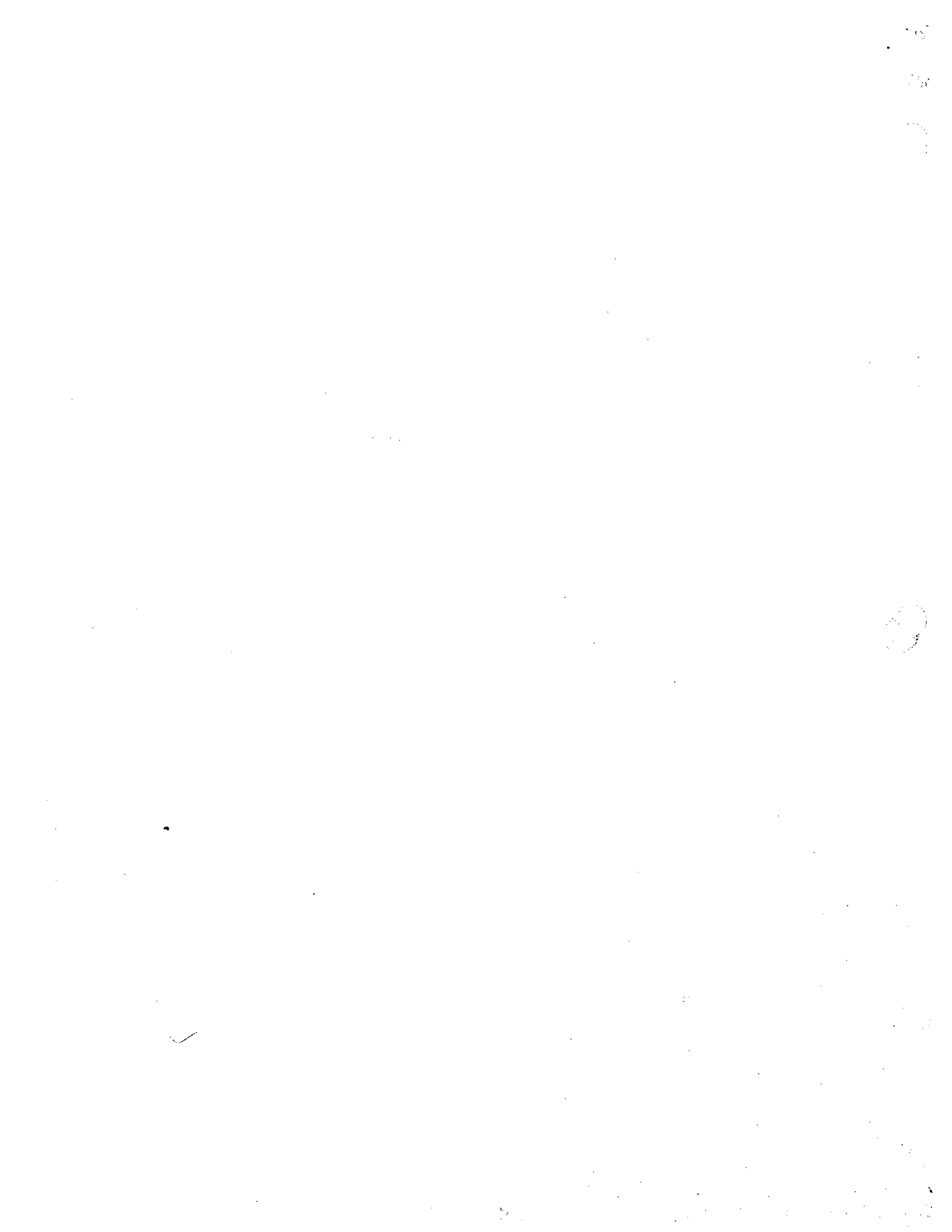


**ORDINANCE 96-127
COMMUNITY COUNCILS'
ZONING RESPONSIBILITIES**





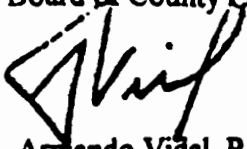


MEMORANDUM

Amended
Substitute
Agenda Item No. 4(B)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: September 4, 1996

From: 
Armando Vidal, P.E.
County Manager

Subject: Substitute Ordinance Implementing
Zoning Responsibilities
of Community Councils

O#96-127

At the direction of the County Commission at its workshop on June 21, 1996, the subject draft ordinance has been placed on this agenda.

The subject ordinance implements the broad recommendation of the Boundaries Commission with respect to the transfer of zoning responsibilities to the community councils, utilizing the elected Community Zoning Appeals Boards proposal of Chairman Miguel Diaz de la Portilla. The specific revisions to the current zoning ordinance call for the community councils, as established by the companion draft ordinance, and the Board of County Commissioners to have the following division of activities:

1. Make community councils responsible for:
 - appeals of administrative decisions
 - special exceptions, unusual uses and new uses
 - variances from subdivision regulations
 - district boundary changes
 - site plan approvals in conjunction with above activities

2. Make Board of County Commissioners responsible for:
 - changes in zoning regulations
 - development of regional impact approvals
 - appeals of community council decisions filed on matters that were heretofore decided by the Board of County Commissioners; all other appeals are to the Circuit Court

This substitute ordinance corrects scrivener errors and makes changes for clarification.



ORDINANCE NO. 96-127

ORDINANCE RELATING TO ZONING AND SUBDIVISION PROCEDURES; ESTABLISHING MULTIPLE COMMUNITY ZONING APPEALS BOARDS IN LIEU OF ONE ZONING APPEALS BOARD; PROVIDING FOR COMMUNITY COUNCILS TO SERVE AS COMMUNITY ZONING APPEALS BOARDS; PROVIDING FOR JURISDICTION; REQUIRING COMMUNITY ZONING APPEALS BOARDS TO APPROVE DEVIATION FROM THE COMPREHENSIVE DEVELOPMENT MASTER PLAN BY NOT LESS THAN A MAJORITY OF THE TOTAL MEMBERSHIP; PROVIDING APPEALS FROM DECISIONS OF COMMUNITY ZONING APPEALS BOARDS TO BE REVIEWED EITHER BY COUNTY COMMISSION OR CIRCUIT COURT; LIMITING REVIEW BY COUNTY COMMISSION; PROVIDING SUPER MAJORITY FOR COUNTY COMMISSION TO REVERSE RESOLUTION OF COMMUNITY ZONING APPEALS BOARD; REPEALING SECTION 33-315, CREATING SECTIONS 33-305.1 AND 33-315, AMENDING SECTIONS 2-114 THROUGH 2-114.3, 24-58.2, 28-19, 33-13, 33-16, 33-202.3, 33-203.7, 33-207.2.1, 33-207.4, 33-208.1, 33-217.1, 33-222.1.1, 33-223.5.1, 33-223.11, 33-247(38), 33-245.2, 33-251.5, 33-253.9, 33-256.8, 33-261.1, 33-263.2, 33-266.3, 33-278.2, 33-284.9.1, 33-284.14, 33-284.17 THROUGH 33-284.18, 33-284.21, 33-284.26 THROUGH 33-284.27, 33-284.38, 33-284.42, 33-284.43, 33-284.44.1, 33-284.50 THROUGH 33-284.51, 33-302, 33-304 THROUGH 33-305, 33-306 THROUGH 33-314, 33-315.1, 33-316 THROUGH 33-319, AS AMENDED BY ORDINANCE 95-215 OF THE CODE OF METROPOLITAN DADE COUNTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

embodies the essence of the community's development policy~~[[.]]>>.<< ~~[[and-a]]~~ >> ~~any deviations~~ >> from the plan<< shall be approved >> only if the provisions of subsection 2-114(c) are applicable, and further may only be approved<< by not less than a majority of the total membership of the Board of County Commissioners >> on applications for development orders pending before it, or by not less than a majority of the total membership a Community Zoning Appeals Board on applications for development orders pending before it. << ~~[[only if the provisions of subsection 2-114(c) are applicable.]]~~ It shall be the responsibility of the Department of Planning, Development and Regulation or other appropriate Dade County Boards, departments and agencies to formulate recommendations for the resolution of any conflicts in the interpretation or application of the Comprehensive Development Master Plan in a manner which will best serve the spirit and intent of the Comprehensive Development Master Plan. Any decisions relating to such conflict shall contain specific findings by the board, department or agency making said decisions.~~

* * *

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

- (a) *Documentation of claim.*
- (1) Any applicant alleging that the Comprehensive Development Master Plan, as applied to a particular development order or action, constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights (taking or abrogation) and any person or entity claiming a potential taking or abrogation under ~~[[Section 33-315]]~~ >> Chapter 33<< of this Code must affirmatively demonstrate the legal requisites of the claim by exhausting the administrative remedy provided in this section.

* * *

Sec. 2-114.2. Supplemental optional vested rights procedure.

* * *

(h) *Appeal, exhaustion of administrative remedies and judicial review.* An appeal of a recommended determination of the Executive Council may be taken to the Board of County Commissioners pursuant to the procedures of Sections 33-312 and 33-313 of the Code. The County Commission hearing shall be after notice in accordance with Section 33-313 of the Code which section incorporates the notice provisions of Sections 33-310~~[[c]]~~ >>(c)<<, (d), (e), and (f) of the Code. The Board of County Commissioners shall conduct a de novo hearing and, by resolution, issue a final vested rights determination pursuant to the procedures of Section~~[[s]]~~ 33-314 ~~[[and 33-315]]~~ of the Code. Section 33-316 of the Code (Exhaustion of Administrative Remedies, Hearing Procedure and Judicial Review) shall apply to appeals filed pursuant to this section.

* * *

Sec. 2-114.3. Reaffirmation of vested rights.

* * *

(d) *Appeal.* Within fourteen (14) days after the issuance of a reaffirmation of vested rights or a denial of reaffirmation, an appeal of that determination to the Board of County Commissioners may be filed pursuant to Sections 33-312 and 33-313 of the Code. The requirement to exhaust remedies, as prescribed by Section 33-316 of the Code, shall apply to the approval or denial of reaffirmation of vested rights.

Such County Commission hearing shall be after notice in accordance with Section 33-313 of the Code, which section incorporates the notice provisions of Sections 33-310(c), (d), (e) and (f) of the Code. The Board of County Commissioners shall conduct a de novo hearing and, by resolution, issue a final vested rights reaffirmation determination pursuant to the procedures of Sections 33-314 ~~[[and 33-315]]~~ of the Code. Judicial review shall be pursuant to Section 33-316 of the Code.

Section 2. Section 24-58.2, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 24-58.2. Permit application forms; procedures.

There are two (2) types of application forms; short form and standard form. The general criteria for determining the type of application form required are based on the magnitude of the project, and its potential environmental impact. Unless waived by the municipality, the applicant's plans shall require municipal approval.

* * *

(II) *Standard Form Permit Application:*

* * *

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

- (1) The Director of the Department of Environmental Resources Management shall review the permit application for the proposed work and shall make a recommendation to the Board of County Commissioners of approval, denial, or approval subject to conditions, limitations or restrictions for the proposed work. The Director's recommendation shall be based upon the applicable evaluation factors set forth in Section 24-58.3 of this Code. The Board of County Commissioners >>or Community Zoning Appeals Board pursuant to Section 33-13<< shall hold a public hearing concerning the proposed work. A notice of the time and place of said public hearing shall be published in a newspaper of general circulation in Dade County a minimum of seven (7) days prior to the public hearing. Said notice shall include a brief description of the proposed work and the location of the proposed work. A courtesy notice containing substantially the same information set forth in said published notice shall be mailed to those parties whose names appear on the application as the owners of all riparian or wetland property within three hundred (300) feet of the proposed

work. Failure to mail or receive said courtesy notice shall not affect any action or proceeding taken thereunder. The Board of County Commissioners >>or Community Zoning Appeals Board pursuant to Section 33-13<< shall, after holding the public hearing, approve, deny, or approve subject to conditions, limitations or restrictions, the work proposed under the permit application based upon the applicable evaluation factors set forth in Section 24-58.3 of this Code.

- (2) If the Board of County Commissioners >>or Community Zoning Appeals Board pursuant to Section 33-13<< approves a permit application, the Department of Environmental Resources Management shall issue the permit subject to the conditions, limitations or restrictions required by the >>Community Zoning Appeals Boards or<< Board of County Commissioners. The Department of Environmental Resources Management, in its discretion, may require additional conditions, limitations and restrictions as part of the permit only if said additional conditions, limitations or restrictions are consistent with the action of the Board of County Commissioners >>or Community Zoning Appeals Board<< with respect to the permit.
- (3) At the request of a permit applicant, a conclusive list of permit conditions, limitations, and restrictions, which may not be amended or modified by the Department of Environmental Resources Management except as provided in Section 24-58.2(II)(B)(3)(b), below, shall be prepared prior to the public hearing and shall be submitted to the Board of County Commissioners >>or Community Zoning Appeals Board pursuant to Section 33-13<< as part of the Director's recommendation of approval, provided that the permit application includes the following:
- (a) All requirements set forth in Section 24-58.5(b)(1) and (2).
 - (b) A verified statement by the permit applicant that the proposed work shall commence

within three (3) months of approval of said permit by the Board of County Commissioners >>or Community Zoning Appeals Board pursuant to Section 33-313<< and that if the work does not commence within three (3) months of the date of approval of said permit by the Board of County Commissioners >>or Community Zoning Appeals Board<<, then the Department of Environmental Resources Management may, in its discretion, require additional conditions, restrictions, and limitations as to the permit other than those described in the aforesaid list. All such additional conditions, restrictions, and limitations shall be consistent with the action of the Board of County Commissioners >>or Community Zoning Appeals Board<< with respect to the permit.

Section 3. Section 28-19, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 28-19. Variances.

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

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

- (1) That there are special circumstances or conditions affecting the property and that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.
 - (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.
 - (3) That the granting of the variance will not be detrimental to the public welfare or injurious to the other property in the territory in which the property is situated.
- (b) Large scale development. The standards and requirements of these regulations may be modified by the >>Community<< Zoning Appeals Board in the case of a plan and program for a new town or a complete community which in the judgment of the >>Community<< Zoning Appeals Board provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.
- (c) Hearing and notice. All such variances shall be granted only after hearing and notice as prescribed in Section 33-310. The >>Community<< Zoning Appeals Board shall not act without considering the recommendations of the Director of Planning, Development and Regulation and the Zoning Official.
- (d) Variance to specified sections. Where the use of a fire well or septic tank or both well and septic tank have been approved for use as provided in Sections 28-15(c)(2), 28-15(c)(3) and 28-15(d)(2), a variance to these sections need not be authorized by the >>Community<< Zoning Appeals Board.

Section 4. Section 33-13, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-13. Unusual uses.

* * *

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

Joint class IV

- (1) Canal excavation;
- (2) Lake excavation, including the following ancillary use (if requested): Concrete batching plant, concrete block plant, prestressed and precast concrete products plant, rock crushing and screening plant ancillary thereto or in connection therewith;
- (3) Rock pits (filling of);
- (4) Rock quarries and other lack excavations.

The permit applicant may, at his or her option, obtain a public hearing before the ~~[[Board of County Commissioners]]~~ >>Community Zoning Appeals Board<< for amendments or modifications to the following previously approved unusual uses or uses similar thereto, said public hearing to be held simultaneously to the public hearing required for a class I or class IV permit application, as provided pursuant to Section 24-58.2 of the Code of Metropolitan Dade County:

Section 5. Section 33-16, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

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

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

* * *

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

appeal of
Exc.

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

Section 6. Section 33-202.3, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-202.3. Uses permitted.

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

* * *

(2) Townhouses, subject to the following restrictions:

* * *

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

TH
appeal

Denials should be in writing and shall specifically set forth the grounds for denial. If the plan is disapproved, the applicant may appeal to the >>appropriate Community<< Zoning Appeals Board in accordance with procedure established for appeals of administrative decision.

* * *

Section 7. Section 33-203.7, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-203.7. Site plan review.

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

Procedure. Exhibits prepared by design professionals such as architects and landscape architects shall be submitted to the Department and shall include, but not be limited to the following:

* * *

Section 8. Sections 33-207.2.1 and 33-207.4, Code of Metropolitan Dade County,

Florida, are hereby amended to read as follows:

Sec. 33-207.2.1. Site plan review.

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

Procedure. Exhibits prepared by design professionals such as architects and landscape architects shall be submitted to the Department and shall include, but not be limited to the following:

* * *

Sec. 33-207.4. Site plan review.

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

to process the site plan. Denials shall be in writing and shall specifically set forth the grounds for denial. If the plan is disapproved, the applicant may appeal to the >>appropriate Community<< Zoning Appeals Board in accordance with procedure established for appeals of administrative decision.

Procedure. Exhibits prepared by design professionals such as architects and landscape architects shall be submitted to the Department and shall include but not be limited to the following:

* * *

Section 9. Section 33-208.1, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

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

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

* * *

Section 10. Section 33-217.1, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

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

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

Procedure. Exhibits prepared by design professionals such as architects and landscape architects shall be submitted to the Department and shall include, but not be limited to the following:

* * *

Section 11. Section 33-222.1.1, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

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

* * *

(d)(1) It shall be presumed that the subdivision of a hotel or motel results in a change of use to nonhotel or nonmotel use. This presumption may be rebutted administratively at a public hearing. An application to rebut shall be filed for public hearing before the >>appropriate Community<< Zoning Appeals Board. The presumption shall be rebutted

whenever such an applicant shall establish at public hearing that the property will continue to be utilized as a hotel or motel. In civil proceedings the presumption of change of use shall shift the burden of proof on this issue to the party against whom it operates; and in criminal proceedings the presumption shall constitute prima facie evidence of a change in use.

* * *

Section 12. Section 33-223.5.1, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-223.5.1. Site plan review.

- (a) *Required: purpose.* The Department shall, prior to issuance of any permits, review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and ensure the congruity of the proposed development and its compatibility with the surrounding area. If requested approval is denied, proposed project may be appealed to the >>appropriate Community<< Zoning Appeals Board, in accordance with regulations as provided in Chapter 33 of the Code of Metropolitan Dade County governing appeals from administrative decisions.
- (b) *Required exhibits.* The following exhibits shall be prepared by design professionals such as architects and landscape architects and submitted to the Department:

* * *

Section 13. Section 33-223.11, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-223.11. Site plan review.

- (A) *[Required: purpose.]* The Department shall, prior to issuance of any permits, review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to

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

* * *

Section 14. Section 33-245.2, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-245.2. Plan review standards.

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

* * *

Section 15. Section 33-247(38), Code of Metropolitan Dade County, Florida is hereby amended to read as follows:

Sec. 33-247. 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, maintained or occupied for any

purpose in any BU-1A district, except for one or more of the following uses:

* * *

- (38) Self-service storage facility. Use will only be permitted upon the submission of a site plan which shall be approved at public hearing ~~[[by the Board of County Commissioners.]]~~ "Self-service storage facility" shall be defined as a fully enclosed space used for warehousing which contains individual storage units with floor area no greater than four hundred (400) square feet and an interior height not to exceed twelve (12) feet. No wholesale or retail sales are permitted.

Section 16. Section 33-251.5, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-251.5. Plan review standards.

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

* * *

Section 17. Section 33-253.9, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-253.9. Plan review standards.

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

* * *

Section 18. Section 33-256.8, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-256.8. Plan review standards.

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

- (B) Exhibits which the applicant shall submit to the Department shall include, but not be limited to the following:

* * *

Section 19. Section 33-261.1, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-261.1. Site plan review.

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

* * *

Section 20. Section 33-263.2, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-263.2. Site plan review.

- (A) *[Responsibility; purpose; procedures generally.]* The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design

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

* * *

Section 21. Section 33-266.3, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-266.3. Site plan review.

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

* * *

Section 22. Section 33-278.2, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-278.2. Site plan review.

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

* * *

Section 23. Section 33-284.9.1, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

* * *

Sec. 33-284.9.1. Site plan review.

Procedure. Cluster developments shall be reviewed by the Department for compliance with all applicable requirements, including the site plan review exhibits and criteria hereinafter provided. The recommendations of the Department shall be transmitted to the >>Community<< Zoning Appeals Board for

~~[[their]]~~ consideration. If after approval of the site plan review exhibits a substantial change therein is desired, application may be filed as a special exception with the >>Community<< Zoning Appeals Board to modify or change such exhibits, all in accordance with this article and Article XXXVI of Chapter 33 of this Code.

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

- Lot area, width and depth.
- Street frontage.
- Setbacks.
- Structure height and cubic content.
- Sidewalks.
- Street rights-of-way and improvements.
- Off-street parking location and improvements.
- Walls and fences, including their height.
- Lot coverage of principal and accessory buildings.
- Spacing between buildings, including attachment of units.

* * *

Section 24. Section 33-284.14, Code of Metropolitan Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.14. Densities.

— Total dwelling units permitted in the planned development shall be determined by multiplying the net acreage of each differently zoned parcel by the number of units, permitted by the underlying residential zoning for said parcel, and adding the resulting number of units for each differently zoned parcel. The resulting number of dwelling units is the total permitted dwelling units unless otherwise modified by provisions included herein. If a prior density limitation was set by County Commission, >>Zoning

Appeals Board or Community Zoning Appeals Board<< resolution or other document(s) filed for public record, then the total densities shall not exceed densities established by said documents.

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

The >>Community<< Zoning Appeals Board shall have the authority to approve an increase in the total number of dwelling units established above by ten (10) percent provided that:

- (a) The total densities do not exceed fifty (50) units per net acre.
- (b) An increase in densities will not violate any criteria established in planning studies approved by the County Commission.
- (c) The increase in densities will not overcrowd the proposed development.
- (d) The increase in densities will not violate any recorded restriction(s) which has (have) been established by County Commission >>or Community Zoning Appeals Board<< resolution or other documents that previously established density limitations.

The fact that a parcel is divided by or contains within the parcel platted streets shall not disqualify the parcel for a planned development under this chapter.

Section 25. Section 33-284.17 through 33-284.18, Code of Metropolitan Dade County, Florida are hereby amended to read as follows:

Sec. 33-284.17. Common ownership provisions.

Provisions shall be made to assure that all nonpublic areas and facilities for the common or joint use of all residents shall be maintained in a continuous and satisfactory manner and without

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

Sec. 33-284.18. Structure height.

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

* * *

Section 26. Section 33-284.21, Code of Metropolitan Dade County, Florida is hereby amended to read as follows:

Sec. 33-284.21. Plan review procedure.

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

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

If >>a Community Zoning Appeals Board<< ~~[[the County Commission]]~~ incorporates specific modifications to the planned development in its resolution of approval, those modifications shall be made by the applicant prior to filing documents and plans with

26

the Department. Such filing shall be completed within sixty (60) working days from date >>of a Community Zoning Appeals Board's action<< Failure to do so shall nullify the ~~[[County Commission]]~~ >>Community Zoning Appeals Board's<< action unless waived by formal vote of the ~~[[County Commission]]~~ >>Community Zoning Appeals Board or if appealed, by the County Commission.<<

* * *

Section 27. Sections 33-284.26 through 33-284.27, Code of Metropolitan Dade County, Florida, are hereby amended to read as follows:

Sec. 33-284.26. Review procedures.

The planned area development review procedures are divided into four (4) steps: (A) Preapplication conference; (B) total development plan review; (C) development tract review; and (D) review criteria.

* * *

(B) Total development plan review.

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

- (1) Required exhibits - Written documents. The following written documents shall be submitted as part of the planned area development zoning application:
 - (a) Recordable agreement guaranteeing the development in accordance with promises made in the written and graphic documents listed below as approved by the ~~[[County Commission]]~~ >>Community Zoning Appeals Board<< Said agreement shall be submitted to the Department after the Development Impact Committee review and prior to the ~~[[County Commission]]~~ >>Community Zoning Appeals Board<< review.

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

(C) Development tract review.

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

- (1) Required exhibits. The following exhibits shall be prepared by Florida registered landscape architects, architects and engineers and shall accompany the development tract review application to be filed with the Department.

* * *

- (c) Site plan at no less than one (1) inch to fifty (50) feet which shall include the following information:

* * *

8. The following information shall be provided on the site plan or in a separate document:

Amount of pervious and impervious surfaces.

Maximum density of development tract approved ~~[[by County Commission]]~~ >> at public hearing <<.

Density as proposed.

Total dwelling units.

Table of dwelling unit mix.

Total number of bedrooms.

Total number of building types including accessory buildings.

Table of buildings by heights, stories,
unit types, and square footage.

Name of water utility.

Name of sewer utility.

Required private open space.

Provided minimum and average
private open space.

Table of parking spaces required and
provided.

Acreage dedicated for public and
semipublic facilities.

Survey of existing trees.

Total trees required and provided.

Any supplementary data needed to
adequately review the proposed
development.

* * *

- (2) **Review Process.** Prior to the development of a development tract (see Section 33-284.27(B)) or prior to the sale, transfer or lease of any portion of a development tract, a development tract plan shall be prepared, submitted to, and approved by the Department for review and approval in accordance with review criteria, Section 33-284.26(D), and development plan(s) approved by the ~~[[Board of County Commissioners]]~~ >>Community Zoning Appeals Board<<. Said development tract plan is a detailed refinement of information provided in the approved total development plan. If the planned area development involves only one development tract the same procedure shall be followed.

Upon approval of a development tract plan, a copy of said approved plan and statement of approval shall be forwarded to the applicant and to the Department for filing in the planned area development file for the particular project.

If requested approval is denied, the proposed project may be appealed to the >>Community<< Zoning Appeals Board, in accordance with regulations as provided in Chapter 33 governing appeals from

administrative decisions contained in the Code of
Metropolitan Dade County

* * *

Sec. 33-284.27. Development parameters.

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

(A) Size of development site.

The minimum size of the site to be developed as a Planned Area Development shall be twenty (20) acres.

(B) Development tracts.

Proposed development shall be structured into separate geographical units termed development tracts. The tract shall be subject to unity of title and be so designed as to constitute a self-sufficient unit. The unity of title shall continue on record unless the plat includes individual lot development which was approved as such in the total development plan, in which case that part may be released from the unity of title upon final plat approval by the County Commission. The tract shall be buildable in one phase, having common open space, a road system and a sufficient identity of its own in the event the overall project is not completed.

The scheduling capabilities of the developer should relate to the size and delineation of the proposed development tract. In the design of the development tract, consideration shall be given to factors such as natural characteristics of the site, the major road patterns, the location of retail commercial facilities, water bodies, public facilities, common open space, the phasing of the development and other factors which provide definition for development tracts.

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

The foregoing is not intended to preclude phased condominium development as contemplated by Section 718.403 of the Florida Statutes 1979.

(C) Permitted residential uses.

All residential types, including single family, and multi-family, whether detached, attached or any combination thereof, shall be permissible in the Planned Area Development zoning classification upon approval by the ~~[[County Commission]]~~ >>Community Zoning Appeals Board<<.

(D) Maximum permitted density.

Maximum permitted densities, in terms of number of units per gross residential acre and total number of dwelling units and bedrooms, shall be established for each development tract at the time of approval of the development plan by the ~~[[County Commission]]~~ >>Community Zoning Appeals Board<<. All uses and land areas devoted thereto approved under the other use provision, Section 33-284.27(H), shall be excluded in the computation of the overall residential density. Said number of dwelling units and densities shall be in conformance with the Comprehensive Development Master Plan (Ordinance No. 75-22, as amended from time to time), neighborhood planning studies and existing zoning and development in adjacent and in immediate areas shall be considered in the establishment of the maximum density for the Planned Area Development District. The information provided in the development impact statement shall be considered in the establishment of densities.

* * *

(H) Other uses with PAD application.

Other zoning districts not previously listed as permitted uses in this article but related to the needs of the inhabitants of a proposed development or to Countywide needs shall be permitted if approved under the provisions of this article. Such other uses shall be included as separate development tracts on the basis of the zoning districts in which they are permitted and shall comply with all requirements of the applicable zoning districts, as well as all applicable requirements for development tracts. Deviations from required setback regulations need not be in conformity with the provisions of Chapter 33 of the Code of Metropolitan Dade County. Separate requests for zoning districts shall be made at the time of the PAD application and shall be deemed an integral part of said application.

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

application for special exceptions or unusual uses shall be required so long as they are clearly noted on the development plan.

* * *

Section 28. Section 33-284.38, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

* * *

Sec. 33-284.38. Site plan review.

(A) [Generally.] The Department shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and ensure the congruity of the proposed development and its compatibility with the surrounding area. If plan(s) are denied, the applicant may appeal to the >>appropriate Community<< Zoning Appeals Board ~~[[the plans shall be forwarded to the Zoning Appeals Board]]~~ for action.

* * *

Section 29. Section 33-284.42, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-284.42. Districts in which permitted.

A zero lot line development, with a maximum of six (6) units per net acre, for one (1) family dwelling only, may be permitted in the RU-1Z, RU-2, RU-TH, RU-3, RU-3M, RU-4, RU-4A, RU-4L and RU-4M Districts without a public hearing upon approval of the site plan(s) by the Department and upon compliance with all other specified conditions in this article. A zero lot line development with greater than six (6) units per net acre shall require a public hearing >>before the Community Zoning Appeals Board<< ~~[[Approval of any variance or increase in density by the Board of County Commissioners or the Zoning Appeals Board shall require an affirmative vote of at least two-thirds (2/3) of all members present.]]~~ Where the regulations included herein conflict with regulations included in the individual districts or other sections of Chapter 33, the regulations included herein shall apply.

Section 30. Section 33-284.43, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-284.43. Development parameters.

All applications for a zero lot line development shall comply with the following applicable development parameters:

* * *

- (N) Common open space and maintenance of facilities. Common open space is not required but may be permitted. If common open space is provided, provisions satisfactory to the >>Community<< Zoning Appeals Board shall be made to assure that nonpublic areas and facilities for the common use of occupants of zero lot line development shall be maintained in a satisfactory manner, without expense to the general taxpayer of Dade County. Such may be provided by the incorporation of an automatic membership home association for the purpose of continually holding title to such nonpublic areas and facilities, and levying assessments against each lot, whether improved or not, for the purpose of paying the taxes and maintaining such common open space. Such assessments shall be a lien superior to all other liens save and except tax liens and first mortgage liens, which are amortized in monthly or quarter-annual payments over a period of not less than ten (10) years. Other methods may be acceptable if the same positively provide for the proper and continuous payment of taxes and maintenance without expense to the general taxpayers. The instrument incorporating such provisions shall be approved by the County Attorney, as to form and legal sufficiency, before submission to the >>Community Zoning Appeals Board or the<< Board of County Commissioners, and shall be recorded in the public records of Dade County, if satisfactory to the Board of County Commissioners.

* * *

Section 31. Section 33-284.44.1, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-284.44.1. Grandfather provisions.

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

* * *

Section 32. Sections 33-284.50 through 33-284.51, Code of Metropolitan Dade County, Florida, are amended to read as follows:

Sec. 33-284.50. Review procedure.

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

* * *

(B) Initial TND review.

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

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

1. Recordable agreement guaranteeing the development in accordance with promises made in the written and graphic documents listed below as approved by the ~~[[County Commission]]~~ >>Community Zoning Appeals Board<<. A draft of said agreement shall be submitted to the

Development Impact Committee
twelve (12) days prior to
Developmental Impact Committee
Executive Council review with final
executed agreement received fifteen
(15) days prior to ~~[[County
Commission]]~~ >>Community Zoning
Appeals Board<< review and action.

* * *

- (2) Upon the filing of a complete application, the Department shall submit the required exhibits for the TND to the Developmental Impact Committee for review in accordance with standards and review procedures of the Developmental Impact Committee as provided in Section 33-303.1. At a public hearing held by the ~~[[County Commission]]~~ >>Community Zoning Appeals Board<<, the applicant shall present the proposal. The ~~[[County Commission]]~~ >>Community Zoning Appeals Board<< shall have ~~[[before it]]~~ the recommendations of the Developmental Impact Committee. The ~~[[County Commission]]~~ >>Community Zoning Appeals Board<< shall consider the information presented by the applicant, the recommendations of the Developmental Impact Committee and viewpoints of the public expressed at the hearing. The ~~[[County Commission]]~~ >>Community Zoning Appeals Board<< shall take formal action either approving the plan as presented, approving it subject to certain specified modifications, and/or conditions, disapproving it, or a combination of the foregoing. Upon approval, plans, documents and recordable development agreements shall be filed with the Department and recorded in the official records and shall thereby constitute the TND District. If the TND is approved with specific modifications, as incorporated in the ~~[[County Commission]]~~ >>Community Zoning Appeals Board's<< resolution, those modifications shall be made by the applicant on all applicable documents and plans prior to filing the same with the Department. Such filing shall be completed within sixty (60) calendar days from date ~~[[of County Commission action]]~~ >>the decision becomes final including all appeals<<. Failure to do so shall nullify the ~~[[County Commission's]]~~ >>Community Zoning Appeals Board's<< action unless waived by the ~~[[Board of County Commissioners]]~~ >>Community Zoning Appeals Board or if appealed by the County Commission<<. The Director shall review all modifications in accordance with the ~~[[County~~

~~Commission resolution]]~~ >> Community Zoning Appeals Board's decision<<. The approved TND shall be indicated on the zoning maps as would any other district boundary change. Intermediate site plan review shall not be initiated until the above requirements have been met.

(C) Intermediate site plan review.

- (1) Following approval of the TND by the ~~[[County Commission]]~~ >> Community Zoning Appeals Board<<, the following plans and documents shall be submitted for Developmental Impact Committee for review and approval together with any other relevant information required by said Committee.

* * *

(D) Final review.

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

* * *

Sec. 33-284.51. Land use categories.

* * *

(C) Shopfront use.

(1) Land use.

- (a) Land designated for shopfront use shall be in building lots containing buildings for residential, including lodging, and commercial uses as provided in the BU-1 District, and other similar uses as approved by the ~~[[Board of County Commissioners]]~~

consents, considered by such or board, transcription or stenographic notes taken for the Department at a hearing held before such board, if any, the board's minutes and resolutions showing its decision or action, and if the record of a lower board is transmitted to a higher board, the record of the higher board shall include that of the lower board. The word "record" shall also include any and all applicable portion of Chapter 33 of the Code of Metropolitan Dade County, Florida, the report and recommendations of the Director and the Developmental Impact Committee; the Comprehensive Development Master Plan for Metropolitan Dade County, Florida; and Ordinance No. 75-22, or as amended, or applicable neighborhood or area studies or plans approved by action of the Board of County Commissioners, as well as applicable district boundary maps, aerial photographs and final zoning resolutions. It shall also include the record made as a result of any previous zoning application on the same property. The Clerk of the County Commission shall identify all exhibits used or referred to at the zoning hearing. All exhibits so identified or introduced shall be a part of the record. The record shall not include economic reports or studies, real estate appraisals or reports, and/or written reports of zoning consultants not filed in accordance with the provisions of Section 33-~~[[3-5]]~~>>311(F)<< of the Code, or any oral testimony or written reports or documents which were not filed in accordance with the provisions of Section 2-114.1 of the Code.

Section 34. Sections 33-304 through 33-305, Code of Metropolitan Dade County, Florida, are hereby amended to read as follows:

Sec. 33-304. Applications.

(a) All requests for a district boundary change, changes in the zoning regulations, appeals of administrative decisions, special exceptions or unusual uses, new uses, and variances, shall be made by filing an application therefor with the Director on application forms prescribed by the Director or by rule and regulation of the Development Impact Committee. Forms shall include, but not be limited to, disclosure forms for corporations, trusts, and partnerships, and disclosure of information regarding contract purchasers and their percentage(s) of interest. Disclosure shall not be required of any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country or where ownership interests are held in a limited partnership consisting of more than five thousand (5,000) separate interests and where no one person or entity holds more

than a total of five (5) percent of the ownership interest in the limited partnership. Disclosure forms shall be established by administrative order to be approved by the Board of County Commissioners. Such disclosure forms shall be included in the agendas distributed ~~[[to the Board of County Commissioners]]~~ in connection with the public hearing on the application. Where applicable, requests shall specify whether, and the extent to which, the requested change in land use or proposed development conforms to the Comprehensive Development Master Plan for Metropolitan Dade County, Florida.

Upon the approval of a zoning application in whole or in part, a period of six (6) months must run prior to the filing of any subsequent application on the same property, provided that the appropriate board upon approving the application may provide for a different waiting period upon a showing of good cause. Upon the final denial of a zoning application without prejudice, a period of one year must run prior to the filing of a subsequent application on the same property; provided that the appropriate board upon denying the application without prejudice may provide for a different waiting period upon a showing of good cause. Upon the withdrawal or final denial of a zoning application with prejudice in whole or in part, a period of eighteen (18) months must run prior to the filing of a subsequent application. In the event an application in whole or in part has been twice or more denied or withdrawn, a period of two (2) years must run prior to the filing of any subsequent application. Such periods of limitation shall not commence to run until the decision has been rendered by the last Board to consider the application. Further, such periods of limitations shall not apply to applications filed by the Director or the Zoning Official.

* * *

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

- * * *
- (e) Amendments to an application shall be permitted; provided that, unless otherwise requested, suggested or concurred in by the Developmental Impact Committee, no substantial amendment shall be accepted by the Director within thirty (30) days prior to the first scheduled hearing on the application by the appropriate board or once the application has been heard and determined by the ~~>>Community<<~~ Zoning Appeals Board; provided further that an applicant may petition the appropriate board to permit such amendment at the time of hearing on the application and such amendment shall be accepted if approved by majority vote of those present upon good cause shown and provided it falls within the scope of the legal advertisement. In determining good cause, the appropriate board shall consider, among other factors, the timeliness of the amendment and the degree of inconvenience or surprise to objectors to the application.
- (f) All planned area development applications shall adhere to the following procedures which shall be deemed exclusive notwithstanding any other section herein: The Department shall submit the required exhibits for the total development plan to the Developmental Impact Committee for review in accordance with standards and review procedures of the Developmental Impact Committee. At a public hearing held by the ~~[[County Commission]]~~ ~~>>Community Zoning Appeals Board<<~~, the developer shall present ~~>>the<<~~ ~~[[his]]~~ proposal. The ~~[[County Commission]]~~ ~~>>Community Zoning Appeals Board<<~~ shall have before it the recommendations of the Developmental Impact Committee. The ~~[[County Commission]]~~ ~~>>Community Zoning Appeals Board<<~~ shall consider the information presented by the applicant, the recommendations of the Developmental Impact Committee and viewpoints of the public expressed at the hearing. The ~~[[County Commission]]~~ ~~>>Community Zoning Appeals Board<<~~ shall take formal action either approving the plan as presented, approving it subject to certain specified modifications, or disapproving it. Upon approval, plans, documents and recordable development agreements shall be filed with the Department and recorded in the official records and shall thereby constitute the planned area development district. If the planned area development is approved with specific modifications, as incorporated in ~~>>the Community Zoning Appeals Board<<~~, ~~[[County Commission]]~~ resolution those modifications shall be made by the applicant prior to filing documents and plans with the Department. Such filing shall be completed within sixty (60) working days from ~~>>the date [[of County Commission]] >>the<<~~ action ~~>>of the Community Zoning Appeals Board becomes final including~~

all appeals<< Failure to do so shall nullify the ~~[[County Commission's]]~~ >>Community Zoning Appeals Board's<< action unless waived by ~~[[the Dade County Commission]]~~ >>the Community Zoning Appeals Board or if appealed, by the County Commission<<. The Director shall review all modifications in accordance with the ~~[[County Commission]]~~ >>Community Zoning Appeals Board's resolution<<. The approved planned area development shall be indicated on the zoning map as would any other district boundary change. Review at the development tract level may then be initiated pursuant to the provisions of the planned area development districts.

* * *

Sec. 33-305. District boundary maps.

The Board of County Commissioners shall by resolution adopt, approve and ratify the district boundary maps as originally adopted by Resolution No. 895 of August 2, 1938, and as modified, amended and changed by subsequent resolutions, and the Director shall continue to maintain and keep on file in the Department such maps showing thereon the boundaries of districts. The district boundary maps shall be amended, modified and changed by resolution >>of the County Commission or Community Zoning Appeals Board<< as hereinafter provided, and shall be prima facie evidence of the boundaries of districts.

Section 35. Section 33-306 through 33-312, Code of Metropolitan Dade County,

Florida, are hereby amended to read as follows:

Sec. 33-306. >>Community<< Zoning Appeals Board>>~~z~~<< - Establishment.

- (a) There ~~[[is]]~~ >>are<< hereby established ~~[[a]]~~ >>multiple Community<< Zoning Appeals Boards >>whose boundaries shall coincide with the boundaries of Community Councils established pursuant to the Code of Metropolitan Dade County. The Community Councils shall serve as Community Zoning Appeals Boards and shall have jurisdiction over zoning applications as provided in this chapter<<. Each member shall be a qualified ~~[[freeholder]]~~ elector of Dade County, with an outstanding reputation for civic interest, community welfare, integrity and responsibility; provided, no member shall be employed by Dade County or be a member of the County Commission. ~~[[and at least five (5) of the nine members shall reside in the unincorporated area of Dade County.]]~~ The >>seven (7)<< members of ~~[[each]]~~ >>each Community Zoning Appeals Board<< shall serve without compensation but shall be

entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval of the County Commission.

- (b) ~~[[This]]~~ >> These << board >> s << ~~[[is]]~~ >> are << created and established pursuant to Section 4.08 of the Home Rule Charter, and for the purpose of facilitating the zoning powers granted by the Home Rule Charter to the Board of County Commissioners, and to provide a board to hear, consider and review appeals from the zoning regulations or decisions of an administrative official, and to take appropriate action as in this article provided and limited.

Sec. 33-307. >>Community<< Zoning Appeals Board>> s << Term of office.

The term of office of the ~~[[first]]~~ members of >> each of << the ~~[[Zoning Appeals Board shall be one (1) year for three (3) members, which shall expire on December 26, 1969; two (2) years for three (3) members, which shall expire on December 26, 1970; and three (3) years for three (3) members, which shall expire on December 26, 1971 with appointments thereafter to be for a term of three years, for each member, provided]]~~ >> Community Zoning Appeals Boards shall be the terms established as members of Community Councils. << ~~[[each member shall hold office until his successor has been duly appointed, except when removed by the County Commission. And any member may be removed at any time by a majority vote of all the members of the County Commission; however, whenever a member of the board shall fail to attend three (3) consecutive meetings without due cause, the chairman shall certify the same to the County Commission. Upon such certification, the member shall be deemed to have been removed and]]~~ >> In the event a vacancy should occur on a Community Zoning Appeals Board << the ~~[[County Commission]]~~ >> appropriate Community Zoning Appeals Board << ~~[[shall]]~~ >> may << fill the vacancy >> for the remaining board member's term << by appointment >> pursuant to Section 20-43(A)(7) of the Code <<.

Sec. 33-308. >>Community<< Zoning Appeals Board - Organization.

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

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~~Community~~<< Zoning Appeals Board shall elect a chair[[man]] and a vice-chair[[man]] from its members, each of whom shall serve until his a successor is elected ~~[[unless removed from membership by the County Commission. The first election shall be held within fifteen (15) days after the appointment of the Zoning Appeals Board. The Zoning Appeals Board may adopt rules and regulations for the conduct of its affairs, subject to the approval thereof by the county manager.]]~~ >>Rules and regulations for the Community Zoning Appeals Boards shall be adopted by the County Manager and approved by the County Commission.<< The chair[[man]], or vice-chair[[man]], or acting chair[[man]], may administer oaths and compel the attendance of witnesses in the same manner prescribed in the circuit court. No action shall be taken on any >>matter before the Community Zoning Appeals Boards<< ~~[[application]]~~ unless a quorum of ~~[[five (5)]]~~ >>four (4)<< members is present, and only upon >>not less than<< a majority vote of all members present and voting provided however that any approval or denial of any application or portion thereof pursuant to Chapter 33 shall require not less than ~~[[four (4)]]~~ >>three (3)<< votes. When there is an insufficient number of votes to either approve or deny an application, the result shall be deemed a tie vote.

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

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

Sec. 33-309. >>Community<< Zoning Appeals Board Application>>~~s~~ 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) per cent 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 application must be contiguous and immediately adjacent to one another, and the Director may require more than one application if the property concerned contains more than forty (40) acres, or the fee paid for one application would not equal the cost of processing the same. Only applications which the ~~>>Community<<~~ Zoning Appeals Board or the Board of County Commissioners are authorized to consider and act upon shall be accepted for filing.

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

* * *

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

- (a) When an application as prescribed by Sections 33-304, ~~>>and<< 33-309[~~, and 33-314~~]~~, has been filed hereunder the Director shall, no later than forty (40) days after filing, at the cost of the applicant, provide mailed notice of such filing as provided in Section 33-310(d). The notice shall include the applicant's name, the processing number, the property size, the location (and street address, if available) of the property, a general description of the action requested in the application, and a statement that the application was filed and is being reviewed by the Department and, where applicable, the Developmental Impact Committee, and that a future notice will be provided prior to the public hearing thereon. The notice shall additionally state and make clear that any interested person is entitled to discuss the application with the County employees processing and reviewing the application to the same extent as the applicant is so entitled and that the application may change during the hearing process. The person or persons mailing the notice provided herein shall attach an affidavit or affidavits thereof to the application's file setting forth the compliance with this subsection. Failure to mail the said written notice as provided herein

shall render voidable any hearing held on the application. If, after this initial notice is mailed, the application is changed in a manner such that additional land area is encompassed within the application, then the initial notice described herein shall be repeated by the Director at the expense of the applicant. Such modifications that require repeating the initial notice shall be permitted only during the regular working days that fall within the first seven (7) days of the month. The notice provided in this paragraph shall not be required for appeals filed in conjunction with section 33-313 >>or 33-314<< of the Code.

- (b) Applications filed hereunder shall be promptly transmitted to the appropriate board, together with the written recommendations of the Director and the Zoning Official. Where applicable the Developmental Impact Committee shall issue its recommendation, which shall include a statement of the Director as to the application's relationship to the comprehensive development master plan. All such recommendations shall be signed and considered final no earlier than thirty days prior to the public hearing to give the public an opportunity to provide information to the staff prior to the recommendations becoming final. This shall not preclude earlier, preliminary recommendations. All documents of the county departments evaluating the application, which documents pertain to the application, are open for public inspection to applicants or other interested persons.
- (c) No action on any application shall be taken by the >>Community<< Zoning Appeals Board>>§<< or the Board of County Commissioners >>on any appeal<< until a public hearing has been held upon notice of the time, place and purpose of such hearing, the cost of said notice to be borne by the applicant. Notice shall be provided as follows:

* * *

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

(A) Except as otherwise provided by this chapter, the >>Community<< Zoning Appeals Board>>§<< 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 and the Zoning Official, >>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.<< [[and such Board]>>The Community Zoning Appeals Boards are<< [[is]] 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.<<

[[~~(a)~~]] >>(1)<< Minimum square footage requirements. Hear and grant or deny applications to increase or decrease the minimum square footage requirements for building in a particular area, provided, it finds that the increase or decrease would be comparable with that required for the area or surrounding area or that established by improvements in the area or surrounding area.

[[~~(b)~~]] ~~Changes in zoning regulations. Hear and recommend for approval or denial applications for changes in the regulations.~~

(c)] >>(2)<< Appeal of administrative decisions.

[[~~(4)~~]]>>(a)<< Upon application for, hear and decide appeals where it is alleged there is an error in 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. >>Such administrative decisions shall not include appeals filed pursuant to Sections 2-114.1 through 2-114.4.<<

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[[~~(3)~~]]>>(b)<< Pursuant to the provisions of Section 33-36.1 [[and Section 33-202.3(a)(2).]] any aggrieved property owner in the area may appeal the decision of the Director to the >>appropriate Community<< Zoning Appeals Board within fifteen (15) days after the Director's decision is published in a newspaper of general circulation. An aggrieved applicant must file a new application with the >>appropriate<< Dade County >>Community<< Zoning Appeals Board pursuant to the provisions of this chapter and must comply fully with the requirements of Section

~~[[33-311(e)]]~~ >>33-311<< "Variances from Other
Than Airport Regulations".

~~[[d)]]~~ >>(3)<< Special exceptions, unusual and new uses. Hear application for and grant or deny special exceptions; that is, those exceptions permitted by the regulations only upon approval after public hearing, new uses and unusual uses which by the regulations are only permitted upon approval after public hearing; provided the applied for exception or use, including exception for site or plot plan approval, in the opinion of the ~~[[Zoning Board]]~~ >>Community Zoning Appeals Board<<, would not have an unfavorable effect on the economy of Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the necessity for and reasonableness of such applied for exception or use in relation to the present and future development of the area concerned and the compatibility of the applied for exception or use with such area and its development. For purposes of public hearing, a site plan shall be considered one special exception, and upon approval of a site plan by the >>Community<< Zoning Appeals Board, and/or the Board of County Commissioners all non-use variances incorporated within and reflected upon the site plan shall be considered a part thereof, and official approval of the site plan shall constitute approval of all such non-use variances, unless otherwise so moved by the approving board.

~~[[e)(1)]]~~ >>(4)

(a)<< Use variances from other than airport regulations. Upon appeal or direct application in specific cases to hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum use variance that will permit the reasonable use of the premises; and further provided, no variance from any airport zoning regulation shall be granted under this subsection; provided, however, no-use variance shall be granted permitting a BU or IU use in any residential, AU or

GU District, unless the premises immediately abuts a BU or IU District. A "use variance" is a variance which permits a use of land other than which is prescribed by the zoning regulations and shall include a change in permitted density. ~~[[Use variances involving uses with different "prefixes" (BU use in IU District, IU use in BU District, BU use in RU District, RU use in BU District, RU use in IU District, IU use in RU District, etc.) that otherwise comply with this section will be heard directly by the Board of County Commissioners. Use variances involving uses within the same "prefix" will be heard by the Zoning Appeals Board, in accordance with the provisions of this section. Use variances heard initially by the Zoning Appeals Board shall include those use variances involving density of development and the required right of way dedication. For purposes of this paragraph, the AU, GU, EU, RU-S and RU-SA Districts shall all be considered to be within the RU prefix category.]>>~~

~~(2)]>>~~(b)<< Non-use variances from other than airport regulations. Upon appeal or direct application in specific cases to hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations, the Board (following a public hearing) may grant a non-use variance upon a showing by the applicant that the non-use 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 non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required. For the purpose of this subsection, the term "non-use variances" involves matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements and other variances which have no relation to change of use of the property in question.

~~[(A)]>>~~(5)<< Variances from airport zoning regulations. Hear applications for and grant or deny variances from any airport zoning regulations, but in considering, granting or denying any such variance the >>Community<< Zoning Appeals Board>> shall be governed and shall abide by the guides and standards, general purpose and intent of the particular airport zoning regulation concerned. No such application shall be heard until the recommendation of the

Director of the Aviation Department is first obtained, which recommendation shall be considered, together with that of the Director's. The granting of a variance under this subsection does not authorize or permit violation of other zoning regulations or the zoning regulations of any municipality concerned unless authorized by the appropriate County or municipal board, body or commission concerned, as the case may be.

[[g]]>>(6)<<Variances from subdivision regulations. Hear applications for and grant or deny variances from subdivision regulations (Chapter 28 of the Code of Metropolitan Dade County) in accordance with and pursuant to the authority and standards set forth in Section 28-19 of the Code.

[[h]]>>(7)<<Hear applications to modify or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution; provided, [[it]] >>that the appropriate board<< finds after public hearing >>that<< the modification or elimination, in the opinion of the >>Community<< Zoning Appeals Board, would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or would not tend to provoke a nuisance, or would not be incompatible with the area concerned, when considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned.

[[i)] Reserved.

(j) ~~Conditions, restrictions and limitations.~~

(+) ~~In granting any application for increase or decrease in minimum space footage requirements, special exception, new uses or unusual use, use or nonuse variances or variances from airport regulations, the Zoning Appeals Board may prescribe any reasonable conditions, restrictions and limitations it deems necessary or desirable, in order to maintain the plan of the area and compatibility therewith. The Zoning Appeals Board may revoke, modify or change any resolution heretofore or hereafter adopted granting a special permit or a special exception, new uses, unusual use or variance, if upon application filed at any time by the Director and after public hearing, the Zoning Appeals Board finds that there has been a violation of any imposed conditions, restrictions or limitations in any such resolution; provided, such public hearing shall not be held until published notice provided by Section 33-310 hereof has first been given; provided further, if the Director, upon written~~

~~request of any aggrieved party, refuses or fails to make such an application, such aggrieved party may request the Board of County Commissioners, through the County Manager, to instruct the Director to do so. Such decision of the Zoning Appeals Board shall be final unless an appeal is instituted to the Board of County Commissioners within the time and as prescribed for other appeals thereto.~~

- (2) ~~Any person who shall violate or fail to comply with any conditions, restrictions or limitations contained in any resolution heretofore or hereafter adopted, granting a special permit or special exception, new uses, unusual use or variance or with any of the requirements of such a resolution, shall upon conviction thereof in the appropriate court be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail for not more than sixty (60) days, or by both such fine and imprisonment. Each day of violation or noncompliance shall constitute a separate offense.~~
- (k) ~~Standards accumulative. Any and all standards and guides provided by this article to be followed and used shall be accumulative and in addition to those provided by the zoning regulations which are not intended to be repealed by this article.~~
- (l) ~~The Zoning Appeals Board may not defer action on an application for more than sixty (60) days unless the applicant consents thereto, unless deferral is necessary to avoid a manifest injustice pursuant to the provisions of Section 2-114.1(e)(2), Code of Metropolitan Dade County or unless the application is under moratoria, pursuant to the provisions of this chapter. Deferral of action shall be for further study, viewing of the area, staff or departmental study or for any other justifiable or reasonable purpose.]]~~
- >>(8) Hear and grant or deny applications for district boundary changes on individual pieces of property or on a neighborhood or area-wide basis 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 as provided by Section 33-314.
- (10) The Community Zoning Appeals Boards shall review those plans submitted as part of an application for a planned development. The Community Zoning Appeals Board shall decide if the proposed development is in accordance with the provisions for a planned development and shall diligently

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consider the recommendations of the Director and the Zoning Official or the Developmental Impact Committee prior to recommending approval, approval with modification, or denial. The Community Zoning Appeals Boards shall approve an application for a planned development only when plans and other exhibits are in compliance with the criteria for a planned development and otherwise meet the criteria contained in this Section.

(11) Notwithstanding anything in Section 24-58.1 to the contrary, the Community Zoning Appeals Board shall hear, grant or deny applications for unusual uses or amendments or modifications thereto described in Section 33-13(e) when said unusual uses, amendments or modifications are in connection with a class I or class IV permit application, as defined in Section 24-58.1.

(B) Conditions, restrictions and limitations.

(1) In granting any application for increase or decrease in minimum space footage requirements, special exception, new uses or unusual use, use or nonuse variances or variances from airport regulations, the appropriate Community Zoning Appeals Boards may prescribe any reasonable conditions, restrictions and limitations it deems necessary or desirable, in order to maintain the plan of the area and compatibility therewith. The Community Zoning Appeals Boards may revoke, modify or change any resolution heretofore or hereafter adopted granting a special permit or a special exception, new uses, unusual use or variance, if upon application filed at any time by the Director and after public hearing, the Community Zoning Appeals Board finds that there has been a violation of any imposed conditions, restrictions or limitations in any such resolution; provided, such public hearing shall not be held until published notice provided by Section 33-310 hereof has first been given; provided further, if the Director, upon written request of any aggrieved party, refuses or fails to make such an application, such aggrieved party may request the Board of County Commissioners, through the County Manager, to instruct the Director to do so.

(2) Any person who shall violate or fail to comply with any conditions, restrictions or limitations contained in any resolution or decision heretofore or hereafter adopted, granting a special permit or special exception, new uses, unusual use or variance or with any of the requirements of such a resolution, shall upon conviction thereof in the appropriate court be punished by a fine not to exceed five hundred dollars

(\$500.00) or by imprisonment in the County Jail for not more than sixty (60) days, or by both such fine and imprisonment. Each day of violation or noncompliance shall constitute a separate offense.

- (C) In granting any application for district boundary change to a BU or IU District, the Community Zoning Appeals Board shall condition the same to be subject to the Director's approval of a plot use plan, and such plan shall include among other things but shall not be limited to the location of buildings and structures, types, sizes and location of signs, light standards, parking areas, exits and entrances, drainage, walls, fences, landscaping and sprinkler systems; provided that such approval be by the Community Zoning Appeals Board, following public hearing, where the application involves business uses in excess of ten (10) acres or one hundred thousand (100,000) square feet of retail floor area or one thousand (1,000) vehicle off-street parking space capacity, or industrial use in excess of fifty (50) acres or five hundred (500) vehicle off-street parking space capacity.
- (D) No document prepared or relied upon by an expert shall be admitted into evidence at a public hearing unless such document shall have been filed with the Director at least ten (10) days prior to the public hearing. No expert opinion testimony shall be admitted into evidence at a public hearing unless a written summary of the testimony setting out the substance and basis of such testimony shall have been filed with the Director at least ten (10) days prior to the public hearing.
- (E) Takings and Vested Rights.
- (1) No argument and no evidence to the effect that the Comprehensive Development Master Plan, as applied, constitutes a temporary or permanent taking of private property or abrogates vested rights shall be considered as evidence by the Community Zoning Appeals Boards unless a sworn statement and supporting documents have been filed pursuant to Section 2-114.1 with the coordinator of the Developmental Impact Committee not less than forty-five (45) calendar days prior to the first hearing on the application. Any individual or entity having an interest in property which is the subject of a zoning application filed by a County official shall be entitled to file an application for a taking or vested rights determination pursuant to Section 2-114.1 of the Code.
- (2) Any individual or entity having an interest in property which is the subject of a zoning application

filed by a County official shall be entitled to file an application for a taking or vested rights determination pursuant to Section 2-114.1 of the Code without payment of a fee. Whenever an application for zoning action is filed by a County official, the county applicant shall provide notice by certified mail, return receipt requested, to the owners of record of any and all property to which the application pertains. Said notice shall include a copy of Section 33-311 and Section 2-114.1 of the Code. Any claimant having an interest in property subject to a County zoning application who contends that action thereon will constitute a taking or abrogation of vested rights shall file a notice of invoking administrative remedy with the Developmental Impact Committee pursuant to Section 2-114.1(c)(1) of the Code within thirty (30) days after receipt of the certified mail notice required by this section. Said thirty (30) day filing period may be extended by the County Commission upon a showing of good cause. Application to show good cause shall be upon a form prescribed by the director and pursuant to the same process used for fee waivers.

(3) The separate hearing option of Section 2-114.1(d)(5) shall be applicable and no decision contrary to the position of one asserting a taking or abrogation of vested rights shall be final as to such individual or entity unless and until the remedy afforded by Section 2-114.1 has been exhausted or waived.

(F) Detriments or benefits shall not be denied consideration on the grounds that they are indirect, intangible or not readily quantifiable. In evaluating the application, among other factors related to the general welfare, whether, and the extent to which:

(1) The development permitted by the application, if granted, conforms to the Comprehensive Development Master Plan for Metropolitan Dade County, Florida; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered;

(2) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of Metropolitan Dade County, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which

alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development;

- (3) The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of Metropolitan Dade County, Florida;
- (4) The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction;
- (5) The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

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

Sec. 33-312. >>Community Zoning Appeals Board>>_s - Decisions >>and Commencement of Appeal<<

All decisions of the >>Community<< Zoning Appeals Board>>_s<< shall be by resolution. The decision, if for denial, shall specify whether it is with or without prejudice. Any member who has a special financial interest, direct or indirect, in any matter shall make that interest known and shall abstain from participation therein in any manner. Willful violation of this provision shall constitute malfeasance in office and shall render the action voidable by the Board of County Commissioners. >>Decisions of the Community Zoning Appeals Boards are final and may be appealed to circuit court pursuant to Section 33-316 provided however w<<ithin fourteen (14) days, but not thereafter, [[any]] decision>>_s<< of the >>Community<< Zoning Appeals Board>>_s as specified in Section 33-314<<, [[-save and except a decision pertaining to regulatory amendment]] >>shall<< [[may]] be appealed to the Board of County Commissioners as provided by Section 33-313. [[hereof,

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~~otherwise, it shall become final.]]~~ The fourteen-day appeal period provided herein shall commence to run the day after notification that the ~~[[Zoning Appeals Board]]~~ >>appropriate Community Zoning Appeals Board<< has taken action on the particular matter, such notification to be given by the Department by posting a short, concise statement of the action taken on a conspicuous bulletin board that may be seen by the public at reasonable times and hours in the office of the Department. >>Where the fourteenth day (14) day falls on a weekend or legal holiday the fourteenth day (14) period shall be deemed to extend through the next business day.<< No appeal may be withdrawn after a period of ten (10) days from the date of the decision of a >>Community<< Zoning Appeals Board; except at the appeal hearing before the Board of County Commissioners and with the permission of such Board. In no event shall an appellant be entitled to a refund of the appeal fee. It is hereby intended that the >>Community<< Zoning Appeals Board's decision concerning a requested regulation amendment shall be considered only as a recommendation, which shall be transmitted, together with the >>Community<< Zoning Appeals Board's record on each such application, to the Board of County Commissioners for final action by way of approval, disapproval or modification pursuant to Section 33-314 hereof.

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

Any appealable decision of the >>Community<< Zoning Appeals Board may be appealed by an applicant, governing body of any municipality, if affected, or any aggrieved party, including neighborhood, community and civic associations, whose name appears in the record of the >>appropriate Community<< Zoning Appeals Board by filing with the Department a petition in a form prescribed by the Director and a written statement specifying in brief, concise language the grounds and reasons for reversal of the ruling made by the >>Community<< Zoning Appeals Board, together with a fee for the processing of the appeal, as provided by Administrative Order No. 4-40, as amended from time to time, within the fourteen (14) days provided by Section 33-312 hereof, whereupon, the Director shall transmit to the County Commission the appeal papers, the decision and record of the >>Community<< Zoning Appeals Board >>thereof, after hearing and recommendation by the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the entire DRI<<. If the ground for reversal is a failure to provide notice as required by Section 33-310, the name of the appellant need not appear in the record. If the decision of the >>Community<< Zoning Appeals Board is for approval and has not been appealed within the fourteen-day period, the Director may appeal such

decision within four (4) additional days in the manner aforesated, except they will not be required to pay the stated fee; provided they both agree that an appeal be taken and sign the appeal petition. Upon the taking of an appeal, the County Commission shall conduct a de novo hearing and shall consider why the decision of the >>Community<< Zoning Appeals Board should or should not be sustained or modified. By resolution, the Board shall [[{]] either affirm, modify or reverse the >>Community<< Zoning >>Appeals<< Board's decision and such action of the County Commission[[]] >>shall<< be by a majority vote of all members present[[:]] >>except that a two-thirds vote of all members then in office shall be required to reverse any Community Zoning Appeals Board decision denying a request for zoning action or to approve any Development of Regional Impact or related request pursuant to Sec. 33-314 where a Community Zoning Appeals Board's recommendation is for denial.<< [[provided:]] [[n]]>>N<<o appeal shall be heard or considered until notice has been provided in accordance with the provisions of Section 33-310(c), (d), (e) and (f).

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Sec. 33-314. ~~[[Finality of district boundary changes and regulation amendments-]] >>Direct Applications and Appeals to the County Commission.~~

(A) The County Commission shall directly hear applications for development approval of Developments of Regional Impact or modification thereof after hearing and recommendation by the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the entire Development of Regional Impact. Where an application for development approval of a Development of Regional Impact also contains a request for any action under this chapter requiring a public hearing or where there is pending on any property an application for development approval for a Development of Regional Impact and an application for any other action under this chapter requiring a public hearing (related requests) all such applications shall be heard in their entirety by the Board of County Commissioners after hearing and recommendation of the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the application or applications. Where practicable, all such items shall be acted upon at the same public hearing. Hearings pursuant to this subsection shall be noticed in the same manner as applications filed before the Community Zoning Appeals Boards. The

DRI by BCC after recommendation from CZAB

procedural requirements of 33-311(F) and 33-311(G) shall apply to hearings held pursuant to this section.

(B) The County Commission shall have jurisdiction to hear appeals from decisions of the Community Zoning Appeals Boards as follows:<<

BCC hears Appeals for:

~~[[(a) In addition to the powers set forth in Section 33-313 and 33-315, the Board of County Commissioners shall have the authority and duty to directly hear and act upon applications for the following matters:]]~~

- (1) ~~[[The Board shall hear and grant or deny a]]~~ >>A<<pplications for district boundary changes on individual pieces of property or on a neighborhood or area-wide basis.
- (2) ~~[[The Board of County Commissioners shall review these p]]~~ >>P<<ans submitted as part of an application for a planned development. The Board shall decide if the proposed development is in accordance with the provisions for a planned development and said Board shall diligently consider the recommendations of the Director and Zoning Official or the Developmental Impact Committee prior to recommending approval, approval with modification, or denial. Said Board shall only approve an application for a planned development when plans and other exhibits are in compliance with the criteria for a planned development and otherwise meet the criteria contained in Section 33-311.
- (3) ~~[[Where an a]]~~ >>A<<pplication>>g<< for district boundary change>>g<< which<< also contains a request>>g<< 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 application for district boundary change, variance, special exception, unusual or new use>>g<< ~~[[the said application or applications shall be heard in their entirety solely by the Board of County Commissioners and w]]~~ >>W<<hen possible >>an appeal containing such requests shall be<< acted upon at the same public hearing.

D/B/C plus incidental or related requests accompanying z/c

?

Appeals heard by
BCC (continued)

- (4) All zoning applications by State and municipal entities and agencies.) appeal
- (5) Applications for unusual uses or amendments or modifications thereto described in Section 33-13(e) when said unusual uses, amendments or modifications ~~[[require approval before the Board of County Commissioners]]~~ in connection with a class I or class IV permit application, as defined in Section 24-58.1.

~~[[6) Applications for development approval of developments of regional impact or modification thereof. Where an application for development approval of a development of regional impact also contains a request for any action under this chapter requiring a public hearing or where there is pending on any property an application for development approval for a development of regional impact and an application for any other action under this chapter requiring a public hearing. Where practicable acted upon at the same public hearing.]]~~

>>(6)<< [[(7)]]

Use variances ~~[[as provided for in Section 33-311(e)(1)]]~~ >> involving uses with different "prefixes" (BU use in IU District, IU use in BU District, RU use in IU District, IU use in RU District, etc.). For purposes of this paragraph, the AU, GU, EU, RU-5 and RU-5A Districts shall all be considered to be within the RU prefix category.

(7)<< [[(8)]] Self-service storage facilities as provided for in Section 33-247(38).

→ >>(8) 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 Dade County Comprehensive Development Master Plan.

Co. Mgr.
can

(9) 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 Sec. 2-114 have been exhausted.

(C) The County Commission shall have jurisdiction to directly hear other administrative appeals as follows:

(1)<<[(9)] Upon application for, hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Development Impact Committee Executive Council or its Chairman in the discharge of its duties as defined in Sections 2-114.1, 2-114.2, 2-114.3, 2-114.4 and Chapters 33E, [Section] 33G-6, 33H, 33I and 33J and 33K of the Code. The Board of County Commissioners shall also hear and decide appeals or other matters as provided by Sections 2-114.2, 2-114.3, and 2-114.4 of the Code.

>>(2)<<[(10)] Applications for developmental resolutions for which the applicant or the executive council of the DIC has invoked the administrative remedy set forth in Section 2-114.1, Code of Metropolitan Dade County, Florida.

>>(D)<<[(b)] The Board, after hearing why the application should or should not be granted, shall consider the matter in accordance with the criteria specified in this chapter, and shall by resolution either grant or deny the application.

* * *

>>(E) If an application is before the Board of County Commissioners pursuant to this article, be it by way of appeal, recommendation or otherwise, it shall have authority to consider and take final action upon any and all matters and requests contained in the application, any other provisions in this article notwithstanding. In making any final decisions, the Commission shall be guided by the standards and guides applicable to the Community Zoning Appeals Boards or as otherwise specified in this chapter. It shall consider all relevant and material evidence offered to

show the impact of the development upon Metropolitan Dade County.

~~(F)~~<<[[~~(e)~~]] In granting any application for district boundary change to a BU or IU District, the Board shall condition the same to be subject to the Director's approval of a plot use plan, and such plan shall include among other things but shall not be limited to the location of buildings and structures, types, sizes and location of signs, light standards, parking areas, exits and entrances, drainage, walls, fences, landscaping and sprinkler systems; provided that such approval be by the >>Community<< Zoning Appeals Board, following public hearing, where the application involves business uses in excess of ten (10) acres or one hundred thousand (100,000) square feet of retail floor area or one thousand (1,000) vehicle off-street parking space capacity, or industrial use in excess of fifty (50) acres of five hundred (500) vehicle off-street parking space capacity.

~~[[~~(d)~~ Recommendation of the Zoning Appeals Board for or against regulation amendments when received by the Board of County Commissioners shall be considered and if it is determined to amend the regulations in any manner, such amendment shall be enacted by ordinance as provided by law.]]~~

>>(G) The County Commission may defer action on any matter before it in order to inspect the site in question, to remand to the Community Zoning Appeals Boards, or for any other justifiable and reasonable reason. Whenever a deferral is approved at the request of the applicant, the applicant shall be required to pay a deferral fee in the amount of round-trip public transit fare for each person present at the hearing in opposition to the application, or two hundred fifty dollars (\$250.00), whichever is greater. The Clerk of the Board shall prepare and have available at the hearing appropriate voucher forms, in duplicate, to be filed under oath by persons present to oppose the application in question. Each objector presenting a completed voucher to the Clerk shall be given two (2) transit tokens. At the end of the meetings at which the deferral was requested, the Clerk shall, for each deferral, total the number of vouchers issued, determine the value of transit fares represented by the tokens, and submit the deferral fee to the applicant, or his attorney. The applicant requesting the deferral shall pay the deferral fee to the Department, which shall then pay an amount equal to the value of the transit fares to the transit agency. Except for that portion of the deferral fee paid to the transit agency.

all monies collected by the Department as deferral fees shall be deposited into a separate account and shall be expended only for purposes of administering and enforcing the provisions hereof. In the event that the applicant does not pay the deferral fee prior to the date of the scheduled deferred hearing, the application shall be deemed to have been voluntarily withdrawn without prejudice, the applicant shall be deemed to be in violation of this provision, and enforcement may be effectuated through all available means including but not limited to Chapter 8CC of the Code of Metropolitan Dade County, Florida. Notwithstanding the foregoing, the County Commission shall, at the time of approving a deferral, have the discretion to waive the provisions of this section upon a showing of good cause for the deferral. When any final action has been taken by the Board of County Commissioners, its record, together with a certified copy of its minutes and resolution pertaining to such action shall be transmitted to the Department for filing, and the same shall be open to the public for inspection at reasonable times and hours. Save and except as otherwise provided by ordinance, all actions taken by the Board of County Commissioners under this article shall be by a majority vote of all members present; provided however that any reversal or modification of any Community Zoning Appeals Boards' resolution decision or portion thereof pursuant to Chapter 33 shall require not less than two-thirds (2/3) majority vote of members present. When there is an insufficient number of votes to either affirm or reverse a Community Zoning Appeals Boards' resolution decision, the result shall be deemed a tie vote.<<

Section 36. Section 33-315 of the Code of Metropolitan Dade County, Florida, is repealed in its entirety and is replaced by a new Section 33-315 which reads as follows:

>>Sec. 33-315. Regulation Amendment Request.

- (A) Request for regulation amendments may be filed with the Director who shall assign the request on a blind filing basis to a Community Zoning Appeals Board.
- (B) Notice of the Board's action on a request for regulation amendment shall be limited to the advertisement provision of Section 33-310(C)(1) except the property's location and legal description need not be included.
- (C) The Community Zoning Appeals Board's action on a regulation amendment shall take the form of a recommendation which shall be transmitted to the Board of County Commissioners.

*Change
Zoning Code
file reg
app.*

*CZAB makes
rec → BCC*

*Diane E.
Lynne
Pick #*

- (D) Recommendations of the Community Zoning Appeals Board for or against regulation amendments when received by the Board of County Commissioners shall be considered and if it is determined to amend the regulations in any manner, such amendment shall be enacted by ordinance as provided by law.<<

Section 37. Sections 33-315.1, Code of Metropolitan Dade County, Florida, is hereby amended to read as follows:

Sec. 33-315.1. Reformation of resolutions to correct technical errors.

The >>Community<< Zoning Appeals Board and the Board of County Commissioners shall have the authority and duty, after application and hearing, to correct technical errors in resolutions of approval adopted pursuant to this chapter. The board issuing a resolution shall have original jurisdiction over an application to reform, provided that >>Community<< Zoning Appeals Board resolutions acting on applications to reform shall be appealable to the Board of County Commissioners.

* * *

Section 38. Sections 33-316 through 33-319, Code of Metropolitan Dade County, Florida, are hereby amended to read as follows:

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

No person aggrieved by any zoning resolution order, requirement, decision or determination of an administrative official or, where applicable, by any decision of the >>Community<< Zoning Appeals Board may apply to the court for relief unless ~~[[he]]~~ >>such person<< has first exhausted the remedies provided for herein and taken all available steps provided in this article. It is the intention of the Board of County Commissioners that all steps as provided by this article shall be taken before any application is made to the court for relief, and no application shall be made to the court for relief except ~~[[for]]~~ >>from a<< resolution adopted by the Board of County Commissioners, >>or where applicable from a resolution adopted by a Community Zoning Appeals Board<< pursuant to this article. Zoning resolutions of the Board of County Commissioners >>or where applicable zoning resolutions of Community Zoning Appeals Board<< shall be reviewed by the filing of a notice of appeal in the Circuit Court of the Eleventh Judicial Circuit in and

forthwith file an application to remedy such taking or vested rights abrogation, which application shall be heard directly by the Board of County Commissioners after notice is given pursuant to Section 33-310(c) through (f). The Board of County Commissioners may elect to request that any remand or director's application be deferred until a later point in the litigation, including the completion of any judicial appeals. Notwithstanding anything to the contrary contained in this chapter, the Board of County Commissioners shall have original administrative jurisdiction over any remand or director's application pursuant to this paragraph.

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

The department shall not issue any type of permit or certificate based upon any action of the >>Community<< Zoning Appeals Board >>which the County Commission has jurisdiction to review<< until a final decision has been rendered on the application by ~~[[the appropriate board or the County Commission as provided by this ordinance]]~~ >>Chapter<<; provided, however, a temporary conditional permit or certificate may be issued prior to such final decision if the Director should first determine that the withholding of the same would cause imminent peril to life or property and then only upon such conditions and limitations, including the furnishing of an appropriate bond, as may be deemed proper by the Director.

* * *

Sec. 33-318. Reserved.

* * *

Sec. 33-319. Administrative building moratoria.

* * *

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

- (1) As soon as the county manager learns that a grand jury has indicted or that an information has been formally returned against a County Commissioner >> or Community Zoning Appeals Board member << charging said commissioner >> Community Zoning Appeals Board member << with bribery, accepting unauthorized compensation, or other act of fraud in a zoning case relating to a particular parcel or parcels of real property, then the county manager shall immediately issue ~~[[his]]~~ >>an<< administrative order identifying the real property in question and prohibiting the issuance of building permits for said property. Such order of moratorium shall remain in effect until the completion of the criminal judicial process and the

determination of guilty or not guilty as to the County Commissioner>> Community Zoning Appeals Board member<< involved being reviewed by the highest judicial tribunal to consider the case. Should the commissioner>> Community Zoning Appeals Board member<< be found not guilty, then the administrative order shall be deemed dissolved. Should the County Commissioner>> Community Zoning Appeals Board member<< be found guilty, then a motion to reconsider the zoning on the real property in question may properly be made by any County Commissioner[[-]] >>or when applicable by a Community Zoning Appeals Board member <<

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

Community Zoning Appeals Board<< shall be guided by the standards and guides ~~[[applicable to the Zoning Appeals Board (delineated in section 33-311) and otherwise applicable to the Board of County Commissioners]]~~ specified in this chapter>> << ~~[[including but not necessarily limited to sections 33-314 and 33-315.]]~~ The >>Board of County Commissioners, or where appropriate, the Community Zoning Appeals Board<< after considering the items delineated herein and the criteria specified in this chapter, shall by resolution either reaffirm the existing zoning and rezone the subject property. The provisions of section 33-316 relating to exhaustion of remedies and court review are fully applicable to proceedings held in accordance with this subsection.

Section 39. 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 40. 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 a part of the Code of Metropolitan 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 41. One year from the effective date of this ordinance, Section 33-314(B) stands repealed and zoning decisions previously appealed to the County Commission from decisions of the Community Zoning Appeals Boards pursuant to this section shall be directly appealed to the Circuit Court unless the County Commission by ordinance provides otherwise.

Section 42. The provisions of this ordinance shall become effective 90 days after the date the members of the Community Councils are duly elected. It is provided, however, that this ordinance shall only apply to those zoning applications filed subsequent to the effective date of

this ordinance. Applications initially filed prior to the effective date of this ordinance shall be subject to existing provisions of this Code.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency.

RAG
CAC

Prepared by:

**ORDINANCE 96-126
COMMUNITY COUNCILS**

This ordinance established community councils. A subsequent resolution modified the boundaries of council areas in Councils 5 and 9 to allow for a sufficient number of electors to fill council seats. Attachment A is that amended list of precincts -- the current community council boundaries.





MEMORANDUM

Amended
Alternate
Agenda Item No. 4(A)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: September 4, 1996

From: Robert A. Ginsburg
County Attorney

Subject: Alternate Ordinance Implementing
Boundaries Commission Proposal
for Community Councils

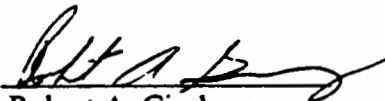
0#96-126

The attached alternate ordinance was prepared at the request of Chairman Miguel Diaz de la Portilla.

This differs from the existing proposed ordinance in the following ways:

- It provides for 12 Community Councils configured as identified by the Boundaries Commission.
- It calls for elected Community Council members to be:
 - Resident electors in separate subareas but be elected at large by voters in the entire Council Area.
 - Initially elected at the November 5, 1996 general election.

The Department of Elections advises that in order for the election of Council members to be held on November 5, 1996, the subject ordinance must be approved no later than September 4, 1996. This schedule provides a two (2) working day filing period for candidate qualification prior to the date ballots must be finalized.


Robert A. Ginsburg
County Attorney

RAG/mg
Attachment



ORDINANCE NO. 96-126

**ORDINANCE ESTABLISHING COMMUNITY COUNCILS;
CREATING ARTICLE IV, SECTIONS 20-40 THROUGH 20-44
OF THE CODE OF METROPOLITAN DADE COUNTY;
PROVIDING SEVERABILITY, INCLUSION IN THE CODE,
AND AN EFFECTIVE DATE**

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

Section 1. Article IV, Sections 20-40 through 20-44 of the Code of Metropolitan Dade County, Florida, are hereby created to read as follows:

Article IV. Community Councils

Sec. 20-40. Community Councils; creation and purposes.

There are hereby established and created community councils to serve the unincorporated Dade County. Community councils are established for the following purposes:

1. **Providing the residents of unincorporated Dade County with increased governmental accountability, and responsiveness in decision-making processes for the delivery of municipal-type services;**
2. **Improving the effectiveness of services by making them more responsive to community desires and needs;**
3. **Retaining efficiencies of services by maintaining economies of scale;**
4. **Maintaining the ability to match unincorporated area needs with available resources; and**



5. Fostering a sense of community identity, inclusiveness and empowerment.

Sec. 20-41. Community Councils; responsibilities.

- A. Community councils shall perform the duties and responsibilities of Community Zoning Appeals Boards as set forth in Section 33-306 of the Code of Metropolitan Dade County.
- B. Community councils may, at their option, perform the following duties and responsibilities:
 - (1) Planning
 - (a) compile profiles of their respective community's social, physical and economic conditions to assist them in performing their duties;
 - (b) prepare an annual statement of community needs including development patterns and regulations, public facilities and services to assist the council;
 - (c) make recommendations to the Planning Advisory Board and Board of County Commissioners on proposed Dade County Comprehensive Development Master Plan amendments that impact each council's area; and
 - (d) make recommendations to the County Commission on the location and siting of specific public facility and infrastructure projects.
 - (2) Protection of Persons and Property Programming
 - (a) recommend policies to coordinate the Fire Rescue District and Police Department in the enhancement of public safety and protection of property in the council area through improved communications and service needs assessments.

- (3) **Budgeting**
 - (a) make recommendations to the County Manager and County Commission on priorities for community facilities and services and on Community Based Organization grants for the council area; and
 - (b) make recommendations to the County Manager and County Commission on revenue needs including unincorporated area property taxes millages and special taxing districts.
- (4) **Communication**
 - (a) conduct forums on council area issues to facilitate the exchange of information between residents, property owners, businesses, institutions, and County officials and administrators;
 - (b) disseminate information about council area related organizations, programs and activities; and
 - (c) coordinate with Dade County's Team Metro in the exercise of that agency's responsibilities within the council area.

Sec. 20-42. Community Councils; configuration.

- A. There shall be sixteen (16) community councils each of which shall have jurisdiction within the boundary of one of the sixteen (16) council areas. Council areas should be large enough to reasonably accommodate local zoning issues without unduly increasing staffing requirements. The boundaries of community councils' jurisdiction, to the extent feasible, shall coincide with those of groupings of Census Designated Places.
- B. Each community council area shall contain a total of six (6) subareas. The boundaries of these subareas, to the extent feasible, shall coincide with those of existing election

precincts. Enclave areas that are fully surrounded by municipal boundaries and are not large enough to be subareas shall be part of the nearest subarea.

- C. The boundaries and numerical designations of the community councils and of the subareas within them are depicted and described in Attachment A. These boundaries may be amended from time to time by resolution of the County Commission initiation and after public hearing. The names of the community councils shall be designated by the respective community council.

Sec. 20-43. Community Councils; membership.

Community councils shall have seven (7) members, six (6) of whom shall be elected at large within the council area and one (1) of which shall be appointed by the Board of County Commissioners as follows:

(A) Elected Council Members

- (1) Elected council members shall, for three (3) months prior to qualifying, have been resident electors of separate subareas of the council area and be elected by the electors of the entire council area. No council member shall be employed by Dade County or be a member of the County Commission.
- (2) In the initial election, council members representing odd numbered subareas shall be elected for two (2) year terms and those representing even numbered subareas shall be for four (4) year terms; in all elections thereafter all terms of office of council members shall be for four (4) years.
- (3) All elections for community council members shall be non-partison. The initial general election for council members shall be held at the time of the 1996 general election. Subsequent elections of council members shall be held in each even numbered year, in conjunction with state primary

elections.

- (4) All candidates for community councils shall qualify with the Clerk of the Circuit Court no earlier than the 51st day and no later than 5:00 PM of the 49th day prior to the date of the election at which he or she is a candidate, in the manner provided by law or ordinance. Each candidate shall pay a filing fee of \$100.
- (5) All elections for community councils shall be canvassed by the County Canvassing Board as provided under the election laws of this state.
- (6) The general election ballot for the council member of each council area shall contain the names of all qualified candidates for election for council positions from each subarea and shall instruct the electors to cast one (1) vote for the subarea position for which an election is being held. The candidate receiving the greatest number of votes shall be duly elected to that council seat. If there is a tie vote among the two candidates receiving the greatest number of votes, there shall be a run-off election.

The ballot for any run-off election for a council seat shall contain the names of the two (2) candidates for the council seat who received the most votes in the general election. The ballot shall instruct electors of the council area to cast one (1) vote for each subarea position. The candidate for each council seat receiving the most votes in such run-off election shall be duly elected to that council seat. Provided, however, where there are fewer than six (6) subareas in a council area the number of persons to be elected from each subarea shall be as follows:

- (a) Where there are five subareas the electors of the entire council area shall elect one member from each subarea and one member at large.
- (b) Where there are four subareas the electors of the entire council area shall elect one



member from each subarea and two members at large.

- (c) Where there are three subareas the electors of the entire council area shall elect two members from each subarea.
 - (d) Where there are two subareas the electors of the entire council area shall elect three members from each subarea.
 - (e) Where there is one subarea there shall be six members elected from the subarea.
- (7) Any vacant council position, at the sole determination of the appropriate community council, may be filled for the duration of the unexpired term by the appointment of an individual meeting the qualifications provided in subsection (1) above. Provided, however, in the event there is an insufficient number of community council members in office to constitute a quorum, the County Commissioner or Commissioners whose district encompasses all or part of a community council, shall appoint a sufficient number of members necessary to constitute a quorum. Any council member who, as a result of a modification to the configuration of a council subarea pursuant to sec. 20-42, is no longer qualified to be an elected member of such council, shall be permitted to complete the term of office commenced prior to the subarea boundary modification.

(B) Appointed Council Members

- (1) The County Commissioners shall appoint one member to each community council following each election of council members. Each appointed community council member shall be either a resident elector of the council area or an elector of Dade County who, in the sole discretion of the Board of County Commissioners, has significant business or community interest in the council area. No appointed council member shall be employed by Dade County or be a member of the County Commission. These members shall be appointed by

the County Commissioner(s) whose district(s) include the boundaries of all or part of the community council area. Appointments shall be confirmed by a majority of the Board of County Commissioners.

- (2) The term of each appointed council member shall be for four (4) years; provided, however, the term of each member expires when the Commissioner who appointed that member leaves office. Each member shall hold office until a successor has been duly appointed, qualified and confirmed. Vacant council member positions shall be filled for the unexpired term in the same manner as other appointed council members.

(C) Organizational Meeting

The first organizational meeting of each community council shall take place on the 30th day, or as soon thereafter as is practical, after the date of the general election. In the event of a tie vote for one or more council seats in the general election such community council shall meet on the 30th day, or as soon thereafter as is practical, after the date of the run-off election. At the organizational meeting, or as soon thereafter as is practical, each community council shall elect a chair and vice-chair from its members who shall serve a one-year term.

(D) Reimbursements of Expenses

All council members shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the performance of their official duties, upon approval of the County Commission.

Sec. 20-44. Community Councils; organization.

- (A) The County Manager shall assign existing County staff positions to provide support for the community councils, to the fullest extent feasible. Such staff may include: a community council administrator, an administrative assistant, clerical staff and others as the County Manager

deems needed. Team Metro shall develop strong linkages to each community council.

- (B) The County Manager shall coordinate the activities and schedules of community councils with other County activities to insure maximum effectiveness and efficiency. The County Manager may limit the total staff time available to each community council.
- (C) Within parameters recommended by the County Manager and approved by the County Commission, community councils shall be empowered to establish their own procedures for conducting their business and to select from the activities described in Section 20-41B those in which it wishes to engage. It is provided however that zoning procedures shall be adopted pursuant to Sections 33-308 of the 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 shall become and be made a part of the Code of Metropolitan 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 does not contain a sunset provision.



Section 5. The provisions of this ordinance shall become effective 10 days after enactment.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency.

RA6
CHC/RA6

Sponsored by Chair Miguel Diaz de la Portilla

ARB327LM.SAM

Attachment A
Community Councils/Subareas
By Voter Precincts*

Council Area 1

Subarea 11	Precincts
11	1
Subarea 12	Precincts
12	2
Subarea 13	Precincts
13	3
Subarea 14	Precincts
14	4
Subarea 15	Precincts
15	5

Council Area 3

Subarea 31	Precincts
31	207
31	211
31	212
31	256
Subarea 32	Precincts
32	206
32	213
32	214
32	215
32	216

Council Area 2

Subarea 21	Precincts
21	101
21	105
Subarea 22	Precincts
22	104
22	114
Subarea 23	Precincts
23	106
23	107
23	108
Subarea 24	Precincts
24	117**
24	119
24	120
24	166**
Subarea 25	Precincts
25	128
25	141
Subarea 26	
26	208
26	209
26	210

Subarea 33	Precincts
33	217
33	218
33	219
33	220
33	221
33	267
Subarea 34	Precincts
34	122
34	129
34	130
34	131
34	132**
34	133**
34	136**
34	138**
34	139**
Subarea 35	Precincts
35	135**
35	239**
Subarea 36	Precincts
36	205
36	222

* Reference to precincts are those balloting areas designated by the Dade County Supervisor of Elections and approved by the Board of County Commissioners pursuant to R-734-94

** Unincorporated portion of the precinct.

**Attachment A
Community Councils/Subareas
By Voter Precincts***

			55	301
Council Area 4			55	302
Subarea 41	Precincts		>>55	356<<
41	203	[[Subarea 56		Precincts]]
41	204	[[56		356]]
Subarea 42	Precincts			
42	201			
42	202			
42	228	Council Area 6		
42	229	Subarea 61	Precincts	
42	230	61	305	
Subarea 43	Precincts	Subarea 62	Precincts	
43	227	62	306	
43	231	Subarea 63	Precincts	
43	232	63	307	
Subarea 44	Precincts	Subarea 64	Precincts	
44	233	64	308	
44	234	Subarea 65	Precincts	
44	313**	65	349**	
44	354	65	352	
Subarea 45	Precincts			
45	225	Council Area 7		
45	226	Subarea 71	Precincts	
Subarea 46	Precincts	71	150**	
46	223	71	164**	
46	224	71	168	
		Subarea 72	Precincts	
Council Area 5		72	145**	
Subarea 51	Precincts	72	149	
51	350	Subarea 73	Precincts	
51	358	73	157**	
Subarea 52	Precincts	73	158**	
52	303			
Subarea 53	Precincts	Council Area 8		
53	351	Subarea 81	Precincts	
Subarea 54	Precincts	81	240	
54	304	81	241	
Subarea 55	Precincts	81	245	

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** Unincorporated portion of the precinct.

**Attachment A
Community Councils/Subareas
By Voter Precincts***

81	268		
Subarea 82	Precincts		
82	152	Council Area 9	
82	153	[[Subarea 91	Precincts]]
82	159**	[[91	348**]]
82	161	Subarea 92	Precincts
82	163	92	401
82	242	>>92	<u>348**<<</u>
82	243		
82	244		
82	253	Council Area 10	
Subarea 83	Precincts	Subarea 101	Precincts
83	162	101	403
83	246	101	404
83	247	101	405
83	248	101	406
83	249	101	407**
83	250	101	408
83	251	101	411
83	252	101	442
Subarea 84	Precincts	101	443
84	254	101	445
84	255	101	446
84	257	Subarea 102	Precincts
84	258	102	424
84	259	102	425
Subarea 85	Precincts	102	428
85	260	102	429
85	261	102	430
85	262	102	431
85	263	102	432
85	264	102	603
85	266	Subarea 103	Precincts
Subarea 86	Precincts	103	421
86	341	103	422
86	347	103	423
86	525	103	433
86	551**	103	434
		103	435

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**Attachment A
Community Councils/Subareas
By Voter Precincts***

Council Area 10		Council Area 11	
103	715	112	701
103	716	112	702
Subarea 104	Precincts	112	704
104	418	112	705
104	419	Subarea 113	Precincts
104	420	113	711
104	436	113	733
104	437	113	744
104	713	Subarea 114	Precincts
104	714	114	734
Subarea 105	Precincts	114	735
105	417	114	736
105	438	114	737
105	439	114	738
105	709	114	740
105	710	114	762
105	712	Subarea 115	Precincts
Subarea 106	Precincts	115	739
106	353	115	741
106	402	115	742
106	412	115	743
106	413	115	757
106	414	Subarea 116	Precincts
106	415	116	759
106	416		
106	440	Council Area 12	
106	441	Subarea 121	Precincts
106	444	121	619**
		121	637
		121	639
Council Area 11		Subarea 122	Precincts
Subarea 111	Precincts	122	606
111	703	122	620**
111	706	122	621**
111	707	122	622**
111	732	122	623**
111	763	122	717
Subarea 112	Precincts		

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11

**Attachment A
Community Councils/Subareas
By Voter Precincts***

Council Area 12

122 719
122 720

Subarea 123 Precincts

123 708
123 718
123 724
123 725
123 726
123 731
123 761

Subarea 124 Precincts

124 727
124 728
124 729
124 730
124 745
124 746
124 747
124 748

Subarea 125 Precincts

125 625**
125 641**
125 721
125 722
125 723
125 749
125 750
125 751
125 752

Subarea 126 Precincts

126 753
126 754
126 755
126 756
126 760
126 804
126 805

Council Area 12

126 840

Council Area 13

Subarea 131 Precincts

131 806
131 807

Subarea 132 Precincts

132 837

Subarea 133 Precincts

133 811

Subarea 134 Precincts

134 819
134 820

Subarea 135 Precincts

135 810

Subarea 136 Precincts

136 808
136 809**

Council Area 14

Subarea 141 Precincts

141 801
141 802
141 803
141 812
141 813
141 841
141 842

Subarea 142 Precincts

142 758
142 814
142 815

Subarea 143 Precincts

143 816
143 817
143 818
143 826
143 843

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** Unincorporated portion of the precinct.

10

11

12

Attachment A
Community Councils/Subareas
By Voter Precincts*

Council Area 14

Subarea 144	Precincts
144	827
144	828
144	829
144	830
144	831
144	835
144	838
144	845
144	846
144	848
Subarea 145	Precincts
145	912
145	924
145	930
Subarea 146	Precincts
146	836
146	901
146	902
146	914
146	913
146	923
146	926
146	927
146	932
146	936

Council Area 15

153	833
153	834
153	839
153	844
153	849
153	925
153	934
Subarea 154	Precincts
154	904
154	905
154	928
154	929
Subarea 155	Precincts
155	906
155	907
155	938**
Subarea 156	Precincts
156	903
156	908
156	909
156	910
156	911
156	918**
156	931

Council Area 15

Subarea 151	Precincts
151	821
151	822
151	824
151	825
Subarea 152	Precincts
152	823
152	832
152	847
Subarea 153	Precincts

Council Area 16

Subarea 161	Precincts
161	47
161	52

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** Unincorporated portion of the precinct.

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