

M E M O R A N D U M

Agenda Item No. 4(K)

(Public Hearing 12-3-02)

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: November 19, 2002

SUBJECT: Ordinance Relating to
Road Impact Fee
Expenditures for Payments
on Bonds or Other Borrowed
Revenues

FROM: Steve Shiver
County Manager

02-257

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached Ordinance, amending the Miami-Dade County Road Impact Fee Ordinance, Chapter 33E-11 of the Code of Miami-Dade County and the Road Impact Fee Manual.

BACKGROUND

On December 6, 1988, the Board of County Commissioners adopted the Miami-Dade County Road Impact Fee Ordinance, Chapter 33E of the Miami-Dade County Code, which provides for the fair share of assessment of road impact fees on all new construction in Miami-Dade County, including all municipalities, to mitigate the additional impact on the roadway system in Miami-Dade County. On May 23, 1989, the Board of County Commissioners adopted the Miami-Dade Road Impact Fee Manual (Ordinance 89-47), which establishes the procedures, guidelines and policies to administer the Road Impact Fee Ordinance.

Historically, the construction of roadway improvements financed through Road Impact Fee funds has necessitated the buildup of adequate revenues over multiple fiscal years. This practice has resulted in delaying the construction of critical roadway projects, as the level of the funds required often greatly exceeds the revenues generated by the particular Road Impact Fee benefit district.

Hon. Chairperson and Members
Board of County Commissioners
Page 2

In order to accelerate the funding of roadway projects, the Public Works Department has requested that the Road Impact Fee Ordinance be amended to allow the County the authority to issue limited obligation bonds to be secured by Road Impact Fee trust funds. It is anticipated that proceeds from the sale of these bonds will only be utilized to advance the construction of major improvement projects that would otherwise be unduly delayed.

Under the attached Ordinance, the use of Road Impact Fee trust funds would be permitted to service principal and interest payments on bonds or other borrowed revenues. The projects financed with the proceeds generated by the issue of these securities will only be used to mitigate development in the respective Road Impact Fee benefit district collecting the funds to repay the obligation. Similar authorization has been established for the financing of projects through Park Impact Fee trust funds and their respective benefit districts.

The revision to the Road Impact Fee Manual is necessary to correspond with the proposed Ordinance amendment.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: December 3, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance Relating to Road
Impact Fee Expenditures
For Payments on Bonds or
Other Borrowed Revenues

02-257

The proposed ordinance relating to road impact fee expenditures for payments on bonds or other borrowed revenues will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: December 3, 2002

FROM: *Robert A. Ginsburg*
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(K)

02-257

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4(K)
12-3-02

Veto _____

Override _____

ORDINANCE NO. 02-257

ORDINANCE RELATING TO EXPENDITURES OF ROAD IMPACT FEE TRUST FUNDS; AMENDING SECTION 33E-11 OF THE CODE OF MIAMI-DADE COUNTY AND ORDINANCE NO. 89-47, AS AMENDED (MIAMI-DADE COUNTY ROAD IMPACT FEE MANUAL); TO ALLOW EXPENDITURE OF ROAD IMPACT FEE TRUST FUNDS ON PRINCIPAL AND INTEREST PAYMENTS ON BONDS OR OTHER BORROWED REVENUES; PROVIDING SEVERABILITY, INCLUSION IN AND EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 33E-11 of the Code of Miami-Dade County is hereby amended as follows:¹

Section 33E-11. Impact fee benefit district and trust accounts.

- (a) To insure that fee-funded roadway improvements will benefit impact fee paying development, all collected impact fees shall be spent only for off-site roadway improvements>>or for principal and interest payments (including sinking fund payments) on bonds or other borrowed revenues used to fund such improvements,<< within the benefit district in which the fee paying development is located, or within three (3) miles of the border of the benefit district upon prior

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

determination by resolution of the Board of County Commissioners, that the project benefits the Impact Fee District where the funds were collected. These benefit districts are delineated in Attachment A Revised and described in detail in Attachment B Revised of which attachments are incorporated herein by reference and made a part hereof. The full width of the right-of-way of the roadways that form a border of a benefit district shall be considered to be within the district.

* * *

Section 2. The Miami-Dade County Road Impact Fee Manual, adopted May 23, 1989, by Ordinance No. 89-47, as amended by Ordinance Numbers 89-53, 90-60, 92-153 and 94-134, is hereby amended as follows:

X. IMPACT FEE BENEFIT DISTRICTS AND TRUST ACCOUNTS

- (b) To insure that fee-funded roadway improvements will benefit impact fee paying development, all collected impact fees shall be spent only for off-site roadway improvements >>or for principal and interest payments (including sinking fund payments) on bonds or other borrowed revenues used to fund such improvements, << within the benefit district in which the fee paying development is located, or within three (3) miles of the border of the benefit district upon prior determination by resolution of the Board of County Commissioners, that the project benefits the Impact Fee District where the funds were collected. These benefit districts are delineated and described in detail in the Ordinance and in Attachments A Revised and B Revised in this Section of the Manual. The full width of the right of way of the roadways that form a border of a benefit district shall be considered to be within the district.

* * *

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of Section 1 of this ordinance shall become and made a part of the Code of Miami-Dade County, Florida, and the remaining sections of this ordinance shall not be a part of the Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article" or other appropriate word.

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

Section 6. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: DEC - 3 2002

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

JAC

Joni Armstrong Coffey

17

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LEGAL COUNSEL SEC.

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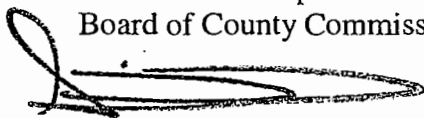
MEMORANDUM

Agenda Item No. 4(I)

(Public Hearing 12-3-02)

To: Honorable Chairperson and Members
Board of County Commissions

Date: November 19, 2002


From: Steve Shiver
County Manager

Subject: Proposed Ordinance Pertaining
to Zoning; Eliminating Certain
Building Code Provisions
Pertaining to Fire Resistant
Construction from the Zoning
Code

02-255

RECOMMENDATION

It is recommended that the Board adopt the attached proposed ordinance pertaining to zoning to eliminate certain building code provisions pertaining to fire resistant construction from the Zoning Code to eliminate certain inconsistencies with the Florida Building Code.

BACKGROUND

The original zoning regulations for the unincorporated area of Miami-Dade County, adopted in July 1938 by Resolution 895, contained various building code-related provisions pertaining to fire resistant construction for certain buildings of public assemblage or, in lieu of the fire resistant construction, the imposition of greater setback distances between the building and certain property lines. Those Zoning Code provisions were superceded by the implementation of the Florida Building Code and, therefore, are outdated and in conflict with the new building code regulations. This conflict between the outdated building code-related provisions in the Zoning Code and the Florida Building Code has in some instances affected the timely establishment of uses involving public assemblage such as schools and religious facilities, particularly in the commercial and industrial zoned areas. The Building and the Fire Rescue Departments have reviewed and endorse the proposed ordinance.

FISCAL IMPACT

The proposed ordinance creates no fiscal impact on Miami-Dade County.


Attachment



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: December 3, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(I)

02-255

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4 (I)

12-3-02

Veto _____

Override _____

ORDINANCE NO. 02-255

ORDINANCE PERTAINING TO ZONING;
AMENDING SECTIONS 33-17, 33-18, 33-51 AND
33-59 OF THE CODE OF MIAMI-DADE COUNTY,
FLORIDA ELIMINATING CERTAIN BUILDING
CODE PROVISIONS PERTAINING TO FIRE
RESISTANT CONSTRUCTION; PROVIDING
SEVERABILITY, INCLUSION IN THE CODE AND
AN EFFECTIVE DATE

WHEREAS, the original zoning regulations for the unincorporated area of Dade County, adopted in July 1938 by Resolution 895, contained various building code related provisions pertaining to fire resistant construction; and

WHEREAS, certain building code provisions were superceded by the implementation of the Florida Building Code; and

WHEREAS, this Board is desirous to eliminate such building code provisions pertaining to fire resistant construction from Chapter 33, Zoning Code of Miami-Dade County,

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

Section 1. Section 33-17 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

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

02-255

Sec. 33-17. Buildings for public assemblage--In districts other than business or industrial.

All building or other structures or any part thereof, intended for public assemblage, wherein provisions are made for >>fifty (50)<< ~~[[twenty-five (25)]]~~ or more persons to assemble in one (1) room or such structure as an auditorium, church, club, hospital, sanitarium, school, theater, night club, amusement park structure and similar structures, excluding hotels, motels and apartments shall be located or placed only in business or industrial districts, as herein provided, and shall comply with the following:

* * *

~~[(5) No building for public assemblage which is more than two hundred (200) square feet in area shall have exterior walls or bearing partitions of less than one (1) hour fire resistance.~~

~~(6) No building for public assemblage shall be more than one (1) story in height or more than fifteen (15) feet in height, unless constructed so as to offer at least three (3) hours' fire resistance, except that in AU, GU, RU and EU Districts a steeple, cupola, tower, dome or other ornamental vertical projection not occupied by persons may be higher than fifteen (15) feet, provided such vertical projection, where not of specified fire resistance, shall set back from every property line a distance at least equal to its overall height.]~~

* * *

Section 2. Section 33-18 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-18. ~~[[Same--]] Religious facilities and schools in ~~[[certain]]~~ >>BU and IU<< districts.~~

- (a) Buildings used for public assemblage as defined in Section 33-1 >>7<<, where located in BU or IU Districts may be permitted with the same yard requirements and setbacks as required of the business or industrial buildings legally allowed in these districts. ~~[[; provided that no such building shall be placed closer than twenty-five (25) feet to a side or rear lot line or closer than fifty (50) feet to another building in the district unless separated by an unpierced wall constructed so as to offer at least three (3) hour~~

~~fire resistance, in which case the setbacks prescribed for any other building in said district shall apply.]]~~

* * *

Section 3. Section 33-51 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-51. Setbacks in business and industrial districts.

The minimum setback distances and spacing requirements in all business districts and in IU-1, IU-2 and IU-3 Industrial Districts (see Section 33-273 for IU-C setback requirements) shall be as follows:

Front--Twenty (20) feet.

Side street--Fifteen (15) feet, except where an RU or EU lot abuts a business or industrial lot, then the side street setback shall be twenty-five (25) feet on any part of the commercial structure located within twenty-five (25) feet of the residential district boundary.

Interior side--Zero (0) feet where the adjacent property is BU or IU Districts and where the use of the building is limited exclusively to business or industrial use. The wall along the side property line shall be constructed in accordance with the ~~[[South]]~~ Florida Building Code.

Five (5) feet where ~~[[the wall is not of unpierced four hour fire resistant construction.]]~~ >>any openings are provided in the wall of the proposed structure, adjacent to the interior side property lot line.<<

* * *

Section 4. Section 33-59 of the Code of Miami-Dade County, Florida is hereby deleted and reserved as follows:

Sec. 33-59. >>Reserved.<< [[Fire resistive construction of building over fifty-five feet.]]

~~[[No building erected within the boundaries of any district established by this chapter, or any amendment thereof, shall exceed fifty-five (55) feet in height unless of type 1 fire resistive construction, as specified by the building code.]]~~

02-255

Section 5. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 6. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 7. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 8. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: DEC - 3 2002

Approved by County Attorney as
to form and legal sufficiency:

 RAG
 DAK

Prepared by:
Dennis A. Kerbel

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MEMORANDUM Agenda Item No. 02-254

(Public Hearing 12-3-02)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: November 19, 2002

From: Steve Shiver
County Manager

Subject: Proposed Ordinance pertaining to
Zoning Hearing Application Filing
Period

02-254

RECOMMENDATION

It is recommended that the Board adopt the attached proposed ordinance amending Section 33-304 of the Code of Miami-Dade County pertaining to zoning to revise the filing period for the submittal of zoning hearing applications.

BACKGROUND

Currently, the Zoning Code restricts filing public hearing applications to the first 7 calendar days of each month. Such filing period is reduced by legal holidays, Saturdays and Sundays. The current filing period was created pursuant to Ordinance No. 78-16, adopted by the Board of County Commissioners on March 21, 1978. Prior to the adoption of Ordinance No. 78-16, the filing of public hearing applications was limited to three filing periods per year: March 1 to March 21, July 1 to July 21, and November 1 to November 21. This schedule burdened potential applicants with extended waits between filing periods.

The subject ordinance will establish bi-monthly filing periods for all zoning applications requiring a public hearing. All zoning hearing applications will be accepted for filing: (i) on the first Monday of each month and the following Tuesday and Wednesday of that week; or (ii) on the third Monday of each month followed by the Tuesday and Wednesday of that week. These filing periods will afford all applicants, including industry, more opportunities to file public hearing applications; the new bi-monthly filing period will allow a total of 6 days, where the current filing period allows only up to 5 days. In addition, the waiting period between filing periods will be further reduced allowing incomplete applications to file in approximately 2 weeks, and not be required to wait an entire month.

FISCAL IMPACT


The proposed ordinance creates no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: December 3, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(H)

02-254

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4 (H)

Veto _____

12-3-02

Override _____

ORDINANCE NO. **02-254**

ORDINANCE RELATING TO ZONING HEARING APPLICATION FILING PERIOD; AMENDING SECTION 33-304 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 33-304 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-304. Applications.

* * *

(b) All zoning >>hearing<< applications delineated in this chapter ~~[[, with the exception of administrative variances,]]~~ may only be filed and accepted for filing ~~[[during the first 7 days]]~~ >>(i) on the first Monday of each month and the following Tuesday and Wednesday of that week; or (ii) on the third Monday of each month followed by the Tuesday and Wednesday of that week. It is provided however that no zoning application will be accepted on a day set forth above which occurs on a legal holiday. << ~~[[The first 7 days of each month shall include all legal holidays, Saturdays and Sundays.]]~~ Administrative variances may be filed at any time.

* * *

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

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

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

Section 4. This ordinance shall become effective on January 1, 2003 unless vetoed by the Mayor, and if vetoed, shall become effective on January 1, 2003 only upon an override by this Board.

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: DEC - 3 2002

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

CAC

Craig H. Coller

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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

MEMORANDUM

Amended
Agenda Item No. 4(C)

TO: Hon. Chairperson and Members
Board of County Commissioners

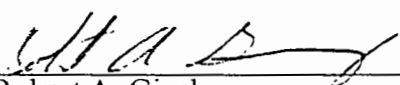
DATE: (Public Hearing 12-3-02
November 19, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning,
decreasing minimum width of
Red Road south of SW 74 St.

O#02-249

The attached ordinance was prepared and placed on the agenda at the request of Commissioner Jimmy L. Morales.


Robert A. Ginsburg
County Attorney

RAG/bw





MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: December 3, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to zoning,
decreasing minimum width of
Red Road south of SW 74th Street


The proposed ordinance relating to zoning, decreasing the minimum width of Red Road south of SW 74 Street will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: December 3, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Amended
SUBJECT: Agenda Item No. 4(C)

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary



* * *

>>(34.1) Red Rd.(State Rd. No. 819) from Old Cutler Road north to SW 74th Street (unincorporated areas)<<.....70

* * *

(C) >>Except as may be provided in Sections 33-133(A) and (B) hereof.<< [[Ø]] >>o<<n all section lines, eighty (80) feet shall be the minimum right-of-way width, and on all other half-section (also known as quarter-section) lines, seventy (70) feet shall be the minimum official right-of-way width. The provisions of this subsection shall not apply to those properties described in Section 33B-13 (a) herein with the exceptions of S.W. 136 Street from S.W. 187 Avenue to S.W. 209 Avenue; S.W. 168 Street from Levee L-31N to S.W. 237 Avenue; S.W. 237 Avenue from S.W. 168 Street to S.W. 160 Street; Ingraham Highway (formerly S.R. 27); and that portion of N.W. 87 Avenue from N.W. 197 Terrace north to the north County line. Furthermore the provisions of this subsection shall not apply to that portion of S.W. 122 Avenue which lies within the S.E. ¼ of the S.W. ¼ of Section 36, Township 54, Range 39; nor shall the provisions of this subsection apply to that portion of the South 40 feet of N.W. 106 Street which lies between N.W. 112 Avenue and N.W. 117 Avenue; >>nor to the portion of Red Road (57 Avenue), north of Old Cutler Road to S.W. 74 Street (unincorporated area).<<

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

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

F

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: **DEC 03 2002**

Approved by County Attorney as
to form and legal sufficiency:

SAC

Prepared by:

JAC

Joni Armstrong Coffey

Sponsored by Commissioner Jimmy L. Morales



MEMORANDUM Special Item No. 1

(Public Hearing 11-20-02)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: October 22, 2002

From: Steve Shiver
County Manager

Subject: Ordinance Acting on April 2002
Cycle Small-Scale Amendments to
the CDMP

RECOMMENDATION

It is recommended that the Board adopt the attached ordinance which provides for the Commission to adopt, adopt with change, not adopt, or deny three April-2002-cycle applications which request expedited action as small-scale amendments to the Comprehensive Development Master Plan (CDMP). It is recommended that final action be taken on the ordinance at the conclusion of the public hearing that will occur in November 2002 to address all the pending April 2002-cycle Applications requesting amendments to the CDMP.

BACKGROUND

The attached ordinance provides for action on three privately filed April 2002-cycle applications (Applications No. 2 through 4) which request expedited action as small-scale amendments to the CDMP. The codified procedures for processing applications to amend the CDMP include a procedure for the expedited processing of "Small-Scale" amendments, as defined in Section 163.3187(1)(c), Florida Statutes. This procedure authorizes the Board of County Commissioners to take final action on small-scale amendments after a single public hearing without prior review and comment by the Florida Department of Community Affairs (DCA), as is required of standard CDMP amendment proposals.

The general criteria for eligibility of a proposed amendment to be processed as a small-scale amendment is that it involves 10 or fewer acres and, if residential, it allows a density of 10 dwelling units per acre (10 DU/ac) or less. The annual cumulative limit of small-scale amendments is 120 acres in jurisdictions containing designated redevelopment and downtown revitalization areas, urban infill areas, transportation concurrency exception areas, and regional activity centers. However, a 60-acre annual limitation applies to areas of the jurisdiction outside of these specifically designated development areas, and inside the special urban areas the residential density cap does not apply. Thus far in 2002, the Board has adopted 6 small-scale amendments with a total of 36.138 acres in areas outside of these specifically designated development areas. The three privately filed April 2002-cycle applications requesting small-scale amendments to Land Use Plan map-designations of specific properties total

approximately 12.7497 acres. Therefore, the Board may approve any or all of these proposed small-scale amendments without DCA review.

At the November 2002 public hearing, the Commission could elect to adopt, adopt with change, or not adopt any or all the privately filed small-scale amendments. If it does not adopt a small-scale amendment, the Commission may elect, by separate resolution, to transmit it to DCA for review and comment along with the standard (non small-scale) amendment requests and take final action in April 2003 after State-agency review. Of course, denial or failure to adopt as a small-scale amendment and failure to transmit an application to DCA for review effectively denies approval of the application for this amendment cycle.

The impact on housing costs associated with approval of the applications proposing to redesignate land from Agriculture, Residential or Office/Residential Use to Business and Office Land Use Plan classification (Applications No. 2 through 4) is insignificant due to the small total acreage involved.

ORDINANCE FORMAT

The ordinance follows the same format used in previous CDMP amendment cycles. That is, it contains blank spaces to record your action on each request contained in each application. After the Board adopts individual entries indicating its action on each application, the Board will take action adopting the Ordinance in its entirety, incorporating the foregoing entries. A minimum of seven affirmative votes is required by County Code to amend the CDMP.

ECONOMIC ANALYSIS

1. Economic impact of the ordinance on the County's budget:

There will be no impact on the County's budget in terms of Department of Planning and Zoning budgeting, staffing or operating expenses. This ordinance, however, does amend the Comprehensive Development Master Plan (CDMP) which is the County's official guide for managing countywide growth and development. In this regard, the ordinance may indirectly impact the County's budget through amendments that affect the County's land use patterns and associated requirements for the County to provide services and facilities. Capital and operating unit costs for public facilities and services can be lessened through promotion of efficient land use patterns. Higher density contiguous development is relatively more efficiently served than low-density or scattered development. In general, the CDMP strives to achieve this result. Additional information on the fiscal impact of all the requests to amend the Land Use Plan map is resented in Appendix G of the Department of Planning and Zoning's *Initial Recommendations Report*, pursuant to Ordinance No. 01-163. This is included in the agenda materials for the November 2002 public

hearing addressing all the April 2002 Applications to amend the CDMP, at which final action on this ordinance will be considered.

2. Economic impact of the ordinance on the private sector:

Approval of the ordinance will have an insignificant impact on the private sector. Certain applications to amend the Land Use Element could increase the value of affected land parcels. In a countywide sense, however, the economic outlook will remain essentially unchanged by enactment of these ordinances.

3. Effect of the ordinance on public or private employment:

Adoption of this ordinance will have no significant impact on projected employment for the County as a whole, or in any statistical subdivision.

4. Costs and benefits, both direct and indirect, of establishing and maintaining the program set forth in the ordinance:

See response to item 1 on page 2.

5. Whether the ordinance is necessary to enable the County to obtain State or federal grants or other financing:

No.

6. Whether another ordinance which is already in existence should be repealed or amended:

No.

7. Whether the creation of a new ordinance is the best method of achieving the benefit derived:


Section 2.116.1, Code of Miami-Dade County, and Section 163.3184(15), Florida Statutes, provide that the CDMP may be amended only by ordinance.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: November 20, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Special Item No. 1

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

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LEGAL COUNSEL SEC.
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Approved _____ Mayor

Special Item No. 1

Veto _____

11-20-02

Override _____

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

ORDINANCE NO. 02-246

ORDINANCE RELATING TO MIAMI-DADE COUNTY
COMPREHENSIVE DEVELOPMENT MASTER PLAN
ACTING UPON SMALL-SCALE AMENDMENT
APPLICATIONS FILED IN APRIL 2002 CYCLE TO AMEND,
MODIFY, ADD TO OR CHANGE COMPREHENSIVE
DEVELOPMENT MASTER PLAN; PROVIDING
SEVERABILITY, EXCLUSION FROM THE CODE AND AN
EFFECTIVE DATE

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

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

WHEREAS, eight CDMP amendment applications were filed on or before April 30, 2002, and are contained in the document titled "April 2002 Applications to Amend the Comprehensive Development Master Plan" dated June 5, 2002; and

WHEREAS, Application No. 2, was partially withdrawn by the applicant by letter dated August 7, 2002, and

WHEREAS, Application No. 5, was withdrawn by the applicant by letter dated June 28, 2002, received July 1, 2002; and

WHEREAS, Miami-Dade County's procedures provide for the expedited processing of small-scale amendments as defined in Section 163.3187, F.S.; and

5



WHEREAS, of the eight applications filed for processing during the April 2002 CDMP amendment cycle, three request expedited adoption, if eligible, as small-scale plan amendments; and

WHEREAS, the Community Councils, Planning Advisory Board, and Department of Planning and Zoning have acted in accordance with the referenced State and County procedures and have accepted applications, conducted public hearings and issued recommendations for disposition of the small-scale amendment requests; and

WHEREAS, the Board of County Commissioners can, by ordinance, take final action to Adopt, Adopt With Change, Not Adopt, or Deny requested small-scale amendment applications at the public hearing conducted to address the question of transmittal to the Florida Department of Community Affairs (DCA) of other pending amendment requests; and

WHEREAS, the Board of County Commissioners will consider approving a resolution transmitting to the DCA the CDMP amendment applications which are not eligible for expedited processing as small-scale amendments (standard amendments), and any eligible small-scale amendments that are not adopted but not denied and which this Board desires to further consider after review by DCA; and

WHEREAS, the Board of County Commissioners can, by resolution, transmit to DCA small-scale amendment applications not adopted but not finally denied; and

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



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

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

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

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

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

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

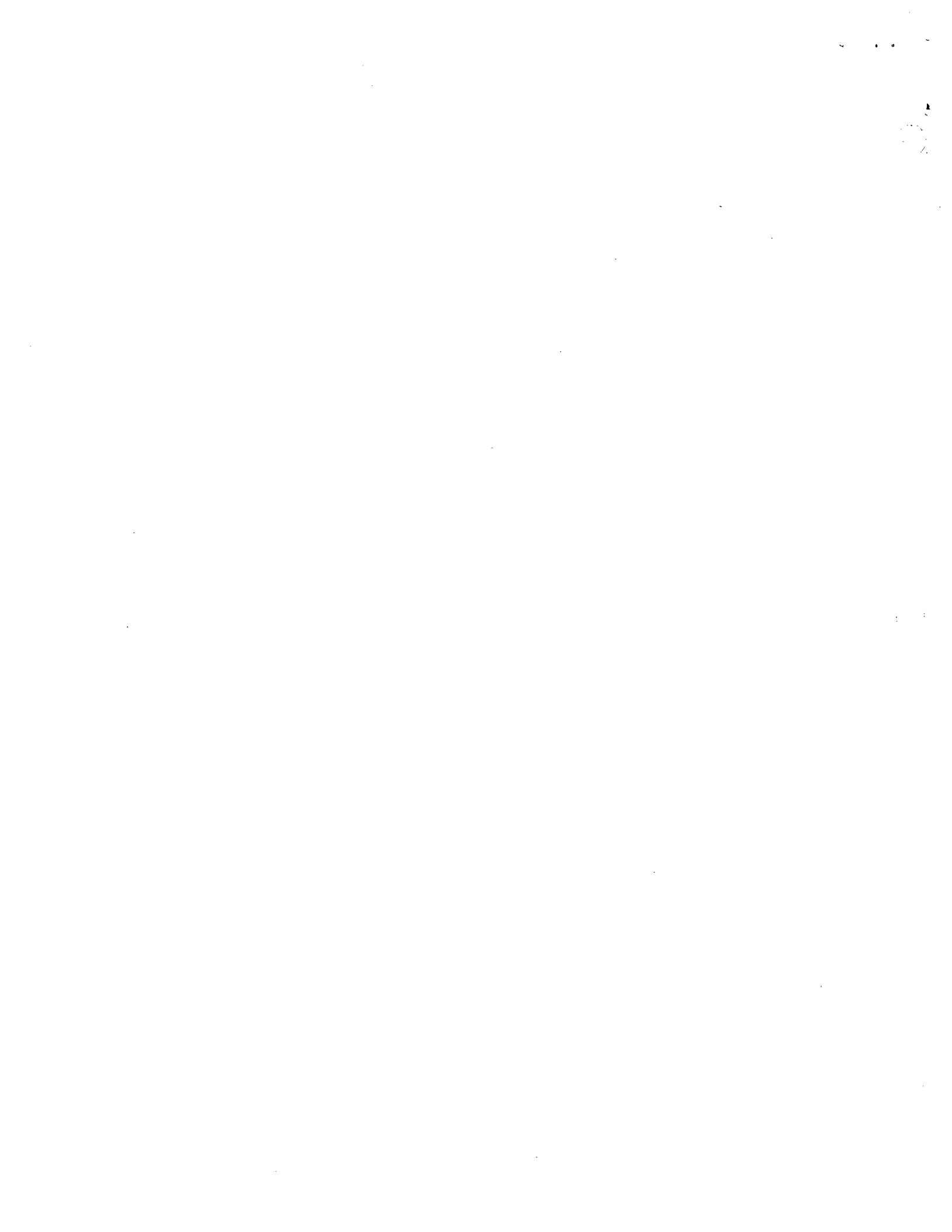
Section 2. This Board hereby desires to take further action on the pending small-scale amendment applications filed for review during the April 2002 cycle for amendments, modifications, additions, or changes to the Miami-Dade County Comprehensive Development Master Plan as follows:

Application Number	Applicant/Representative Location (Size) REQUESTED SMALL SCALE AMENDMENTS TO THE CDMP	Action on Small-Scale Amendment
2	Americas Self Storage, LLC / Jerry B. Proctor, Esq. Between of Biscayne Boulevard and NE 14 Avenue, approximately 1000 feet north of NE 111 Street (2.8 acres) FROM: LOW-MEDIUM DENSITY RESIDENTIAL (5-13 DU/Ac.) TO: BUSINESS and OFFICE (Subsequently revised to 2.5 acres)	DENY
3	Omni Group, Inc., a Texas Corp. / Stanley B. Price, Esq., Brian S. Adler, Esq. and William W. Riley, Esq. Southeast corner of SW 88 Street and SW 112 Avenue (0.7397 Acres). FROM: OFFICE/RESIDENTIAL TO: BUSINESS AND OFFICE	ADOPT
4	CB at 152 nd , LLC. / Juan J. Mayol, Jr., Esq. and Stephen M. James, Esq. Northwest corner of SW 152 Street and SW 157 Avenue (9.51 Acres). FROM: AGRICULTURE TO: BUSINESS AND OFFICE	DENY

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected thereby.

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

Section 5. This ordinance shall become effective ten (10) days after the date of enactment, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board provided, however, that the effective date of any small-scale plan amendment approved by this ordinance shall be thirty-one (31) days after adoption by this Board (effective date of ordinance). If challenged within thirty (30) days after adoption, the challenged



small-scale plan amendment shall not become effective until the Florida Department of Community Affairs or the Administration Commission, if applicable, issues a final order determining the adopted small-scale amendment is in compliance pursuant to Section 163.3189, Florida Statutes.

Section 6. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: NOV 20 2002

Approved by County Attorney as
to form and legal sufficiency. RA6

Prepared by:



Robert L. Krawcheck





MEMORANDUM

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA
Amended Agenda Item No. 4(0)

(Public Hearing 11-19-02)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: October 22, 2002

From: Steve Shiver
County Manager

Subject: Interim Measures for
Biscayne National Park
Buffer Development
Review Committee

O#02-233

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the attached ordinance establishing interim measures to be applied by the Biscayne National Park Buffer Development Review Committee in its review and recommendations on development proposals in southeast Miami-Dade County, in order to further the purposes of the South Dade Watershed Plan.

BACKGROUND

The attached Interim Measures Report was issued by the Biscayne National Park Buffer Development Review Committee (the Committee) pursuant to Comprehensive Development Master Plan (CDMP) Land Use Policy 3E, which calls for preparation of the South Dade Land Use and Water Management Plan (the Watershed Plan). Policy 3E also calls for the establishment of a review committee to make recommendations on development approvals and CDMP amendments in the area outside the Urban Development Boundary and east of US-1 until the Watershed Plan is adopted. These recommendations are to assist County boards that are required to apply "heightened scrutiny" to applications in this area, with emphasis on potential impacts on Biscayne National Park and consistency with relevant provisions of the CDMP. Accordingly, the Committee was established by the Board of County Commissioners in 1997 by Ordinance codified at Section 2-115.11 of the Code of Miami-Dade County. Policy 3E states that if implementation of the Watershed Plan is not initiated by January 1, 2002, the Board shall adopt interim measures to further the objectives of the Plan upon recommendation by the review committee. Ordinance No. 01-111, adopted by the Board on June 19, 2001, provides authority for the Committee to recommend interim measures.

On December 18, 2001, I submitted a previous version of the attached report for your information, and advised that staff would bring to the Board appropriate interim measures to address issues raised in the report. The attached ordinance implements Recommended Actions 1, 2, 3, and 5 contained in the report.

FISCAL IMPACT

The proposed ordinance will have no fiscal impact on Miami-Dade County.






MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: November 19, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Amended
SUBJECT: Agenda Item No. 4(0)

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary



Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 4(O)
11-19-02

ORDINANCE NO. 02-233

ORDINANCE AMENDING SECTION 2-115.11(2) OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO THE BISCAYNE NATIONAL PARK BUFFER DEVELOPMENT REVIEW COMMITTEE ("COMMITTEE"); ESTABLISHING INTERIM MEASURES TO BE APPLIED BY THE COMMITTEE IN CONSIDERING APPLICATIONS FOR DEVELOPMENT APPROVALS AND FOR AMENDMENTS TO THE COMPREHENSIVE DEVELOPMENT MASTER PLAN, PENDING ADOPTION OF THE SOUTH DADE WATERSHED PLAN; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 2-115.11(2) of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

- (1) *Legislative intent and purpose*
 - (a) It is the intent of the Board of County Commissioners of Miami-Dade County, Florida, to develop a plan and study, to be known collectively as the South Dade Land Use and Water Management Plan (hereinafter referred to as "the Plan"), pursuant to policy established in the Comprehensive Development Master Plan (CDMP). The purposes of the Plan shall be:

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

- i. To identify and protect lands, including their uses and functions, that are essential for preserving the environmental, economic and community values of Biscayne National Park;
 - ii. To identify and establish mechanisms for protecting constitutional private property rights of owners of lands identified in (1)(a)(i) above;
 - iii. To support a viable, balanced economy including agriculture, recreation, tourism, and urban development in the planning area, hereafter defined as the area from the C-2 (Snapper Creek) canal basin south as the primary area, and the C-3 (Coral Gables) to C-2 canal basin as a secondary area, as said canal basins are delineated in the South Florida Water Management District's November 1995 Update of the Surface Water Improvement and Management (SWIM) Plan for Biscayne Bay;
 - iv. To assure compatible land uses and zoning decisions in the planning area consistent with long-term objectives for a sustainable south Dade.
- (b) In the interim, until the plan is adopted, it is the intent of the Board of County Commissioners to conservatively manage land and water resources within the described plan area east of US-1 outside the Urban Development Boundary (UDB) as delineated in the CDMP (hereinafter referred to as the "Review Area") to enable the prospective plan to accomplish its purposes. Toward that end, until the plan is prepared and the Board of County Commissioners takes final action on the proposed plan, all County boards shall apply heightened scrutiny to potential impacts on Biscayne National Park that might result from any requests for CDMP amendments or other development approvals in the Review Area that require approval at a public hearing.

Until the plan is completed, a review committee shall be created to advise appropriate County boards regarding certain requests for CDMP amendments and development approvals in the Review Area, in the manner provided herein.

*

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(2) *Biscayne National Park Buffer Development Review Committee*

* * *

>>(e)<< ~~[[As required by CDMP Land Use Policy 3E,]]~~ >>After January 2002 and until the Watershed Plan is implemented,<<the Review Committee ~~[[shall recommend]]~~ >>shall apply the following<< interim measures to further the purposes of the Plan >>and to assist in the heightened scrutiny required by this section. These measures are as follows:

- i. Applicants for uses other than those permitted as of right in the applicable Comprehensive Development Master Plan designation and by the existing zoning should be required to demonstrate that the proposed use is a public necessity, or is in the public interest and that no suitable site for the use exists outside of the Review Area.
- ii. For each application involving a telecommunications tower in the Review Area, the applicant shall provide the Review Committee and the applicable community zoning appeals board with a regional map showing the location of existing and permitted telecommunication towers and available data on the impact of existing towers on birds, in areas comparable to the Review Area. Further, the applicant shall document that co-location opportunities, existing public structures and already developed public lands have been utilized to the maximum extent feasible and that design aesthetics have been incorporated. Assessment of feasibility shall include consideration of the technical requirements of differing types of telecommunications providers. The County shall review all documentation submitted by the applicant pursuant to the above requirements for technical accuracy. The Committee and the applicable community zoning appeals board shall defer or deny actions on applications for telecommunications towers in the Review Area until the above listed items are provided.
- iii. County staff from DERM and the Department of Planning and Zoning shall coordinate reports on all issued and pending state and federal environmental permits associated with a specific, pending development proposal in the Review Area. These reports should be presented by

representatives of the permitting agencies, including the South Florida Water Management District, the Florida Department of Environmental Protection, and the U.S. Army Corps of Engineers, at public meetings conducted by the Committee, and/or submitted in writing prior to public meetings.<<

>>(f)<< [~~The Committee may identify and solicit information from public agencies, technical experts, and other knowledgeable entities that could assist the Committee with formulation of proposed interim measures. Initial recommendations for consideration by the Board of County Commissioners shall be issued by the Committee not later than October 20, 2001.]~~] The Committee may ~~[[subsequently]]~~ issue recommendations for revisions >>to these interim measures<< or >>for<<additional interim measures from time to time until the Plan is approved.

* * *

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. This ordinance shall stand repealed upon adoption of the South Miami-Dade Watershed Plan by the Board of County Commissioners.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention and the word "ordinance" may be changed to "section", "article", or other appropriate word.

1000

1000

1000

INTERIM MEASURES REPORT

**BISCAYNE NATIONAL PARK BUFFER
DEVELOPMENT REVIEW COMMITTEE**

DECEMBER 2001

SECTION 1 - BACKGROUND

Miami-Dade County Comprehensive Development Master Plan (CDMP), Land Use Policy 3E, provides that an integrated land use and water management plan shall be prepared for southeastern Miami-Dade County. The plan is commonly referred to as the "South Dade Watershed Plan." The objectives of the plan are to protect Biscayne National Park's environmental, economic and community values; protect private property rights of area landowners; support a viable balanced south Miami-Dade economy that includes agriculture, recreation, tourism, and urban development, and assure compatible land use and zoning decisions consistent with a sustainable south Miami-Dade. Land Use Policy 3E also provides that if implementation of the Watershed Plan is not initiated by January 1, 2002, the Board of County Commissioners shall adopt interim measures to further the objectives of the Plan, based upon recommendations by the Biscayne National Park Buffer Development Review Committee.

The Board of County Commissioners adopted Ordinance No. 01-111 on June 19, 2001, which provides authority for the Biscayne National Park Buffer Development Review Committee (the Committee) to recommend interim measures. The ordinance stipulates that initial recommendations be issued by October 20, 2001. The Committee held meetings on July 16th, August 20th, September 10th, September 24th and October 15th to compose the recommended interim measures. The September 10th meeting was attended by members of Community Zoning Appeals Board 15 (CZAB 15), who provided input on the work product drafted by the Committee. After accepting public comment at an advertised hearing held on October 29, 2001, the Committee finalized its Initial Recommended Interim Measures. County staff then suggested revisions to clarify and refine the initial recommendations. The Committee approved the Interim Measures Report at its regularly scheduled meeting of December 17, 2001 and requested that the report be forwarded to the Board of County Commissioners along with implementing legislation.

SECTION 2 - ISSUES AND OBJECTIVES

Through its deliberations, the Committee identified the following overarching, long range issues and objectives that it believes should be addressed by the South Dade Watershed Plan Advisory Committee.

- Miami-Dade County should better define and provide guidance on impacts of proposed development on private property values/rights.
- Negative impacts to environmentally sensitive lands (i.e. pine rocklands) and protected species should be prevented.

- Existing wetlands should be maintained for water quality, stormwater retention, prevention of saltwater intrusion and wellfield protection .
- Feasible alternatives for implementing the Comprehensive Everglades Restoration Plan (CERP), especially the Biscayne Bay Coastal Wetlands Element, should not be foreclosed.
- Adverse impacts to Biscayne National Park's view sheds and soundscapes should be prevented.

SECTION 3 – RECOMMENDED ACTIONS

The Committee recommends that actions be taken to implement the following measures until the Watershed Plan is adopted, in fulfillment of the legislative intent and purpose stated in Section 2-115.11, Code of Miami-Dade County, for County Boards to apply heightened scrutiny to any requests for development approvals in the Review Area until the South Dade Watershed Plan is approved.

- 1) Applicants for uses other than those permitted as of right in the applicable Comprehensive Development Master Plan designation and by the existing zoning should be required to demonstrate that the proposed use is a public necessity, or is in the public interest and that no suitable site for the use exists outside of the Review Area
- 2) For each application involving a telecommunications tower, the County shall provide its appropriate advisory boards with an independent technical analysis addressing the items listed below.
 - a. Provide a regional map showing the location of existing and permitted telecommunication towers;
 - b. Provide available data or conduct a study on the impact of existing towers on birds, in areas comparable to the Review Area;
 - c. Document that co-location opportunities have been utilized to the maximum extent feasible;
 - d. Document that existing public structures have been utilized to the maximum extent feasible;
 - e. Document that already developed public lands have been considered for siting new transmitters;
 - f. Document that design aesthetics have been incorporated

- 3) The County and its appropriate advisory boards shall defer or deny actions on applications for telecommunications towers until sufficient information, including items a - f listed above, is provided.
- 4) The Board of County Commissioners should amend the County Code as necessary to authorize the Department of Environmental Resources Management (DERM) to broadly address the full ~~range of environmental considerations when issuing advisory reports to zoning and planning agencies and boards that are considering development proposals in the Review Area.~~ These reports should describe, at a minimum: (1) environmental impacts of the proposed development on both living and nonliving resources, including impacts on upland, wetland, and aquatic habitats, and (2) all issued and pending Miami-Dade County environmental permits associated with the proposed development.
- 5) As permitting information becomes available to DERM, County staff from DERM and the Department of Planning and Zoning should coordinate reports on all issued and pending state and federal environmental permits associated with a specific, pending development proposal in the Review Area. These reports should be presented by representatives of the permitting agencies, including the South Florida Water Management District, the Florida Department of Environmental Protection, and the U.S. Army Corps of Engineers, at public meetings conducted by the Committee, and/or submitted in writing prior to public meetings.
- 6) The Board of County Commissioners should request that the South Florida Water Management District immediately implement their public outreach program for the Biscayne Bay Coastal Wetlands Element of CERP, in order to involve potentially affected property owners in the early conceptual stages of this project.
- 7) Copies of this report shall be provided to Community Zoning Appeals Board 15 and the Agricultural Practices Study Advisory Board for their information.





MEMORANDUM

Agenda Item No. 4(N)

(Public Hearing 11-19-02)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: September 24, 2002

From: Steve Shiver
County Manager

Subject: Proposed Ordinance Pertaining to
Development of Severable Use
Rights in RU-4M District

02-232

RECOMMENDATION

It is recommended that this proposed ordinance increasing the maximum permitted number of floors in the RU-4M district when utilizing severable use rights be adopted.

BACKGROUND

This ordinance is necessitated by the adoption of Ordinance 02-132 which increased the maximum number of stories permitted as a matter of right in the RU-4M District from 8 to 9 stories. Consequently, Section 33B-45 must be amended to reflect this change.

FISCAL IMPACT

The proposed ordinance creates no fiscal impact on Miami-Dade County.

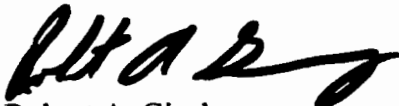
Attachment



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: November 19, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(N)

02-232

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4(N)
11-19-02

Veto _____

Override _____

ORDINANCE NO. 02-232

ORDINANCE PERTAINING TO ZONING; AMENDING SECTION 33B-45 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA PERTAINING TO DEVELOPMENT OF SEVERABLE USE RIGHTS IN THE RU-4M DISTRICT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 33B-45 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

Sec. 33B-45. Development of severable use rights.

* * *

(g) Residential use of severable use rights. Notwithstanding the provisions of any other code or regulation of ~~[[Metropolitan]]~~ Miami-Dade County, the developer of a parcel of land may develop, in addition to the number of dwelling units authorized in each zoning district, one (1) dwelling unit for each severable use right, provided that the total development proposed does not exceed the following limitations:

* * *

- (11) In the RU-4M District:
 - a. Maximum density--Forty (40) du/acre;
 - b. Maximum floor area ratio--1.0;

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



MEMORANDUM Substitute
Agenda Item No. 4(M)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: November 19, 2002

From: Steve Smiles
County Manager

Subject: Proposed Ordinance
Pertaining to Site
Development Standards for
Residential Administrative
Adjustments

02-231

This substitute differs from the original in that it clarifies review standards and requires signatures of additional adjoining property owners.

RECOMMENDATION

It is recommended that the attached ordinance providing objective site development standards for consideration of applications for certain limited, administrative residential administrative adjustments be adopted.

BACKGROUND

The Third District Court of Appeals has held in Miami-Dade County vs. Omnipoint that the County's Zoning Code does not provide sufficiently objective criteria for the zoning decision-making process. The County Attorney's office is currently seeking judicial review of the Omnipoint decision in the Florida Supreme Court. During the time this request is pending, the decision is in effect. As an immediate impact, zoning applications for unusual uses, certain non-use variances (including administrative variances), special exceptions and modifications to previous conditions have been held up.

The proposed ordinance sets-out precise, objective site development standards to be applied administratively when applications are made for limited adjustments in the RU-1, RU-1M (a), RU-1M(b), RU-1Z, RU-2, RU-TH, all EU Districts, and for single family, duplexes, and townhouses in the higher density RU districts. Limited adjustments may be made to setback, lot coverage and spacing requirements. In the AU and GU districts, limited adjustments may be made to setback, lot coverage and building spacing requirements only if the application pertains to a single family residential use.

Applicants are also free to utilize the already adopted Alternative Site Development Option, requiring public hearing approval, for single family and duplex residential zoning districts (Sec. 33-311 (A) (14), of the Code).

FISCAL IMPACT

The proposed ordinance creates no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: November 19, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Substitute
Agenda Item No. 4(M)

02-231

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No. 4 (M)
11-19-02

ORDINANCE NO. 02-231

ORDINANCE PERTAINING TO ZONING; DELETING PROVISIONS RELATING TO ADMINISTRATIVE VARIANCES; ESTABLISHING ADMINISTRATIVE ADJUSTMENTS FOR SINGLE FAMILY, DUPLEX AND TOWNHOUSE USE IN CERTAIN DISTRICTS ALLOWING RESIDENTIAL USES; CREATING STANDARDS AND PROCEDURES FOR SUCH ADJUSTMENTS AND FOR APPEALS THEREFROM; PROVIDING A PERIOD FOR CONVERSION OF PENDING ADMINISTRATIVE VARIANCE APPLICATIONS TO PUBLIC HEARING APPLICATIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

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

Sec. 33-1. Definitions.

For the purpose of this chapter, the following definitions for terms used herein shall apply to all sections of this chapter unless the context clearly indicates otherwise:

* * *

>>(58.1) Immediate vicinity means the area in which a specified parcel of land is located that is physically, functionally or geographically

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

02-231

identifiable as a distinct realm, place or neighborhood, or the area within a radius of not more than five hundred (500) feet from the specified parcel of land, whichever is smaller.<<

* * *

Section 2. Section 33-36.1 of the Code of Miami-Dade County, Florida is hereby amended as follows

Sec. 33-36.1. Administrative >>adjustment procedure<< [[variances]].

~~[[a) Notwithstanding any other provision of this chapter, in RU-1, RU-2, RU-TH, all EU Districts, and those other districts permitting single-family, duplex, and townhouse use, upon application duly made, the Director may, by administrative decision, approve any "non-use variance" request. For the purposes of this subsection, a "non-use variance", as defined in Section 33-311.1, Code of Miami-Dade County, may involve 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. Requests varying setbacks, and lot coverage requirements from those specified elsewhere in the zoning regulations may only be approved providing that they do not exceed the following:~~

- ~~(1) That the setback required is not reduced below fifty (50) percent of that normally required.~~
- ~~(2) That the lot coverage is not increased by more than twenty (20) percent of that normally permitted.~~

~~(b) Notwithstanding any other provision of this chapter, in any district upon application duly made, the Director may, by administrative decision, approve any "non-use variance" request or "special exception" from zoning regulations on parking requirements for any property designated as an historical site and subject to a certificate of appropriateness pursuant to Chapter 16A of this Code. Such requests may be approved providing that "non-use variance" requests do not exceed the standards set forth in Section 33-36.1(a) and that "special exception" from zoning regulations on parking requirements requests do not reduce parking below thirty (30) percent of that normally required. Further, the requirements of Section 33-36.1(i) shall not ap-~~

~~ply to administrative variances granted to designated historical sites pursuant to this subsection.~~

- ~~(c) The Director may vary the setback requirements for screened enclosures, tennis courts, swimming pools and other accessory structures or uses providing that the setback required is not reduced below fifty (50) percent of that normally required.~~
- ~~(d) In granting the variation and issuing the permit, the Director shall find:
 - ~~(1) That the variance will be in harmony with the general appearance and character of the community.~~
 - ~~(2) That the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.~~
 - ~~(3) That the proposed addition is designed and arranged on the site in a manner that minimizes aural and visual impact on the adjacent residences while affording the applicant a reasonable use of his land.~~~~
- ~~(e) The application for variance shall be made by the fee owner of the property on a form prescribed by the Department and shall be submitted to the Department. For the purposes of this section the term "fee owner" shall mean the person who owns and resides at, or owns and intends to reside at, the subject premises. The application shall include an accurately dimensioned plot use plan showing the existing structures on the subject property, the location of the proposed addition, the general location and use of existing structures on the adjacent property from which the variance is being requested. The application shall include a letter of intent explaining the reason and justification for the proposed addition and variance. The application shall be accompanied by:
 - ~~(1) The consent of all the owners of all adjacent or abutting lots to the subject property, and~~
 - ~~(2) The consents shall also include the owner of the lot(s) immediately across the street from the subject site.~~~~

~~If the applicant for an administrative variance is unable to obtain either the consent or objection of a neighboring property owner, the consent of that owner shall not be required when the following conditions have been met.~~

02-231

- (a) ~~Written notice of the request for administrative variance shall be provided to the neighboring property owner. Notice shall be deemed sufficient if it accurately describes the variance requested, if it informs the neighboring property owner of the consequences of a failure to respond, and if it is sent first class mail, return receipt requested, to the property owner of record, as reflected on the Miami Dade Property Appraiser's tax roll, as update.~~

- (b) ~~The applicant for the administrative variance shall present proof acceptable to the Department that a notice meeting the requirements of (a), above, has been sent, and that one (1) of the following two (2) events has occurred:~~
 - (i) ~~After ninety (90) days from receipt of notice, as indicated on the return receipt, the neighboring property owner has failed to respond; or~~

 - (ii) ~~The United States Postal Service has returned the notice as undeliverable.~~

- (f) ~~Upon receipt of the application for variances, the Director, prior to making his decision, shall have a staff member of his Department inspect the site of the subject property and the surrounding properties to determine what impact, if any, the proposed addition will have on the area. The staff member shall attempt to personally contact the residents and/or owners of the adjacent properties including the property or properties immediately across all adjacent streets, for the purpose of collecting additional information relevant to the application.~~

- (g) ~~Upon receipt of all necessary information including a staff report, the Director shall review the information and render his decision either approving, modifying or denying the request. A copy of said decision shall be published in a newspaper of general circulation. All approvals or modifications shall not be effective until fifteen (15) days after the Director's decision is published in a newspaper of general circulation. A courtesy notice containing the decision of the Director may be mailed to adjacent and abutting property owners of record, their tenants or their agents, that are duly noted on the applica-~~

~~tion. The failure to mail or receive such courtesy notice shall not affect any action or proceedings taken hereunder. In granting any variances the Director may prescribe any appropriate conditions and safeguards he may feel necessary to protect and further the interest of the area and abutting properties, which may include but not be limited to the following:~~

- ~~(1) Landscape materials, walls, and fences as required buffering.~~
- ~~(2) Modifying of the orientation of any openings.~~
- ~~(3) Modifying of site arrangements.~~

~~The decision of the Director shall be recorded on the official zoning maps of Miami Dade County.~~

- ~~(h) The right of the Director in so approving requested variances shall be limited to those requests applied to individual lots and where the lot in question is within an area where at least seventy-five (75) percent of the lots in a radius of three hundred (300) feet from the subject property have already been developed.]]~~

>>(a) Purpose. The purpose of this section is to provide a procedure for certain residential property owners to obtain minor administrative adjustments to the setback, lot coverage and building spacing requirements specified in the underlying zoning district regulations, provided that the specified standards of this section are met. These standards provide for substantially the same patterns of site development as the underlying district regulations.

(b) Applicability. Notwithstanding any other provisions of this chapter to the contrary, the Director shall, by administrative decision, approve applications for limited adjustments from setback, lot coverage and building spacing requirements for single-family residence, duplex, townhouse and accessory residential uses located in RU and EU districts, and for single family residential and accessory residential uses in the AU or GU districts.

(c) Limitations and exclusions. Applications for administrative adjustment shall be subject to the following limitations and exclusions:

02-231

- (1) Administrative adjustment approvals shall be limited to those lots within an area where at least seventy-five (75) percent of the lots in the immediate vicinity, as defined in section 33-1(58.1), have already been developed or platted.
 - (2) A setback shall not be adjusted below twenty-five (25) percent of that required by the underlying district regulations.
 - (3) Lot coverage for a principal and/or accessory structure shall not be increased by more than ten (10) percent of that required by the underlying district regulations.
 - (4) Spacing between structures on the same lot may be reduced; provided, however, in no event shall such spacing be less than 5 feet.
 - (5) Unless specifically permitted by the underlying zoning regulations, no accessory building shall be placed in front of the front building line of the principal building.
 - (6) Under this section, no application shall be made for nor shall approval be granted for an adjustment to canopy carport regulations.
- (d) Application. The application for administrative adjustment shall be made by the owner of the property on a form prescribed by the Department. For the purposes of this section the term "owner" shall mean the person who owns and resides at, or owns and intends to reside at, the subject premises. The application shall include (i) a certified land survey, performed in accordance with Florida Administrative Code, dated within one year proceeding the filing date of the administrative adjustment application, providing such survey reflects all current conditions of the subject property; (ii) accurately dimensioned plans showing the location of the proposed construction in relation to the existing structure(s) and the general location and use of existing structures on property adjacent to the subject property; (iii) additional plans as may be required by the Director; and (iv) a letter of intent explaining the reason and justification for the proposed administrative adjustment. It is provided however, that such survey shall not be re-

quired to depict municipal boundaries as required by Section 33-304(a).

Except as otherwise provided in this subsection, the application shall be accompanied by the signed consent of all contiguous property owners, including those located across the street(s) from the subject site, shall be submitted by the applicant on a form prescribed by the Director, and on the site plan submitted for consideration. Said consent shall not be required when a separating public right-of-way measures 70 feet or greater, nor shall consents be required when a body of water completely separates the subject parcel from another parcel.

If the applicant for an administrative adjustment is unable to obtain either the signed consent or objection of a neighboring property owner, the signed consent of that owner shall not be required when the following conditions have been met:

- (a) Written notice of the request for administrative adjustment is provided to the neighboring property owner. Such notice shall be deemed sufficient if it accurately describes the adjustment requested, if it informs the neighboring property owner of the consequences of a failure to respond, and if such notice is sent first class mail, return receipt requested, to the property owner of record, as reflected on the Miami-Dade County Property Appraiser's tax roll, as updated; and
- (b) The applicant for the administrative adjustment shall present proof acceptable to the Department that a notice meeting the requirements of (a), above, has been sent, and that one of the following two events has occurred:
 - (i) After 90 days from receipt of notice, as indicated on the return receipt, the neighboring property owner has failed to respond; or
 - (ii) The United States Postal Service has returned the notice as undeliverable.
- (e) Inspection. Upon receipt of the application for an administrative adjustment, the Director, prior to making a decision, may have a staff member inspect the site of the subject property and the surrounding

02-231

properties to determine what impact, if any, the proposed administrative adjustment will have on the adjoining lots.

(f) Review standards. The following standards shall be applied in considering an administrative adjustment:

- (1) no more than 2 sides of the encroaching construction shall be considered for a setback adjustment (all prior setback variances, administrative adjustments and alternative site development options shall count toward this limitation); and
- (2) no prior setback, lot coverage or building spacing variance(s), administrative adjustment(s) or alternative site development option(s) shall be further changed by administrative adjustment; and
- (3) the architectural design, scale, mass, and building materials of any proposed structure or addition shall be aesthetically harmonious with that of other existing or proposed structures or buildings on the property; and
- (4) the plan shall clearly illustrate water runoff solution(s) for the encroaching construction area; and
- (5) the property owner shall certify in writing that any and all easement areas as shown on the recorded plat remain unencumbered by the encroaching construction, unless a release of interest by the easement holder(s) is obtained and submitted prior to permit issuance; and
- (6) the applicant provide written certification from a registered architect or engineer that the existing encroaching construction complies, or can be made to comply with all applicable construction codes, including but not limited to the Florida Building Code, the applicable Fire Prevention Code and other zoning regulations; and
- (7) any reduction in the spacing requirement between a principal building and an accessory building or structure on the same lot shall not result in a situation that causes maintenance difficulty or an unsightly appearance; and

- (8) the proposed accessory building or structure is a normal and customary accessory residential use; and
- (9) the property owner certifies in writing that the type and placement of any proposed outdoor lighting fixtures shall comply with the Code of Miami-Dade County and the Florida Building Code.
- (10) Notwithstanding the foregoing, no proposed administrative adjustment shall be approved where the Director determines that the proposed construction or addition:
 - (i) will not be in harmony with the general appearance and character of the subject block face or the block face across the street from the subject property or will result in a significant diminution of value of the adjacent property; or
 - (ii) will be detrimental to the public welfare in that it will have substantial negative impact on public safety due to unsafe traffic movements, heightened pedestrian- vehicular conflicts, or heightened risk of fire; or
 - (iii) creates materially greater adverse privacy impacts on adjacent residences than that permitted by the underlying district regulations.
- (f) Conditions and safeguards. In granting an administrative adjustment, the Director may prescribe conditions and safeguards deemed necessary to protect the interests served by the underlying zoning district regulations, including, but not limited to:
 - (1) landscape materials, walls, and fences as required buffering.
 - (2) modification of the orientation or deletion of any openings.
 - (3) modification of site arrangements.
 - (4) modification of plans.

- (g) Public notice, effective date and permit issuance. Upon receipt of all necessary information including a staff report, the Director shall review the information and render a decision, either approving, approving modified or denying the administrative adjustment request. A copy of said decision shall be published in a newspaper of general circulation. No approvals or modifications shall be effective, nor shall any building permits be issued, until it has been determined that no timely appeal of the Director's decision as provided in subsection (h) herein has been filed with the Department. If a timely appeal of the administrative adjustment is filed, no approvals or modifications shall be effective, nor shall any building permit be issued, until final disposition of the appeal, including judicial review.
- (h) The applicant, or any aggrieved property owner in the area, may appeal the decision of the Director to the appropriate Community Zoning Appeals Board in the manner provided for appeals of administrative decisions (Section 33-311 of the Code). In the event an appeal is made by an aggrieved property owner in the area, the Director may stop or suspend any construction authorized by the adjustment, until a decision has been made on the appeal. In the event the Director should determine that the suspension of the construction could cause imminent peril to life or property he or she may permit the construction to continue upon such conditions and limitations, including the furnishing of an appropriate bond, as may be deemed proper under the circumstances.
- (i) Recording. The decision of the Director shall be recorded on the official zoning maps of Miami-Dade County.<<

Section 3. Notwithstanding any provisions of Section 33-304 to the contrary, those administrative variance applications filed prior to the enactment of this ordinance but not decided by the Director shall be subject to the following provisions. Where a pending administrative variance application does not comply with the limitations and restrictions of this administrative adjustment ordinance, the applicant shall be permitted to amend such application to an application for public hearing review within 30 days after the effective date of this ordinance, without waiting until the next public hearing filing period, subject to the applicant's submission of the appropriate public hearing application

form, any additional documentation that may be required, as well as the submission of the required application fees.

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

Section 7. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: NOV 19 2002

Approved by County Attorney as
to form and legal sufficiency:

RAW

Prepared by:

JAC

Joni Armstrong Coffey

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LEGAL COUNSEL SEC.

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MEMORANDUM Agenda Item No. 4(L)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: (Public Hearing 11-19-02)
September 12, 2002

From: ~~Steve Shiver~~
County Manager

Subject: Proposed Ordinance
Limiting Hours of
Operation for Adult
Entertainment Clubs

02-230

RECOMMENDATION

It is recommended that the attached ordinance limiting hours of operation for adult entertainment clubs be adopted.

BACKGROUND

When adult entertainment standards were codified in 1991, there was a definition for "adult nightclub" and the hours of operation provision for "nightclubs" was applied to this type of use. In 1992 the term "adult nightclub" was changed to "adult entertainment club". However, specific language for permissible hours of operation for an "adult entertainment club" was not simultaneously adopted, and the hours of operation for "nightclubs" continued to be applied. This ordinance will codify the hours of operation of an "adult entertainment club".

FISCAL IMPACT

The proposed ordinance creates no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: November 19, 2002

FROM: *[Signature]*
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(L)

02-230

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4(L)

Veto _____

11-19-02

Override _____

ORDINANCE NO. 02-230

ORDINANCE PERTAINING TO ZONING;
AMENDING SECTION 33-151 OF THE CODE OF
MIAMI-DADE COUNTY, FLORIDA;
PERTAINING TO HOURS OF OPERATION FOR
ADULT ENTERTAINMENT CLUBS; PROVIDING
SEVERABILITY, INCLUSION IN THE CODE
AND AN EFFECTIVE DATE

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

Section 1. Section 33-151 of the Code of Miami-Dade County, Florida is
hereby amended as follows:¹

Sec. 33-151. Hours and days of sale.

No alcoholic beverages shall be sold or served within the unincorporated
areas of Miami-Dade County except at such hours and on such days and
by such vendors as set forth below:

* * *

>>(q) Any adult entertainment club, which has a Certificate of Use and which holds a license from the State beverage department for the sale of alcoholic beverages on the premises, shall be permitted to remain open, and sell alcoholic beverages for consumption on the premises from 8:00 a.m. to 4:50 a.m. of the following day during week days, and on Sundays to remain open and sell beer for consumption on the premises from 10:00 a.m. to 4:50 a.m. of the following Monday; and to remain open and sell other alcoholic beverages on Sunday for the consumption on the premises from 5:00 p.m. to 4:50 a.m. of the following Monday. It is specifically provided, however,

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

02-230

that each and every adult entertainment club that may operate in the unincorporated areas of Miami-Dade County in accordance with this section shall close its doors and have all its patrons off its premises by not later than 5:00 a.m. of each day.<<

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

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

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

Section 5. This ordinance does not contain a sunset provision.

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PASSED AND ADOPTED: NOV 19 2002

Approved by County Attorney as
to form and legal sufficiency:

GC

Prepared by:

JM

John McInnis

MEMORANDUM

Agenda Item No. 4(F)

TO: Hon. Chairperson and Members
Board of County Commissioners

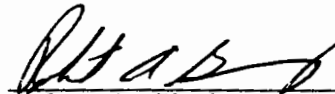
DATE: (Public Hearing 11-19-02)
October 22, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning;
permitting donated goods centers
in BU-1A (Limited Business)
District

02-227

The accompanying ordinance was prepared and placed on the agenda at the request of Chairperson Dr. Barbara Carey-Shuler.



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: November 19, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to
zoning; permitting donated
goods centers in BU-1A
(Limited Business) District

02-227

The proposed ordinance relating to zoning permitting donated goods centers in BU-1A will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: November 19, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(F)

02-227

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(F)
11-19-02

ORDINANCE NO. 02-227

ORDINANCE RELATING TO ZONING; AMENDING SECTION 33-247 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA PERMITTING DONATED GOODS CENTERS IN BU-1A (LIMITED BUSINESS) DISTRICT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 33-247 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

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 (1) or more of the following uses:

* * *

>>(17.1) Donated goods centers, including drive-through drop-off facilities, for the acceptance and sale of new or used merchandise, excluding furniture and major appliances, upon compliance with the following conditions:

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

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

(b) The donated goods must be accepted by personnel directly employed by or volunteers for the not-for-profit organization;

(c) The monetary proceeds resulting from the sale of said merchandise must be used in accordance with the organization's charitable purpose to benefit persons within the boundaries of Miami-Dade County or outside of Miami-Dade County to provide emergency relief for victims of natural, man-made or economic disasters;

(d) The operation of the donated goods center, the collection and use of donations and proceeds thereof must be conducted by said not-for-profit organization and not by a licensee, subtenant, subcontractor or agent of the not-for-profit organization;

(e) The merchandise sold in the donated goods center must be neatly sorted and displayed.<<

* * *

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

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

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

5

02-227

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: NOV 19 2002

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

JAC

Joni Armstrong Coffey

Sponsored by Chairperson Dr. Barbara Carey-Shuler

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MEMORANDUM Agenda Item No. 4(L)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: September 12, 2002
(Public Hearing 11-19-02)

From: ~~Steve Shiver~~
~~County Manager~~

Subject: Proposed Ordinance
Limiting Hours of
Operation for Adult
Entertainment Clubs

02-230

RECOMMENDATION

It is recommended that the attached ordinance limiting hours of operation for adult entertainment clubs be adopted.

BACKGROUND

When adult entertainment standards were codified in 1991, there was a definition for "adult nightclub" and the hours of operation provision for "nightclubs" was applied to this type of use. In 1992 the term "adult nightclub" was changed to "adult entertainment club". However, specific language for permissible hours of operation for an "adult entertainment club" was not simultaneously adopted, and the hours of operation for "nightclubs" continued to be applied. This ordinance will codify the hours of operation of an "adult entertainment club".

FISCAL IMPACT

The proposed ordinance creates no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: November 19, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(L)

02-230

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(L)
11-19-02

ORDINANCE NO. 02-230

ORDINANCE PERTAINING TO ZONING;
AMENDING SECTION 33-151 OF THE CODE OF
MIAMI-DADE COUNTY, FLORIDA;
PERTAINING TO HOURS OF OPERATION FOR
ADULT ENTERTAINMENT CLUBS; PROVIDING
SEVERABILITY, INCLUSION IN THE CODE
AND AN EFFECTIVE DATE

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

Section 1. Section 33-151 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

Sec. 33-151. Hours and days of sale.

No alcoholic beverages shall be sold or served within the unincorporated areas of Miami-Dade County except at such hours and on such days and by such vendors as set forth below:

* * *

>>(q) Any adult entertainment club, which has a Certificate of Use and which holds a license from the State beverage department for the sale of alcoholic beverages on the premises, shall be permitted to remain open, and sell alcoholic beverages for consumption on the premises from 8:00 a.m. to 4:50 a.m. of the following day during week days, and on Sundays to remain open and sell beer for consumption on the premises from 10:00 a.m. to 4:50 a.m. of the following Monday; and to remain open and sell other alcoholic beverages on Sunday for the consumption on the premises from 5:00 p.m. to 4:50 a.m. of the following Monday. It is specifically provided, however,

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

02-230

that each and every adult entertainment club that may operate in the unincorporated areas of Miami-Dade County in accordance with this section shall close its doors and have all its patrons off its premises by not later than 5:00 a.m. of each day.<<

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

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

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

Section 5. This ordinance does not contain a sunset provision.

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LEGAL COUNSEL SEC.

NOV 19 2002
PM 4:26

PASSED AND ADOPTED: NOV 19 2002

Approved by County Attorney as to form and legal sufficiency:

AG

Prepared by:

JM

John McInnis

4



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: October 8, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to zoning
spacing requirements for
restaurants with accessory
cocktail lounge-bar use

02-176


The proposed ordinance relating to zoning spacing requirements for restaurants with accessory cocktail lounge-bar use will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: October 8, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(A)

02-176

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4(A)

Veto _____

10-8-02

Override _____

ORDINANCE NO. 02-176

ORDINANCE PERTAINING TO ZONING; MODIFYING ALCOHOLIC BEVERAGE SPACING REQUIREMENTS FOR CERTAIN RESTAURANTS WITH ACCESSORY COCKTAIL LOUNGE-BAR USE; PERMITTING ACCESSORY COCKTAIL LOUNGE-BAR USE SUBJECT TO RESTRICTIONS; AMENDING SECTIONS 33-150, 33-247 AND 33-259 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 33-150 of the Code of Miami-Dade County is hereby amended to read as follows: ¹

Sec. 33-150. Location of establishments.

* * *

(E) *Exceptions to spacing and distance requirements.* The restrictions and spacing requirements set forth in subsections (A) and (B) above shall not apply:

* * *

(4) ~~[[COCKTAIL LOUNGES IN RESTAURANTS IN SHOPPING CENTER IN BU 2 DISTRICT. To cocktail lounge bars (including package stores) in restaurants located in a shopping center in a BU 2 or more liberal district containing net ground building area (including parking) of not less than fourteen (14) acres under one (1) ownership of title with an approved plan showing 200,000 square feet of building area and improved by not less than seventy five~~

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

~~thousand (75,000) square feet of floor area thereon, with facilities for parking not less than two hundred fifty (250) vehicles, provided such restaurant contains all necessary equipment and supplies for and serves full course meals regularly, and have accommodations for service of two hundred (200) or more patrons at tables, and provided the restaurant occupies more than four thousand (4,000) square feet of floor space. Only one (1) such cocktail lounge bar will be permitted in the shopping center, and such restaurant use shall be at least five hundred (500) feet from any church or school measured as otherwise provided in this section. Before any such cocktail lounge bar will be permitted the required floor area of seventy five thousand (75,000) square feet and required parking for two hundred fifty (250) vehicles in the shopping center must be constructed. The cocktail lounge bar in the restaurant structure shall not have outside entrances and the lounge and package store shall be so located that there is no indication from the outside of the structure that the cocktail lounge and package store are within the structure.]]~~ >>CERTAIN COCKTAIL LOUNGE-BARS IN RESTAURANTS. To cocktail lounge-bars as an accessory use in restaurants located in any IU or BU-1A or more liberal BU District, provided the restaurant occupies no less than four thousand (4,000) square feet of gross floor space, and has accommodations for service of two hundred (200) or more patrons at tables, and provided that the restaurant prepares and serves fully cooked meals daily and contains full kitchen facilities, meaning commercial grade burners, ovens, range hood(s) and refrigeration units of such size and quantity to accommodate the occupancy content of the restaurant, and provided that the restaurant shall be prohibited from advertising itself as a bar, cocktail lounge-bar, saloon, nightclub or similar type of establishment; and further provided that once the restaurant use is terminated, the cocktail lounge use will automatically terminate. The cocktail lounge-bar in the restaurant structure shall not have separate outside patron entrances, provided, however, a fire door exit shall be permitted, when the same is equipped with panic-type hardware and locks and is maintained in a locked position except in emergencies; and provided the cocktail lounge-bar shall be so located that there is no indication from the outside of the structure that the cocktail lounge-bar is within the structure, and provided that the accessory cocktail lounge-bar is no larger than fifteen (15) percent of the gross square footage of the restaurant, and provided that the alcoholic beverages are served for on-premises consumption only; and further provided that the operating hours for the cocktail lounge-bar shall not extend beyond the permitted hours of operation for the restaurant.<<

5

02-176

* * *

Section 2. Section 33-247 of the Code of Miami-Dade County, Florida is hereby amended 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:

* * *

>>(37.2) Restaurants with an accessory cocktail lounge-bar use, subject to compliance with Article X, Alcoholic Beverages, of this code.<<

* * *

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

Sec. 33-259. Uses permitted.

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

* * *

>>(67.1) Restaurants with an accessory cocktail lounge-bar use, subject to compliance with Article X, Alcoholic Beverages, of this code.<<

* * *

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

6

Section 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

Section 7. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: **OCT - 8 2002**

Approved by County Attorney as
to form and legal sufficiency:

RDE

Prepared by:
Joni Armstrong Coffey

JAC

Sponsored by Commissioner Jose "Pepe" Cancio, Sr.

30 July 2002 dgm





MEMORANDUM

Agenda Item No. 4(H)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: (Public Hearing 9-24-02)
July 23, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance Amending Miami-
Dade County Code Chapter
33C, Section 2 Paragraph
D(2)

02-171

RECOMMENDATION

It is recommended that the Board amend Chapter 33C, Section 2, Paragraph D(2) of the Miami-Dade County Code to allow for concessions, vending machines, and other ancillary services in the Rapid Transit Zone (RTZ). Elsewhere on today's agenda is an Ordinance amending the Code to allow food and beverages to be sold and consumed in the paid areas of Metrorail and Metromover stations but not in vehicles and platform areas.

BACKGROUND

The current Miami-Dade County Code only allows certain specific uses at transit stations that limit Miami-Dade Transit's (MDT) ability to develop its Joint Development and Passenger Amenities Program at Metrorail and Metromover stations. Eating or drinking, or carrying open containers of food or beverages in the paid areas of Metrorail and Metromover stations is prohibited.

By amending the current language, MDT will be able to expand the permissible uses within the RTZ to include in-station concessions, vending machines, and service-related businesses offering goods and services for sale to passengers. MDT will be able to access Miami-Dade County's Request for Proposal (RFP) No. 363 and meet the goals established therein. RFP No. 363 will provide solely for the sale of liquid drinks. However, this Code will change the current RTZ provisions and allow MDT to pursue additional RFP's that will offer additional goods and services such as the sale of transit tokens, passes, newspapers, magazines, dry cleaning, film development, food, and video rentals.

FISCAL IMPACT

This ordinance will enable MDT to implement a revenue generating concession program that is expected to yield in excess of \$150,000 a year.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 24, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(H)

02-171

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(H)
9-24-02

ORDINANCE NO. 02-171

ORDINANCE RELATING TO ZONING REGULATION OF FIXED-GUIDEWAY RAPID TRANSIT SYSTEM; AMENDING SECTION 33C-2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO EXPAND PERMISSIBLE USES WITHIN RAPID TRANSIT ZONE TO INCLUDE IN-STATION CONCESSION, VENDING MACHINES, SERVICE-RELATED BUSINESSES OFFERING GOODS AND SERVICES FOR SALE TO PASSENGERS AND OTHER SIMILAR USES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

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

Chapter 33C

**FIXED-GUIDEWAY RAPID TRANSIT
SYSTEM-DEVELOPMENT ZONE**

* * *

Sec. 33C-2. Rapid Transit Zone.

* * *

(D) *Permitted land uses.* The following land uses are permitted within the Rapid Transit Zone and no others:

- (1) Fixed guideways for the Rapid Transit System.

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

- (2) Stations for the Rapid Transit System, including such uses as passenger platforms and waiting areas, ticket and information booths, restrooms, utility rooms, advertising displays, stairs, elevators, walkways, >>concessions, vending machines, and other service-related businesses offering goods and services for sale to passengers<< and other similar uses as are necessary for >>or ancillary to<< the proper functioning of a rapid transit station.

* * *

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

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

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: SEP 24 2002

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

GKS

Gerald K. Sanchez

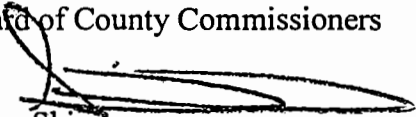


MEMORANDUM

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA
Agenda Item No. 4(F)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: (Public Hearing 9-24-02)
July 23, 2002

FROM: 
Steve Shiver
County Manager

SUBJECT: Ordinance Approving and
Ratifying Airport Land Use
and Height Zoning Maps for
Kendall-Tamiami Executive
Airport

02-169

RECOMMENDATION

It is recommended that the Board adopt, approve, and ratify the drawings entitled "Airport Land Use Zoning Map for Kendall-Tamiami Executive Airport and Surrounding Area" as prepared by the Miami-Dade County Aviation Department, dated September 13, 2001 and "Airport Height Zoning Area Map for Kendall-Tamiami Executive Airport" as prepared by the Miami-Dade Aviation Department, dated March 26, 2002, pursuant to the provisions of Sec. 33-396 of the Amendatory Ordinance for Kendall-Tamiami Executive Airport.

BACKGROUND

On September 21, 1999, the Board approved the referenced amendatory Ordinance No. 99-118 (copy attached hereto). The ordinance amended Article XL of the Code of Miami-Dade County, Florida by changing the name of the New Tamiami Airport to Kendall-Tamiami Executive Airport; amending definitions; adding and defining new zoning districts and providing procedures for variances and exceptions to conform to Florida statutes.

The Ordinance (No. 99-118) further requires that the Board shall adopt, approve, and ratify drawings entitled "Airport Land Use Zoning Map for Kendall-Tamiami Executive Airport and Surrounding Area" and "Airport Height Zoning Area Map for Kendall-Tamiami Executive Airport." The drawings locate and identify Kendall-Tamiami Executive Airport and the affected surrounding area, topographic data pertinent to the purpose of the Kendall-Tamiami Executive Airport Ordinance, boundaries of the airport zoning areas, and the several zone classification districts established thereon and show the height limitations established for the airport zoning area.

It is therefore recommended that the Board adopt the attached ordinance declaring the attached "Airport Land Use Zoning Map for Kendall-Tamiami Executive Airport and Surrounding Area" and the "Airport Height Zoning Area Map for Kendall-Tamiami Executive Airport" as the official land use and height zoning maps for Kendall-Tamiami Executive Airport.

/



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 24, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4

02-169

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing t
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4(F)
9-24-02

Veto _____

Override _____

ORDINANCE NO. **02-169**

ORDINANCE RELATING TO KENDALL-TAMIAMI EXECUTIVE AIRPORT AND SURROUNDING AREA; AMENDING ARTICLE XL, SECTION 33-393 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO INCORPORATE AIRPORT HEIGHT ZONING AREA MAP; AMENDING SECTION 33-394 TO INCORPORATE AIRPORT LAND USE ZONING MAP; AMENDING SECTION 33-396 TO PROVIDE THAT LAND USE AND HEIGHT ZONING MAPS BE APPROVED BY ORDINANCE INSTEAD OF BY RESOLUTION; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Article XL, Sections 33-393, 33-394 and 33-396 of the Code of

Miami-Dade County, Florida, are hereby amended to read as follows:¹

ARTICLE XL. KENDALL TAMIAMI EXECUTIVE AIRPORT ZONING

**Sec. 33-393. Establishment of height limitations for zone classification
Districts in the airport zoning area.**

Except as otherwise provided elsewhere in this article, no structure shall be erected or altered and no tree shall be allowed to grow or be maintained in any district created and established by this article to a height in excess of the height limits herein established for such district. Such height limitations will, in applying the provisions of this article, be corrected to elevations referred to the heretofore established mean sea level datum plane, by adding such height limitations to the mean sea level elevation of the point, line or plane to which such

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

height limitation is referenced, or to the airport elevation, as the context of this article requires. Such limitations are hereby established for the districts as follow:

Where the hereinbefore described imaginary inclined or horizontal surfaces for one (1) district overlap, merge or intersect with those of any other district, the imaginary inclined or horizontal surface that prescribes the most restrictive height limitation shall obtain and shall govern.

Notwithstanding any other provisions of this article to the contrary, the height limits prescribed by this article shall not establish for any particular parcel or privately owned land at any particular point within such a parcel, a height limit of less than forty (40) feet above mean sea level at that point.

>>The drawing entitled "Airport Height Zoning Area Map for Kendall-Tamiami Executive Airport" as prepared by the Miami-Dade Aviation Department, dated March 26, 2002, reflecting the above-defined height limitations, which is on file in the Office of the Miami-Dade County Planning and Zoning Department, shall be the official height zoning map for the Kendall-Tamiami Executive Airport, shall be prima facie evidence of the height of the structures and shall be applicable to and controlling of such height limitations established herein.<<

Sec. 33-394. Establishment of land use zoning criteria for airports.

For the purpose of this article all of the land use zoning criteria for Kendall-Tamiami Executive Airport and the surrounding area, as the same is created, established and described hereinbefore, is hereby divided into classifications as follows:

* * *

>>The drawing entitled "Airport Land Use Zoning Map for Kendall-Tamiami Executive Airport and Surrounding Area," as prepared by the Miami-Dade Aviation Department, dated September 13, 2001, reflecting the above defined classifications, which is on file in the Office of the Miami-Dade County Planning and Zoning Department, shall be the official land use zoning map for the Kendall-Tamiami Executive Airport, shall be prima facie evidence of the boundaries of the zones and districts depicted thereon, and shall be applicable to and controlling of zoning for such zones and districts.<<

Sec. 33-396. Land use and height zoning maps for the airport zoning area.

The Board of County Commissioners shall, by ~~[[resolution]]~~ >>ordinance<< adopt, approve and ratify ~~[[a]]~~ drawings which shall be entitled "Airport Land Use Zoning Map for Kendall-Tamiami Executive Airport and Surrounding Area" ~~>>~~ and "Airport Height Zoning Map for Kendall-Tamiami Executive Airport ~~[[and Surrounding Area]]~~". Such drawings shall locate and identify Kendall-Tamiami Executive Airport, the affected surrounding area, and other topographic data pertinent thereto and to the purposes of this article and they shall also truly and faithfully depict the airport zoning area and the boundaries; and contour lines, the height limitations, and zone classification districts therein as the same are established herein and as the same may be changed, varied, amended or supplemented by ~~[[resolution]]~~ >>ordinance<< as provided and prescribed in Chapter 33 of the Code of Miami-Dade County, Florida. Copies or prints of such drawings shall be maintained and kept on file in the office~~[[s]]~~ of ~~[[the Miami-Dade Aviation Department and]]~~ the Miami-Dade County Planning and Zoning Department and shall be prima facie evidence of the boundaries of the zone classification districts and the height limitations applicable thereto and therein.

Section 2. This ordinance does not contain a sunset provision.

Section 3. If any section, subsection, sentence, clause or provision of this ordinance ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

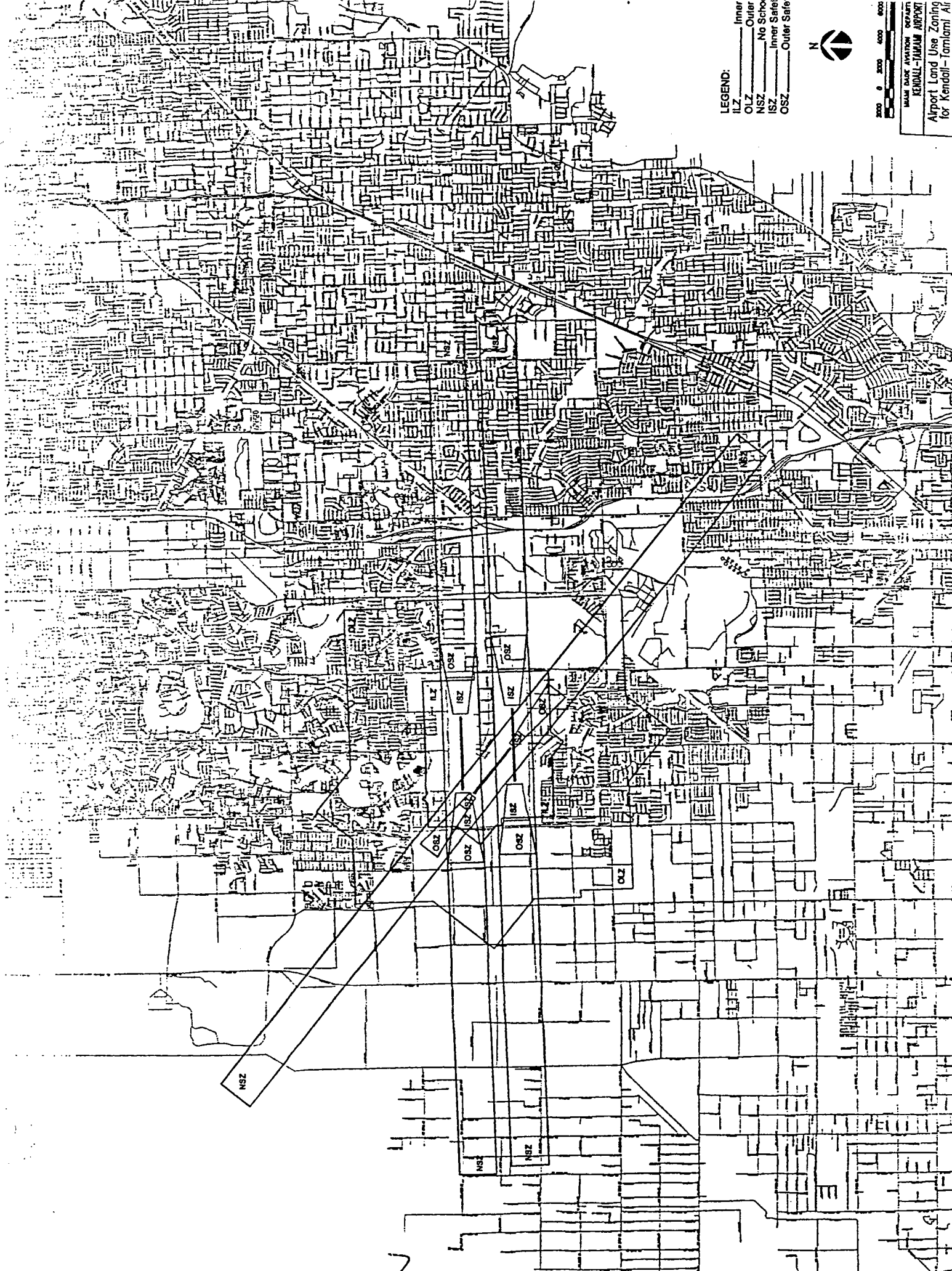
02-189

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

PASSED AND ADOPTED: **SEP 24 2002**

Approved by the County Attorney as
To form and legal sufficiency. RA6

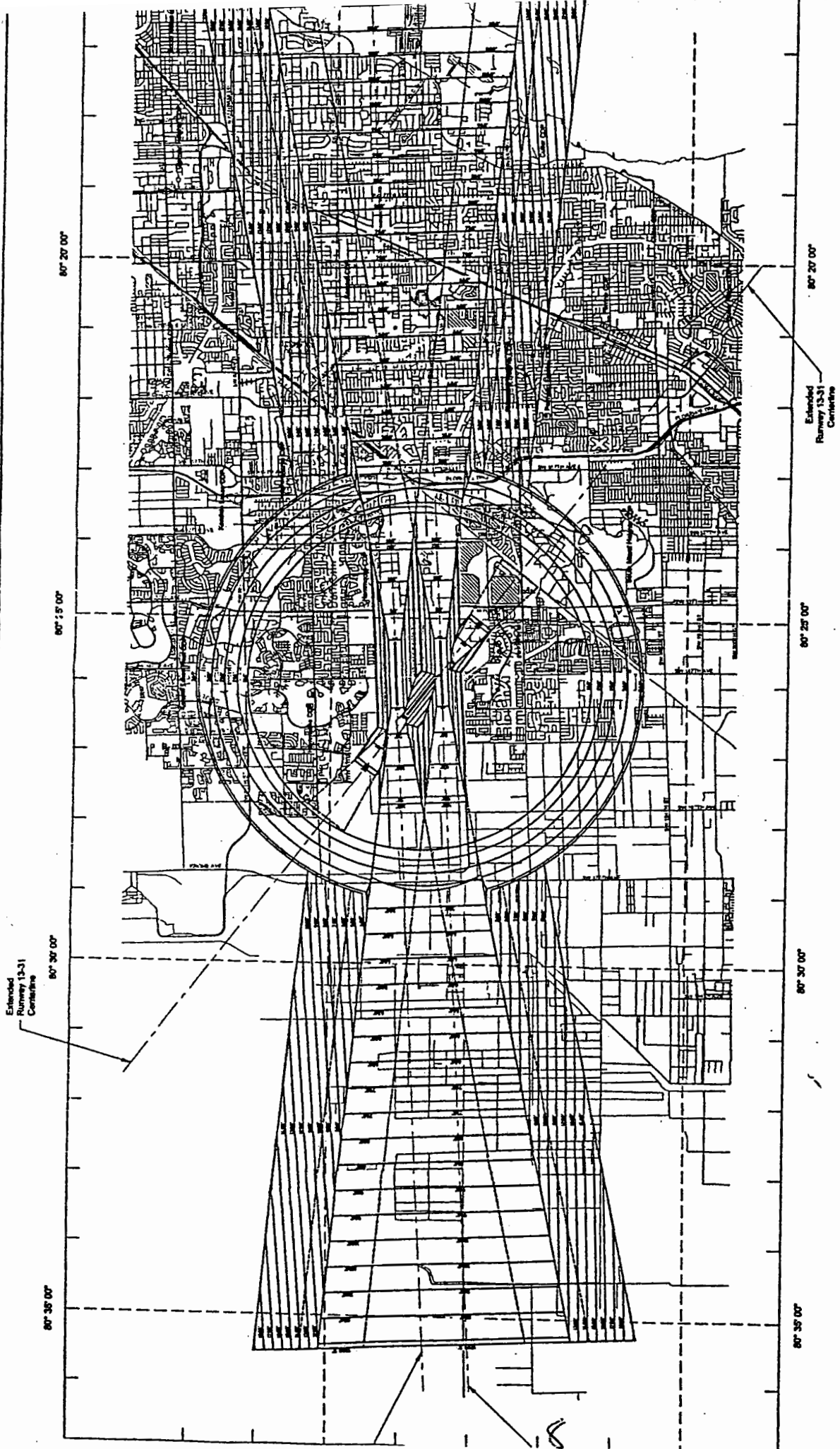
Prepared by: AP
Andrew Psalidas



LEGEND:
ILZ - Inner
OLZ - Outer
NSZ - No School
ISZ - Inner Safe
OSZ - Outer Safe



MIAMI DADE AVIATION DEPARTMENT
KENDALL-TAMIAMI AIRPORT
Airport Land Use Zoning
for Kendall-Tamiami Air



Extended Runway 13-31 Centerline

80° 27' 00"

80° 25' 00"

80° 30' 00"

80° 35' 00"

80° 27' 00"

80° 25' 00"

80° 30' 00"

80° 35' 00"

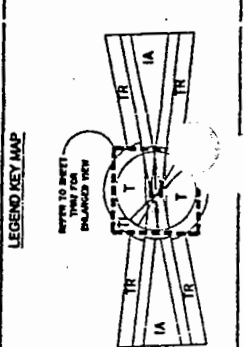
Extended Runway 13-31 Centerline

ORD. NO. _____
 AIRPORT HEIGHT EXECUTIVE

AIRPORT DIAGRAM - ACTIVE RUNWAYS

NOTES:

1. Protection of the Miami-Dade County height zoning surfaces in no way guarantees the outcome of an airspace evaluation conducted by the Federal Aviation Administration (FAA).
2. All height zoning contour elevations are depicted in units of feet above Mean Sea Level (MSL).
3. Horizontal district for Kendall-Tamiami Executive Airport has an elevation of 160 feet MSL.
4. Initial 10,000 feet of the instrument approach is at a slope of 50:1 with an additional 40,000 feet at a slope of 40:1.



- LEGEND:**
- District Boundaries
 - REGULATORY SURFACE BOUNDARY
 - BOUNDARY OF WATER
 - IA INSTRUMENT APPROACH DISTRICT (SEE NOTE 3)
 - TR TAMIAAMI DISTRICT (160 FEET MSL)
 - T HORIZONTAL DISTRICT (SEE NOTE 3)
 - T CONICAL DISTRICT (40:1 SLOPE)

NO.	REVISION	DATE



80° 28' 00"

80° 27' 00"

80° 26' 00"

80° 25' 00"

80° 24' 00"

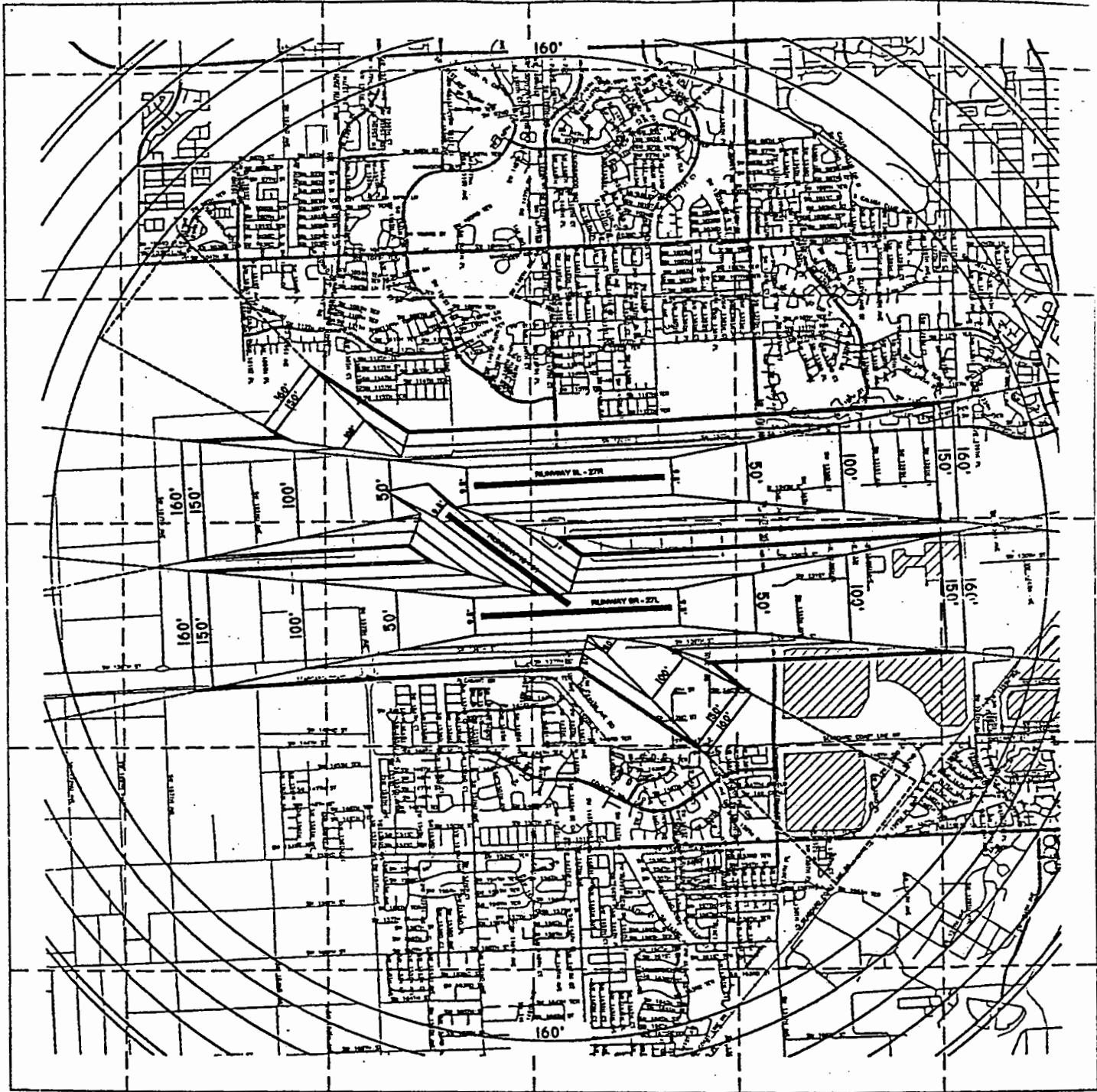
25° 41' 00"

25° 40' 00"

25° 38' 00"

25° 36' 00"

25° 37' 00"



80° 28' 00"

80° 27' 00"

80° 26' 00"

80° 25' 00"

80° 24' 00"

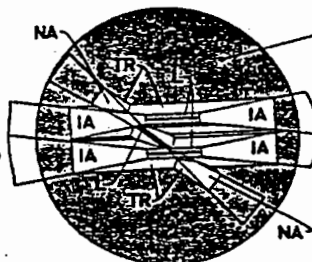
Notes: 1. Protection of the Miami-Dade County height zoning surfaces in no way guarantees the outcome of an airspace evaluation conducted by the Federal Aviation Administration (FAA).
 2. All height zoning contour elevations are depicted in units of feet above Mean Sea Level (MSL).

3. Initial 10,000 feet of the instrument approach is at a slope of 50:1 with an additional 40,000 feet at a slope of 40:1.

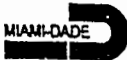
LEGEND:

- ▬ EXISTING RUNWAYS
- NON-LIFTING SURFACE BOUNDARY
- ▭ BODIES OF WATER
- L LANDING DISTRICT
- IA INSTRUMENT APPROACH DISTRICT (SEE NOTE 3)
- NA NON-INSTRUMENT APPROACH DISTRICT (2:1 SLOPE)
- TR TRANSITION DISTRICT (7:1 SLOPE)
- TI CONICAL DISTRICT (2:1 SLOPE)

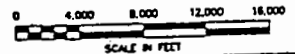
LEGEND KEY MAP



HORIZONTAL DISTRICT (SHADDED IN THE GRAY SHADING) POSSESSES AN ELEVATION OF 100 FEET ABOVE MEAN SEA LEVEL.



ORD. NO. 69-40, SS 1, 7-9-69;
 ORD. NO. 99-118, SS 1, 9-21-99



**AIRPORT HEIGHT ZONING AREA M
 KENDALL-TAMIAMI
 EXECUTIVE AIRPORT**

March 26, 2002

TMS 2

9

MEMORANDUM

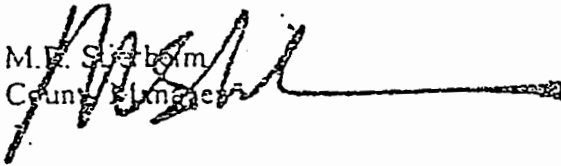
Substitute No. 2
Agenda Item No. 4(F)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 21, 1999

FROM:

M. E. Strubholm
County Engineer



SUBJECT: Zoning Ordinance providing
land use compatibility betwe
Kendall-Tamiami Executive
Airport and off-airport
development:

O#99-118

The accompanying substitute ordinance is submitted for this Board's consideration and approval on Tuesday, September 21, 1999. The substitute differs from the original in that certain provisions have been added detailing requirements under state law. The substitute requires detailed findings for construction of educational facilities and provides standards to be met for approval of residential construction and educational facilities in airport hazard areas. The substitute provides for notice to the Florida Department of Transportation, and allows for comment by the Department, if any.

Substitute No. 2 provides a definition for "aviation schools" and redefines "educational facilities" to include both public schools and nonpublic institutions which are not under the jurisdiction of the Dade County School Board. The second substitute also requires applicants for relief from airport zoning regulations to send a copy of the application, return receipt requested to the Florida Department of Transportation, and to file a copy of the return receipt along with the application. No public hearing may commence less than 46 days after receipt of the application by FDOT.

RECEIVED

JUN 28 2001

NOISE
ABATEMENT

RECOMMENDATION

It is recommended that the Board adopt the attached Zoning Ordinance providing land use compatibility between Kendall-Tamiami Executive Airport and off-airport development.

BACKGROUND

In 1990, the Florida Legislature created the Airport Safety and Land Use Compatibility Study Commission ("Commission"). This Commission's charge was to assure that Florida's airports would have the capacity to handle growth without jeopardizing public health, safety, and welfare.

One of the recommendations of the Commission was to require the Florida Department of Transportation ("FDOT") to establish guidelines for compatible land use around airports. As a result, Chapter 333 Florida Statutes "Airport Zoning" was developed to require local governments to develop specified land use control measures and consider the impact of airports and airport activity on environ land. This became one of the minimum requirements for adequate zoning protection on July 1, 1992.

Chapter 333 Florida Statutes "Airport Zoning" establishes the requirement for land use compatibility around airports in three basic areas:

- Airspace protection
- Compatibility with airport noise and operations
- Public safety

As such, encroachment of incompatible development in the vicinity of airports can be prevented, and further development controlled through County regulations.

The Kendall-Tamiami Executive Airport (TMB) Ordinance is based on Federal Aviation Administration (FAA), Florida Department of Transportation (FDOT), Florida Statutes (F.S.), and Miami-Dade County Planning and Zoning Department guidelines on establishing land use compatibility zoning around MDAD operated TMB. Utilizing this guidance, it is the intention of MDAD to develop zoning criteria for the environs of TMB to insure compatibility with airport operations and activity.

The existing TMB ordinance is entitled Miami-Dade County Code Article XL "New Tamiami Zoning" Section 33-388-33-403. This ordinance primarily deals with issues related to height of structures allowed to be constructed near TMB based on FAA Federal Aviation Regulation (FAR) Part 77 standards.

The purpose of the proposed ordinance update is to come into compliance with State law. The goal of this update is to prohibit encroachment of incompatible land use around TMB. This ordinance incorporates provisions of state statutes, copies of which are attached hereto.

FISCAL/ECONOMIC IMPACT

The implementation of this ordinance is not expected to have any fiscal or economic impact on Miami-Dade County.

//

gation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein, or air rights thereover.

History.—s. 2, ch. 23379, 1945; s. 2, ch. 84-358, s. 71, ch. 97-136.

333.025 Permit required for structures exceeding federal obstruction standards.—

(1) In order to prevent the erection of structures dangerous to air navigation, subject to the provisions of subsections (2), (3), and (4), each person shall secure from the Department of Transportation a permit for the erection, alteration, or modification of any structure the result of which would exceed the federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29. However, permits from the Department of Transportation will be required only within an airport hazard area where federal standards are exceeded and if the proposed construction is within a 10-nautical-mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport licensed by the state for public use.

(2) Affected airports will be considered as having those facilities which are shown on the airport master plan, or an airport layout plan submitted to the Federal Aviation Administration Airport District Office or comparable military documents, and will be so protected. Planned or proposed public-use airports which are the subject of a notice or proposal submitted to the Federal Aviation Administration or to the Department of Transportation shall also be protected.

(3) Permit requirements of subsection (1) shall not apply to projects which received construction permits from the Federal Communications Commission for structures exceeding federal obstruction standards prior to May 20, 1975, provided such structures now exist; nor shall it apply to previously approved structures now existing, or any necessary replacement or repairs to such existing structures, so long as the height and location is unchanged.

(4) When political subdivisions have adopted adequate airspace protection in compliance with s. 333.03, and such regulations are on file with the Department of Transportation, a permit for such structure shall not be required from the Department of Transportation.

(5) The Department of Transportation shall, within 30 days of the receipt of an application for a permit, issue or deny a permit for the erection, alteration, or modification of any structure the result of which would exceed federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29.

(6) In determining whether to issue or deny a permit, the department shall consider:

(a) The nature of the terrain and height of existing structures.

(b) Public and private interests and investments.

(c) The character of flying operations and planned developments of airports.

(d) Federal airways as designated by the Federal Aviation Administration.

(e) Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport.

(f) Technological advances.

(g) The safety of persons on the ground and in the air.

(h) Land use density.

(i) The safe and efficient use of navigable airspace.

(j) The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area.

(7) When issuing a permit under this section, the Department of Transportation shall, as a specific condition of such permit, require the obstruction marking and lighting of the permitted structure as provided in s. 333.07(3)(b).

(8) The Department of Transportation shall not approve a permit for the erection of a structure unless the applicant submits both documentation showing compliance with the federal requirement for notification of proposed construction and a valid aeronautical evaluation, and no permit shall be approved solely on the basis that such proposed structure will not exceed federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29, or any other federal aviation regulation.

History.—s. 1, ch. 75-16; s. 2, ch. 83-358; s. 7, ch. 97-152.

333.03 Power to adopt airport zoning regulations.

(1)(a) In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area within its territorial limits shall, by October 1, 1977, adopt, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for such airport hazard area.

(b) Where an airport is owned or controlled by a political subdivision and any airport hazard area appertaining to such airport is located wholly or partly outside the territorial limits of said political subdivision, the political subdivision owning or controlling the airport and the political subdivision within which the airport hazard area is located, shall either:

1. By interlocal agreement, in accordance with the provisions of chapter 163, adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question; or

2. By ordinance or resolution duly adopted, create a joint airport zoning board, which board shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question as that vested in paragraph (a) in the political subdivision within which such area is located. Each such joint board shall have as members two representatives appointed by each political subdivision participating in its creation and in addition a chair elected by a majority of the members so appointed. However, the airport manager or managers of the affected political subdivisions shall serve on the board in a nonvoting capacity.

(c) Airport zoning regulations adopted under paragraph (a) shall, as a minimum, require:

1. A variance for the erection, alteration, or modification of any structure which would cause the structure

to exceed the federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29;

2. Obstruction marking and lighting for structures as specified in s. 333.07(3);

3. Documentation showing compliance with the federal requirement for notification of proposed construction and a valid aeronautical evaluation submitted by each person applying for a variance;

4. Consideration of the criteria in s. 333.025(5), when determining whether to issue or deny a variance; and

5. That no variance shall be approved solely on the basis that such proposed structure will not exceed federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29, or any other federal aviation regulation.

(d) The department shall issue copies of the federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29 to each political subdivision having airport hazard areas and, in cooperation with political subdivisions, shall issue appropriate airport zoning maps depicting within each county the maximum allowable height of any structure or tree. Material distributed pursuant to this subsection shall be at no cost to authorized recipients.

(2) In the manner provided in subsection (1), interim airport land use compatibility zoning regulations shall be adopted. When political subdivisions have adopted land development regulations in accordance with the provisions of chapter 163 which address the use of land in the manner consistent with the provisions herein, adoption of airport land use compatibility regulations pursuant to this subsection shall not be required. Interim airport land use compatibility zoning regulations shall consider the following:

(a) Whether sanitary landfills are located within the following areas:

1. Within 10,000 feet from the nearest point of any runway used or planned to be used by turbojet or turbo-prop aircraft.

2. Within 5,000 feet from the nearest point of any runway used only by piston-type aircraft.

3. Outside the perimeters defined in subparagraphs 1. and 2., but still within the lateral limits of the civil airport imaginary surfaces defined in 14 C.F.R. part 77.25. Case-by-case review of such landfills is advised.

(b) Whether any landfill is located and constructed so that it attracts or sustains hazardous bird movements from feeding, water, or roosting areas into, or across, the runways or approach and departure patterns of aircraft. The political subdivision shall request from the airport authority or other governing body operating the airport a report on such bird feeding or roosting areas that at the time of the request are known to the airport. In preparing its report, the authority, or other governing body, shall consider whether the landfill will incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft. The airport authority or other governing body shall respond to the political subdivision no later than 30 days after receipt of such request.

(c) Where an airport authority or other governing body operating a publicly owned, public-use airport has conducted a noise study in accordance with the provisions of 14 C.F.R. part 150, neither residential construction nor any educational facility as defined in chapter 235, with the exception of aviation school facilities, shall be permitted within the area contiguous to the airport defined by an outer noise contour that is considered incompatible with that type of construction by 14 C.F.R. part 150, Appendix A or an equivalent noise level as established by other types of noise studies.

(d) Where an airport authority or other governing body operating a publicly owned, public-use airport has not conducted a noise study, neither residential construction nor any educational facility as defined in chapter 235, with the exception of aviation school facilities, shall be permitted within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.

(3) In the manner provided in subsection (1), airport zoning regulations shall be adopted which restrict new incompatible uses, activities, or construction within runway clear zones, including uses, activities, or construction in runway clear zones which are incompatible with normal airport operations or endanger public health, safety, and welfare by resulting in congregations of people, emissions of light or smoke, or attraction of birds. Such regulations shall prohibit the construction of an educational facility of a public or private school at either end of a runway of a publicly owned, public-use airport within an area which extends 5 miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. Exceptions approving construction of an educational facility within the delineated area shall only be granted when the political subdivision administering the zoning regulations makes specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns prohibiting such a location.

(4) The procedures outlined in subsections (1), (2), and (3) for the adoption of such regulations are supplemental to any existing procedures utilized by political subdivisions in the adoption of such regulations.

(5) The Department of Transportation shall provide technical assistance to any political subdivision requesting assistance in the preparation of an airport zoning code. A copy of all local airport zoning codes, rules, and regulations, and amendments and proposed and granted variances thereto, shall be filed with the department.

(6) Nothing in subsection (2) or subsection (3) shall be construed to require the removal, alteration, sound conditioning, or other change, or to interfere with the continued use or adjacent expansion of any educational structure or site in existence on July 1, 1993, or be construed to prohibit the construction of any new structure for which a site has been determined as provided in s. 235.19, as of July 1, 1993.

History.—s. 3, ch. 23079, 1945; s. 4, ch. 75-13, s. 4, ch. 83-254; s. 72, ch. 92-134; s. 6, ch. 92-152; s. 10, ch. 92-161; s. 1, ch. 94-221; s. 522, ch. 95-143.

333.04 Comprehensive zoning regulations; most stringent to prevail where conflicts occur.—

(1) **INCORPORATION.**—In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, structures, and natural objects, and uses of property, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of such comprehensive zoning regulations, and be administered and enforced in connection therewith.

(2) **CONFLICT.**—In the event of conflict between any airport zoning regulations adopted under this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

History.—s. 4, ch. 23072, 1943.

333.05 Procedure for adoption of zoning regulations.—

(1) **NOTICE AND HEARING.**—No airport zoning regulations shall be adopted, amended, or changed under this chapter except by action of the legislative body of the political subdivision in question, or the joint board provided in s. 333.03(1)(b) by the bodies therein provided and set forth, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the hearing shall be published at least once a week for 2 consecutive weeks in an official paper, or a paper of general circulation, in the political subdivision or subdivisions in which are located the airport areas to be zoned.

(2) **AIRPORT ZONING COMMISSION.**—Prior to the initial zoning of any airport area under this chapter the political subdivision or joint airport zoning board which is to adopt the regulations shall appoint a commission, to be known as the airport zoning commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the legislative body of the political subdivision or the joint airport zoning board shall not hold its public hearings or take any action until it has received the final report of such commission, and at least 15 days shall elapse between the receipt of the final report of the commission and the hearing to be held by the latter board. Where a city plan commission or comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

History.—s. 5, ch. 23072, 1943; s. 74, ch. 90-136; s. 23, ch. 90-279; s. 33, ch. 92-113.

333.05 Airport zoning requirements.—

(1) **REASONABLENESS.**—All airport zoning regulations adopted under this chapter shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this chapter. In determining what regula-

tions it may adopt, each political subdivision and joint airport zoning board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area and runway clear zones, the character of the neighborhood, the uses to which the property to be zoned is put and adaptable, and the impact of any new use, activity, or construction on the airport's operating capability and capacity.

(2) **INDEPENDENT JUSTIFICATION.**—The purpose of all airport zoning regulations adopted under this chapter is to provide both airspace protection and land use compatible with airport operations. Each aspect of this purpose requires independent justification in order to promote the public interest in safety, health, and general welfare. Specifically, construction in a runway clear zone which does not exceed airspace height restrictions is not evidence per se that such use, activity, or construction is compatible with airport operations.

(3) **NONCONFORMING USES.**—No airport zoning regulations adopted under this chapter shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in s. 333.07(1) and (3).

History.—s. 6, ch. 23072, 1943; s. 75, ch. 90-136.

333.055 Guidelines regarding land use near airports.—The Department of Transportation, after consultation with the Department of Community Affairs, local governments, and other interested persons, shall adopt by rule recommended guidelines regarding compatible land uses in the vicinity of airports. These guidelines shall utilize acceptable and established quantitative measures, such as the Air Installation Compatible Use Zone standards, the Florida Statutes, and applicable Federal Aviation Administration documents.

History.—s. 43, ch. 92-205.

333.07 Permits and variances.—

(1) **PERMITS.**—

(a) Any airport zoning regulations adopted under this chapter may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered or repaired. In any event, however, all such regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or would permit a nonconforming structure or tree or nonconforming use to be made or become higher or to become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made.

(b) Whenever the administrative agency determines that a nonconforming use or nonconforming

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structure or tree has been abandoned or is more than 50 percent torn down, destroyed, deteriorated, or decayed, no permit shall be granted that would allow said structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations; and, whether application is made for a permit under this subsection or not, the said agency may by appropriate action, compel the owner of the nonconforming structure or tree, at his or her own expense, to lower, remove, reconstruct, or equip such object as may be necessary to conform to the regulations. If the owner of the nonconforming structure or tree shall neglect or refuse to comply with such order for 10 days after notice thereof, the said agency may report the violation to the political subdivision involved therein, which subdivision, through its appropriate agency, may proceed to have the object so lowered, removed, reconstructed, or equipped, and assess the cost and expense thereof upon the object or the land whereon it is or was located, and, unless such an assessment is paid within 90 days from the service of notice thereof on the owner or the owner's agent, of such object or land, the sum shall be a lien on said land, and shall bear interest thereafter at the rate of 6 percent per annum until paid, and shall be collected in the same manner as taxes on real property are collected by said political subdivision, or, at the option of said political subdivision, said lien may be enforced in the manner provided for enforcement of liens by chapter 85.

(c) Except as provided herein, applications for permits shall be granted, provided the matter applied for meets the provisions of this chapter and the regulations adopted and in force hereunder.

(2) VARIANCES.—

(a) Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in violation of the airport zoning regulations adopted under this chapter or any land development regulation adopted pursuant to the provisions of chapter 153 pertaining to airport land use compatibility, may apply to the board of adjustment for a variance from the zoning regulations in question. At the time of filing the application, the applicant shall forward to the department by certified mail, return receipt requested, a copy of the application. The department shall have 45 days from receipt of the application to comment and to provide its comments or waiver of that right to the applicant and the board of adjustment. The department shall include its explanation for any objections stated in its comments. If the department fails to provide its comments within 45 days of receipt of the application, its right to comment is waived. The board of adjustment may proceed with its consideration of the application only upon the receipt of the department's comments or waiver of that right as demonstrated by the filing of a copy of the return receipt with the board. Noncompliance with this section shall be grounds to appeal pursuant to s. 333.03 and to apply for judicial relief pursuant to s. 333.11. Such variances may only be allowed where a liberal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and where the relief granted would not be contrary

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to the public interest but would do substantial justice and be in accordance with the spirit of the regulations and this chapter. However, any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this chapter.

(b) The Department of Transportation shall have the authority to appeal any variance granted under this chapter pursuant to s. 333.08, and to apply for judicial relief pursuant to s. 333.11.

(3) OBSTRUCTION MARKING AND LIGHTING.—

(a) In granting any permit or variance under this section, the administrative agency or board of adjustment shall require the owner of the structure or tree in question to install, operate, and maintain thereon, at his or her own expense, such marking and lighting as may be necessary to indicate to aircraft pilots the presence of an obstruction.

(b) Such marking and lighting shall conform to the specific standards established by rule by the Department of Transportation.

(c) Existing structures not in compliance on October 1, 1988, shall be required to comply whenever the existing marking requires refurbishment, whenever the existing lighting requires replacement, or within 5 years of October 1, 1988, whichever occurs first.

1987-7-7, ch. 23079, 12-45; s. 3, ch. 82-358; s. 75, ch. 90-136; s. 433, ch. 95-148.

333.03 Appeals.—

(1) Any person aggrieved, or taxpayer affected, by any decision of an administrative agency made in its administration of airport zoning regulations adopted under this chapter, or any governing body of a political subdivision, or the Department of Transportation, or any joint airport zoning board, which is of the opinion that a decision of such an administrative agency is an improper application of airport zoning regulations of concern to such governing body or board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

(2) All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the board, by filing with the agency from which appeal is taken and with the board, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken, or property certified copies thereof in lieu of originals, as the agency involved may elect.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by an order of the board on notice to the agency from which the appeal is taken and on due cause shown.

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(4) The board shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

(5) The board may, in conformity with the provisions of this chapter, reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

History.—s. 6, ch. 23079, 1945; s. 6, ch. 28-356.

333.09 Administration of airport zoning regulations.—All airport zoning regulations adopted under this chapter shall provide for the administration and enforcement of such regulations by an administrative agency which may be an agency created by such regulations or any official, board, or other existing agency of the political subdivision adopting the regulations or of one of the political subdivisions which participated in the creation of the joint airport zoning board adopting the regulations, if satisfactory to that political subdivision, but in no case shall such administrative agency be or include any member of the board of adjustment. The duties of any administrative agency designated pursuant to this chapter shall include that of hearing and deciding all permits under s. 333.07(1), deciding all matters under s. 333.07(3), as they pertain to such agency, and all other matters under this chapter applying to said agency, but such agency shall not have or exercise any of the powers herein delegated to the board of adjustment.

History.—s. 6, ch. 23079, 1945.

333.10 Board of adjustment.—

(1) All airport zoning regulations adopted under this chapter shall provide for a board of adjustment to have and exercise the following powers:

(a) To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the airport zoning regulations, as provided in s. 333.08.

(b) To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such board may be required to pass under such regulations.

(c) To hear and decide specific variances under s. 333.07(2).

(2) Where a zoning board of appeals or adjustment already exists, it may be appointed as the board of adjustment. Otherwise, the board of adjustment shall consist of five members, each to be appointed for a term of 3 years by the authority adopting the regulations and to be removable by the appointing authority for cause, upon written charges and due notice and after public hearing.

(3) The concurring vote of a majority of the members of the board of adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.

(4) The board shall adopt rules in accordance with the provisions of the ordinance or resolution by which it was created. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. The chair, or in the chair's absence the acting chair, may administer oaths and compel the attendance of witnesses. All hearings of the said board shall be public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

History.—s. 10, ch. 23079, 1945; s. 464, ch. 95-143.

333.11 Judicial review.—

(1) Any person aggrieved, or taxpayer affected, by any decision of a board of adjustment, or any governing body of a political subdivision or the Department of Transportation or any joint airport zoning board, or of any administrative agency hereunder, may apply for judicial relief to the circuit court in the judicial circuit where the board of adjustment is located within 30 days after rendition of the decision by the board of adjustment. Review shall be by petition for writ of certiorari, which shall be governed by the Florida Rules of Appellate Procedure.

(2) Upon presentation of such petition to the court, it may allow a writ of certiorari, directed to the board of adjustment, to review such decision of the board. The allowance of the writ shall not stay the proceedings upon the decision appealed from, but the court may, on application, on notice to the board, on due hearing and due cause shown, grant a restraining order.

(3) The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(4) The court shall have exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the board of adjustment. The findings of fact by the board, if supported by substantial evidence, shall be accepted by the court as conclusive, and no objection to a decision of the board shall be considered by the court unless such objection shall have been urged before the board, or, if it was not so urged, unless there were reasonable grounds for failure to do so.

(5) In any case in which airport zoning regulations adopted under this chapter, although generally reasonable, are held by a court to interfere with the use and enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the State Constitution or the Constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of

land, or such regulations as are not involved in the particular decision.

(6) No appeal shall be or is permitted under this section, to any courts, as herein provided, save and except an appeal from a decision of the board of adjustment, the appeal herein provided being from such final decision of such board only, the appellant being hereby required to exhaust his or her remedies hereunder of application for permits, exceptions and variances, and appeal to the board of adjustment, and gaining a determination by said board, before being permitted to appeal to the court hereunder.

History.—1. 11, ch. 23072, 1945; 2. 43, ch. 63-512; 3. 7, ch. 68-358; 4. 433, ch. 95-143.

333.12 Acquisition of air rights.—In any case which it is desired to remove, lower or otherwise terminate a nonconforming structure or use; or the approach protection necessary cannot, because of constitutional limitations, be provided by airport regulations under this chapter, or it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the political subdivision within which the property or nonconforming use is located, or the political subdivision owning or operating the airport or being served by it, may acquire, by purchase, grant, or condemnation in the manner provided by chapter 73, such air right, navigation easement, or other estate, portion or interest in the property or nonconforming structure or use or such interest in the air above such property, tree, structure, or use, in question, as may be necessary to effectuate the purposes of this chapter, and in so doing, if by condemnation, to have the right to take immediate possession of the property, interest in property, air right, or other right sought to be condemned, at the time, and in the manner and form, and as authorized by chapter 74.

In the case of the purchase of any property or any easement or estate or interest therein or the acquisition of the same by the power of eminent domain the political subdivision making such purchase or exercising such power shall in addition to the damages for the taking, injury or destruction of property also pay the cost of the removal and relocation of any structure or any public utility which is required to be moved to a new location.

History.—1. 12, ch. 23072, 1945.

333.13 Enforcement and remedies.—

(1) Each violation of this chapter or of any regulations, orders, or rulings promulgated or made pursuant to this chapter shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and each day a violation continues to exist shall constitute a separate offense.

(2) In addition, the political subdivision or agency adopting the airport zoning regulations under this chapter may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of this chapter or of airport zoning regulations adopted under this chapter or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case in order to fully effectuate the purposes of this chapter and of the regulations adopted and orders and rulings made pursuant thereto.

(3) The Department of Transportation may institute a civil action for injunctive relief in the appropriate circuit court to prevent violation of any provision of this chapter.

History.—1. 13, ch. 23072, 1945; 2. 222, ch. 71-134; 3. 5, ch. 75-15.

333.14 Short title.—This chapter shall be known and may be cited as the "Airport Zoning Law of 1945."

History.—1. 15, ch. 23072, 1945.

Approved _____ Mayor
Veto _____
Override _____

ended
Substitute No. 2
Agenda Item No. 4(F)
9-21-99

ORDINANCE NO. _____

ORDINANCE RELATING TO KENDALL-TAMIAMI EXECUTIVE AIRPORT AND SURROUNDING AREA, AMENDING ARTICLE XL OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, CHANGING THE NAME OF NEW TAMIAMI AIRPORT TO KENDALL-TAMIAMI EXECUTIVE AIRPORT; AMENDING DEFINITIONS; ADDING AND DEFINING NEW ZONING DISTRICTS; PROVIDING PROCEDURES FOR VARIANCES AND EXCEPTIONS TO CONFORM TO FLORIDA STATUTES; AMENDING ARTICLE XXXVI OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, PROVIDING FOR APPEAL TO THE BOARD OF COUNTY COMMISSIONERS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Article XL of the Code of ~~[[Metropolitan]]~~ >> Miami << Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-388. Short title.

This article shall be known and may be cited as the "~~[[New]]~~ >> Kendall << Tamiami >> Executive << Airport Zoning Ordinance."

Sec. 33-389. Provisions hereof established as minimum standards governing zoning.

It is established that the airport zoning area for ~~[[New]]~~ >> Kendall << Tamiami >> Executive << Airport, the zone

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

classification districts therein and the height limitation applicable to such districts, as the same are hereinafter set forth, shall be incorporated with all other minimum standards governing zoning heretofore or hereinafter adopted pursuant to Section 4.07 of the Home Rule charter for ~~[[Metropolitan]]~~ >>Miami<< Dade County, Florida.

Sec. 33-390. Definitions.

In construing the provisions hereof and each and every word, term, phrase or part thereof, where the context will permit, the definitions provided in Section 1.01 F.S. and Section 33-1 and Section 33-302 of the Code of Metropolitan Dade County, Florida, and the following definitions shall apply:

- (1) *Airport* means ~~[[New]]~~ >>Kendall<<Tamiami >>Executive<< Airport.
- (2) *Airport* elevation means the established elevation of the highest point on the usable landing area. The airport elevation for ~~[[New]]~~ >>Kendall<<Tamiami >>Executive<< Airport is ten (10.0) feet mean sea level.
- ~~[[3] *Airport Hazard* means any structure or tree or use of land which obstructs the airspace required for or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.]]~~
- ~~[[4]]~~ >>(3)<< *Airport reference point* means the point established as the approximate geographic center of the landing area and so designated and identified. The position of the airport reference point for ~~[[New]]~~ >>Kendall<<Tamiami >>Executive<< Airport is described as follows:

Commence at the northeast corner of Section 16, Township 55 South, Range 39 East, Dade County, Florida, and run thence southward along the east line of said Section 16 at a bearing of South 02° 22' 40" East a distance of 2734.47 feet; thence westward at right angles to the said east line of Section 16 at a bearing of South 87° 37' 20" West for a distance of 334.45 feet to the airport reference point.

(4) Aviation schools shall mean any educational facility that primarily provides education or training in the science and art of flight, including but not limited to: the operation and construction of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operations, improvement, repair or maintenance of airports or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(5) Educational facilities shall mean those facilities as defined by Chapter 235, Florida Statutes, as amended, and the Code of Miami-Dade County.>>

(6) Hazard to Air Navigation is an obstruction determined by the Federal Aviation Administration to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.<<

[[~~(5)~~]]>>(7)<<Height for the purpose of determining the height limits in all districts set forth in this article and shown on the boundary map for zone classification districts, the datum shall be mean sea level (MSL) elevation unless otherwise specified.

[[~~(6)~~]]>>(8)<<Instrument runway means a runway equipped or to be equipped with electronic or visual air navigation aids adequate to permit the landing or take-off of aircraft under restricted visibility conditions. The instrument runways at [[~~New~~]] >>Kendall-<<Tamiami >>Executive<< Airport are designated as Runway 9L/27R and Runway 9R/27L and their centerlines are described as follows:

- (a) Runway 9L/27R: Commencing at the northeast corner of Section 15, Township 55 South, Range 39 East, Dade County, Florida; thence south 03° 53' 36" East along the east line of said Section 15 a distance of 945.03 feet; thence south 87° 04' 03" West a distance of 2606.21 feet to the east end of the runway and the point of beginning; thence continue south 87° 04' 03" West a distance of [[~~5500~~]] >>5000<< feet to the west end of the runway.

- (b) *Runway 9R-27L*: Commencing at the southeast corner of Section 15, Township 55 South, Range 39 East, Dade County, Florida; thence north 04° 35' 16" West along the east line of said Section 15 a distance of 1068.16 feet; thence south 87° 04' 03" West a distance of 2684.19 feet to the east end of the runway and the point of beginning; thence continue south 87° 04' 03" West a distance of ~~[[5500]]~~ >>5000<< feet to the west end of the runway.

~~[[7]]~~>>(8)<< *Landing area* means the defined area of the airport used or intended to be used for landing, take-off, or taxiing of aircraft.

~~[[8]]~~>>(9)<< *Nonconforming use* means any structure, tree or use of land lawfully in existence on the effective date hereof which does not conform to a regulation prescribed in this article or any amendment thereto, as of the effective date of such regulations.

~~[[9]]~~>>(10)<< *Non-instrument runway* means a runway other than an instrument runway. The non-instrument runway at ~~[[New]]~~ >>Kendall-<<Tamiami >>Executive<< Airport is designated as Runway 13/31 and its centerline is described as follows:

- (a) *Runway 13/31*: Commencing at the northeast corner of Section 15, Township 55 South, Range 39 East, Dade County, Florida; thence south 03° 53' 36" East along the east line of said Section 15 a distance of 945.03 feet; thence south 87° 04' 03" West a distance of 9254.87 feet; thence south 52° 54' 00" East a distance of 1148.67 feet to the northwest end of the runway and the point of beginning thence continue south 52° 54' 00" East a distance of 4000 feet to the southeast end of the runway.

~~[[10]]~~>>(11)<< *Person* means an individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee, administrator, executor, guardian or other similar representative thereof.

[[~~(11)~~]]>>(12)<<Runway means the ~~[[paved surface of]]~~
>>defined area on<< an airport >>prepared for<< landing
~~[[strip-]]~~ >>and take-off of aircraft along its length.<<

[[~~(12)~~]]>>(13)<< Structure means an object constructed or
installed by man, including, but without being limited
to, buildings, derricks, draglines, cranes and other boom-
equipped machinery, towers, signs, smokestacks, utility
poles, or overhead transmission lines.

[[~~(13)~~]]>>(14)<< Tree means any object of natural growth.

>>(15) Obstruction means any structure, growth, or other object,
including a mobile object, which exceeds the height
limitations as set forth herein.

(16) Airport hazard means any structure or tree or use of land
which would exceed the federal obstruction standards as
contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and
77.29 and which obstructs the airspace required for the
flight of aircraft in taking off, maneuvering, or landing or is
otherwise hazardous to such taking off, maneuvering, or
landing of aircraft.<<

Sec. 33-391. Establishment of airport zoning area for
~~[[New]]~~ >>Kendall<< Tamiami
>>Executive<< Airport.

For the purpose of this article there is hereby created and
established the airport zoning area for ~~[[New]]~~ >>Kendall<<
Tamiami >>Executive<< Airport and it is hereby ordained that
such area shall include, and the provisions of this article shall be
applicable to and embrace all of the unincorporated and the
incorporated land and water area lying, situate and being in those
certain portions of Dade County, Florida, described as follows, to
wit:

- (1) In Township 55 South, Range 37 East, all of Sections 1, 12,
13, 24, 25 and 36.
- (2) In Township 55 South, Range 38 East, all of Section>>s<<
1 to 32 inclusive.

- (3) In Township 55 South, Range 39 East, all of Sections 1 to 30 inclusive.
- (4) In Township 55 South, Range 40 East, all of Sections 1 to 30 inclusive, and the north one-half of Section 36.
- (5) In Township 55 South, Range 41 East, all of Sections 6, 7, 18, 19, 30, and the north one-half of Section 31.
- (6) In Township 54 South, Range 40 East, the south one-half of Sections 35 and 36.
- (7) In Township 54 South, Range 41 East, the south one-half of Section 31.
- (8) All of Lot 1 as the same lies between Township 54 South, Range 37 East and Township 55 South, Range 37 East.
- (9) All of Lot 6 as the same lies between Township 54 South, Range 38 East and Township 55 South, Range 38 East.

Sec. 33-392. Establishment of zone classification districts for airport zoning area.

For the purpose of this article all of the Airport Zoning Area for ~~[[New]]~~ >>Kendall<<Tamiami >>Executive<< Airport, as the same is created, established and described hereinbefore, is hereby divided into zone classification districts as follows:

- (1) *L or Landing districts*~~[[:]]~~ >>Primary Surfaces<< A "landing district" is established for each instrument runway for instrument landings and take-offs and for each non-instrument runway for non-instrument landings and take-offs.

A landing district for an instrument runway shall have a uniform width of one thousand (1,000) feet, shall extend for the full length of such instrument runway plus a distance of two hundred (200) feet beyond each end thereof and shall include such runway and be symmetrical about the centerline thereof.

A landing district for non-instrument runway shall have a uniform width of five hundred (500) feet, shall extend for the full length of such non-instrument runway plus a distance of two hundred (200) feet beyond each end thereof and shall include such runway and be symmetrical about the centerline thereof.

- (2) *IA or Instrument approach districts.* An "instrument approach district" is established for each end of each instrument runway for instrument landings and take-offs and it is further established that each such instrument approach district shall embrace and include all of the land and water area lying vertically beneath an imaginary inclined surface which shall hereafter, for the purposes of this article, be referred to and described as the instrument approach surface.

The instrument approach surface shall begin, and shall >>have<< a base one thousand (1,000) feet wide, at a distance of two hundred (200) feet beyond the end of the runway, widening thereafter uniformly to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand two hundred (50,200) feet beyond the end of the runway, the centerline of this surface being the continuation of the centerline of the runway. The instrument approach surface shall extend outward and upward from its base, the elevation of which shall be the same as that of the runway end adjacent thereto, with a slope of one >>(1)<< foot vertically to fifty (50) feet horizontally for the first ten thousand (10,000) feet of its length and thence with a slope of one (1) foot vertically to forty (40) feet horizontally for the remainder.

- (3) *NA or Non-instrument approach districts.* A "non-instrument approach district" is established for each end of each non-instrument runway for non-instrument landings and take-offs and it is further established that each such non-instrument approach district shall embrace and include all of the land and water area lying vertically beneath an imaginary inclined surface which shall hereafter, for the

purposes of this article, be referred to and described as the non-instrument approach surface.

The non-instrument approach surface shall begin, and shall have a base five hundred (500) feet wide, at a distance of two hundred (200) feet beyond the end of the runway, widening thereafter uniformly to a width of ~~[[two thousand five hundred (2,500)]]~~ >>three thousand five hundred (3,500) << feet at a horizontal distance of ten thousand two hundred (10,200) feet beyond the end of the runway, the centerline of this surface being the continuation of the centerline of the runway. The non-instrument approach surface shall extend outward and upward from its base, the elevation of which shall be the same as that of the runway end adjacent thereto, with a slope of one (1) foot vertically to ~~[[forty (40)]]~~ >>thirty four (34) << feet horizontally for its entire length.

- (4) *TR* or ~~[[Transition]]~~ >>Transitional<< districts. "~~[[Transition]]~~ >>Transitional<< districts" are hereby established adjacent to each landing, instrument approach and non-instrument approach district.

~~[[Transition]]~~ >>Transitional<< districts adjacent to runways embrace and include all of the land and water area lying vertically beneath an imaginary inclined surface symmetrically located on each side of each runway. For instrument runways such imaginary inclined surfaces extend outward from lines parallel to and five hundred (500) feet on either side of the centerline of the runway, upward with a slope of one (1) foot vertically to seven (7) feet horizontally and terminating at an elevation one hundred fifty (150) feet above the hereinbefore established airport elevation. For non-instrument runways such imaginary inclined surfaces extend outward from lines parallel to and two hundred fifty (250) feet on either side of the centerline of the runway, upward with a slope of one (1) foot vertically to seven (7)

feet horizontally and terminating at an elevation one hundred fifty (150) feet above the hereinbefore established airport elevation.

[[Transition]] >>Transitional<< districts adjacent to non-instrument approach districts embrace and include all of the land and water area lying vertically beneath imaginary inclined surfaces which extend outward and upward from the long sides of the non-instrument approach surfaces, as hereinbefore described; >>at right angles to the centerline of the runway<< with a slope of one (1) foot vertically to seven (7) feet horizontally terminating at an elevation one hundred fifty (150) feet above the hereinbefore established airport elevation.

[[Transition]] >>Transitional<< districts adjacent to instrument approach districts embrace and include all of the land and water area lying vertically beneath imaginary inclined surfaces which extend outward and upward from the long sides of the instrument approach surfaces as hereinbefore described, >>at right angles to the centerline of the runway<< with a slope of one (1) foot vertically to seven (7) feet horizontally.

Within horizontal districts, which are hereafter established and described, this imaginary inclined plane shall terminate when it reaches an elevation one hundred fifty (150) feet above the hereinbefore established airport elevation. Within conical districts, which are also hereafter established and described, this imaginary inclined surface shall terminate in its intersection with the conical surface which, for the purposes of this article, is described hereinbelow. Outward from the limits of such conical surface, this imaginary inclined surface shall terminate five thousand (5,000) feet from the long sides of the hereinbefore described instrument approach surfaces, such five thousand (5,000) feet being measured horizontally and at right angles to the continuation of the centerline of the runway.

For the purposes of this ~~[[article]]~~
>>subsection<<, the horizontal surface is established ~~[[as a horizontal circular surface which has a radius of seven thousand 7,000 feet centered vertically above the airport reference point at an elevation]]~~ one hundred fifty-150 feet above the heretofore established airport elevation >> by swinging arcs of 10,000 feet radii for all runways from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.<<

For the purposes of this subsection, the conical surface is established ~~[[as the outer surface of right angled section of an inverted cone, the horizontal circular base of]]~~ >>at the outer edge of the horizontal surface base<< which has a radius of ~~[[seven thousand 7,000]]~~ >>thirteen thousand two hundred and fifty 13,250<< feet centered vertically above the airport reference point at an elevation one hundred fifty 150 feet above the heretofore established airport elevation and the horizontal circular top of which has a radius of ~~[[twelve thousand 12,000]]~~ >> seventeen thousand two hundred and fifty 17,250 << feet at an elevation ~~[[five hundred 500]]~~ >> three hundred and fifty 350<< feet above the hereinbefore established airport elevation >>by extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.<<

- (5) *T or Horizontal districts.* A "horizontal district" is established as the area within >>the oblique<< ~~[[a]]~~ circle having its center at the airport reference point and ~~[[seven thousand 7,000]]~~ >>thirteen thousand two hundred and fifty (13,250)<< feet as its radius. >>and is created by swinging arcs of 10,000 feet for all runways from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs.<< The horizontal district does not include the landing, instrument approach, non-instrument approach, ~~[[and]]~~ >>or conical<< districts.

- (6) *T1 or Conical districts.* A "conical district" is established commencing at the periphery of the horizontal district and extending to a periphery ~~[[twelve thousand 12,000]]~~ >>seventeen thousand two hundred and fifty (17,250)<< feet from the airport reference point ~~[[:-]]~~ >>therefrom a horizontal distance of 4,000 feet.<< The conical district does not include the >>landing<< instrument approach, non-instrument approach, and ~~[[transition]]~~ >>transitional<< >>or horizontal<< districts.
- (7) *N.Z. or Non-zoned districts.* Those portions of the airport zoning area not embraced and included in landing, instrument approach, non-instrument approach, transition, horizontal and conical districts, as the same are established and described elsewhere herein, are hereby designated as non-zoned districts.

Sec. 33-393. Establishment of height limitations for zone classification districts in the airport zoning area.

Except as otherwise provided elsewhere in this article, no structure shall be erected or altered and no tree shall be allowed to grow or be maintained in any district created and established by this article to a height in excess of the height limits herein established for such district. Such height limitations will, in applying the provisions of this article, be corrected to elevations referred to the heretofore established mean sea level datum plane, by adding such height limitations to the mean sea level elevation of the point, line or plane to which such height limitation is referenced, or to the airport elevation, as the context of this article requires. Such limitations are hereby established for the districts as follow:

- (1) *Landing districts:* Structures and trees will not be permitted in landing districts except as required, necessary and pertinent to the operation and maintenance of ~~[[New]]~~ >>Kendall<< ~~Tamiami~~ >>Executive<< Airport and then only to the extent permitted or authorized by applicable rule or regulation promulgated by the Federal Aviation Administration, or its successor counterpart.

- (2) *Instrument approach districts:* One (1) foot in height for each fifty (50) feet in horizontal distance beginning at a point two hundred (200) feet from the end of the instrument runway and extending to a distance of ten thousand two hundred (10,200) feet from the end of the runway; thence one (1) foot in height for each forty (40) feet in horizontal distance to a point fifty thousand two hundred (50,200) feet from the end of the runway.
- (3) *Non-instrument approach districts:* One (1) foot in height for each ~~[[fifty (50)]]~~ >>thirty-four (34)<< feet in horizontal distance beginning at a point two hundred (200) feet from the end of the non-instrument runway and extending to a point ten thousand two hundred (10,200) feet from the end of the runway.
- (4) ~~[[Transition]]~~ >> Transitional<< *districts:* One (1) foot in height for each seven (7) feet in horizontal distance beginning at a point two hundred fifty (250) feet from the centerline of non-instrument runways and five hundred (500) feet from the centerline of instrument runways, measured at right angles to the longitudinal centerline of the runway and extending upward to a maximum height of one hundred fifty (150) feet above the airport elevation as established elsewhere herein.

In addition to the foregoing, there are established height limits of one (1) foot vertical height for each seven (7) feet horizontal distance measured from the edges of all instrument approach surfaces >>,<< ~~[[and]]~~ >>all<< non-instrument approach surfaces >>and the long sides of all primary surfaces<< upward and outward to an intersection with hereinbefore described horizontal and conical surfaces. Further, where the instrument approach surface projects beyond, or through and beyond the conical surface, the height limit of one (1) foot for each seven (7) feet of horizontal distance shall be maintained, beginning at the edge of the instrument approach surfaces and extending a distance of five thousand (5,000) feet from the edge of the instrument approach surface, such five thousand (5,000) feet being measured horizontally

and at right angles to the continuation of the centerline of the runway.

- (5) *Horizontal district:* One hundred fifty (150) feet above the hereinbefore established airport elevation.
- (6) *Conical district:* One (1) foot in height for each twenty (20) feet of horizontal distance beginning at the periphery of the hereinbefore described horizontal surface and ~~[[measured in a vertical plane passing through the airport reference point]]~~ >>extending to a height of 350 feet above the airport elevation.<<
- (7) *Non-zoned districts:* The height limitations as well as land use requirement in non-zoned districts shall, for the purposes of this article, be identical with requirements as set forth in Chapter 33 of the Code of ~~[[Metropolitan]]~~ >>Miami<< Dade County, Florida, or, as the same may be set forth in the general zoning ordinances of the various municipalities where the property is located within a municipality.

Where the hereinbefore described imaginary inclined or horizontal surfaces or one district overlap, merge or intersect with those of any other district, the imaginary inclined or horizontal surface that prescribes the most restrictive height limitation shall obtain and shall govern.

Notwithstanding any other provisions of this article to the contrary, the height limits prescribed by this article shall not establish for any particular parcel of privately owned land at any particular point within such a parcel, a height limit of less than forty (40) feet above mean sea level at that point.

~~[[Sec. 33-394. Zone classification-district boundary map for the airport zoning area.]]~~

>>Sec. 33-394. Establishment of land use zoning criteria for airports.

For the purpose of this article all of the land use zoning criteria for Kendall-Tamiami Executive Airport and the

surrounding area, as the same is created, established and described hereinbefore, is hereby divided into classifications as follows:

- (1) Inner District (ILZ). An ILZ covers an area measured as one-half the length of the longest runway at the airport on either side and at the end of each runway centerline at the airport.
- (2) Outer District (OLZ). The OLZ at an airport is based on VFR traffic pattern criteria and predominant type of aircraft utilizing the airport. For Kendall-Tamiami Executive Airport "Category A" is used due to the predominant type of aircraft having an approach speed less than 91 knots and aircraft weighing less than 30,001 pounds. The mathematical formula for determining the limits of the OLZ are found in Federal Aviation Administration (FAA) Advisory Circular 7400.2C.
- (3) No School Zone (NSZ). An NSZ for each runway covers an area that extends five statute miles from the end of a runway in a direct line along the centerline of the runway, and has a width measuring one-half the length of the longest runway at the airport.
- (4) Inner Safety Zone (ISZ). Also referred to as the Runway Protection Zone (RPZ). For Kendall-Tamiami Executive Airport the ISZ is defined as an area which is centered about the extended runway centerline and begins 200 feet beyond the end of the area usable for take-off or landing. The ISZ dimension for Runway 13/31 begins at a width of 500 feet and extends 1,000 feet to a width of 700 feet. The ISZ dimension for Runway 9R/27L and Runway 9L/27R begin at a width of 1,000 feet and extends 2,500 feet to a width of 1,750 feet.
- (5) Outer Safety Zone (OSZ). The OSZ is described as an area that extends outward from the ISZ to a point 5,000 feet from a runway end. The OSZ dimension for Runway 13/31 begins at a width of 700 feet and extends 3,800 feet to a width of 1,460 feet. The OSZ dimensions for Runway 9R/27L and Runway 9L/27R begin at a width of 1,750 feet and extend 2,300 feet to a width of 2,440 feet.

Sec. 33-395. Land use zoning classifications for airports.

(A) Except as otherwise provided in this article, limitations on development of land, structures, and utilization of land within areas designated herein as being restricted due to non-compatibility with aircraft operations are in effect. In situations where land is beneath more than one land use classification the most restrictive shall apply. Restrictions to insure land use compatibility around Kendall-Tamiami Executive Airport are hereby established as follows:

- (1) Inner District (ILZ). New residential construction and educational facilities, excluding aviation, are not permitted within this land use classification.
- (2) Outer District (OLZ). New residential construction and educational facilities excluding aviation, within this land use classification are required to incorporate at least a 25 db Noise Level Reduction (NLR) into the design/construction of the structure.
- (3) No School Zone (NSZ). New educational facilities, excluding aviation schools, are not permitted within this land use classification.
- (4) Inner Safety Zone (ISZ). New residential construction, educational facilities (excluding aviation schools), churches and places of public assembly are not permitted within this land use classification.
- (5) Outer Safety Zone (OSZ). Residential units are limited to less than two per acre. Educational facilities (excluding aviation schools) and places of public assembly are not permitted.

(B) Except as otherwise provided in this article, it shall be unlawful to put any land or water located within L, T, and NA Districts and within TR Districts adjoining L and NA Districts and within the inner ten thousand (10,000) feet of IA Districts and the adjoining portions of TR Districts to any of the following prohibited uses:

(1) Establishments or uses that emit smoke, gases, or dust in quantities or densities sufficient to jeopardize the safe use of the airport.

(2) Notwithstanding any other provisions of this article, no use may be made of land or water within the airport zoning area in such a manner as to; create electrical interference with radio communications between the airport and aircraft; make it difficult for aircraft pilots and tower control operators to distinguish between airport lights, aircraft and others; result in glare in the eyes of aircraft pilots using the airport, or tower control operators; impair visibility in the vicinity of the airport; or otherwise endanger the landing, taking off or maneuvering of aircraft.

>>(3) Neither residential construction nor any educational facility as defined in Chapter 235, Florida Statutes, and the Code of Miami-Dade County, with the exception of aviation school facilities, shall be permitted within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline. <<

>>(4) Nothing contained herein shall be construed to require the removal, alteration, sound conditioning, or other change, or to interfere with the continued use or adjacent expansion of any educational structure or site in existence on July 1, 1993, or be construed to prohibit the construction of any new structure for which a site has been determined as provided in Section 235.19, Florida Statutes, as of July 1, 1993. <<

>>(5) Land fills and associated uses that emit smoke, gases, dust or attract birds shall not be permitted within 10,000 feet of any runway. <<

Sec.33-39[[4]]>>6<<. ~~[[Zone classification district boundary map for the airport zoning area.]]~~ >>Land Use and Height Zoning maps for the airport zoning area<<.

The Board of County Commissioners shall, by resolution, adopt, approve and ratify [[a]] drawing>>5<< which shall be entitled "Airport >>Land Use<< Zoning [[Area]] >>Map<< for [[New]] >>Kendall<<Tamiami >>Executive<< Airport >>and Surrounding Area<<, ~~[[Boundary Map, Zone Classification Districts.]]~~ >>and "Airport Height Zoning Map for Kendall-Tamiami Executive Airport and Surrounding Area."<< Such drawings shall locate and identify [[New]] >>Kendall<<Tamiami >>Executive<< Airport, >>the affected surrounding area<< and other topographic data pertinent thereto and to the purposes of this article and [[it]]>>they<< shall also truly and faithfully depict ~~[[the boundary of]]~~ the airport zoning area and the boundaries; and by contour lines, the height limitations, ~~[[for the several]]~~ >>and<< zone classification districts therein as the same are established herein and as the same may be changed, varied, amended or supplemented by resolution as provided and prescribed in Chapter 33 of the Code of ~~[[Metropolitan]]~~>>Miami<< Dade County, Florida. Copies or prints of such drawings shall be maintained and kept on file in the offices of the >>Miami<<Dade County ~~[[Port Authority]]~~ >>Aviation Department<< and the >>Miami-Dade County Planning and Zoning<< Department and shall be prima facie evidence of the boundaries of the zone classification districts and the height limitations applicable thereto and therein.

Sec. 33-39[[6]]>>7<<. Nonconforming uses, regulations not retroactive.

The regulations prescribed by this article or any amendment thereto shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree or use of land lawfully in existence not conforming to the regulations as of July 19, 1969, or otherwise interfere with the continuance of any nonconforming use. >>Between July 19, 1969 and the effective date of this ordinance property owners shall not be permitted to erect any structure or to grow or maintain trees to heights in excess of those provided in Ordinance No. 69-40<<. After ~~[[the effective date hereof]]~~>>July 19, 1969<<, property owners shall not be permitted >>to erect any structure or<< to

grow or maintain trees to heights in excess of those provided herein. ~~[[Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was lawfully begun prior to the effective date of this article, and is diligently prosecuted and completed within the time limit as prescribed by the South Florida Building Code.]]~~ Notwithstanding the preceding provisions of this article, the owner of any such nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such marking, or marking and lighting, as shall be deemed necessary by the Director of the >>Aviation Department~~<< [[Port Authority]]~~, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazard. Such marking and lighting, and the installation, operation and maintenance thereof, or such disposition of the hazard as may be agreed upon by and between the owner and the Director of the >>Miami-<<Dade County >>Aviation Department~~<< [[Port Authority]]~~ in lieu of such marking, or marking and lighting, shall be at the expense of the >>Miami-<<Dade County >>Aviation Department~~<< [[Port Authority]]~~

>>For the purposes of determining what shall constitute a nonconforming use, nothing contained herein shall be construed to prohibit or to require the removal of any lawful residential construction existing on the effective date of this ordinance or the approval of new residential construction either (a) on land located inside a residential zoning district, (b) on land designated or considered as "Residential Communities" on the Comprehensive Development Master Plan Land Use Plan Map, or (c) on land designated as "Agriculture" or "Open Land" on the Land Use Plan Map that was surrounded on three or more sides within ¼ mile by land designated as "Residential Communities" on the Land Use Plan Map on the effective date of this ordinance. Any new residential construction on land identified in this paragraph is required to incorporate at least a 25 db Noise Level Reduction (NLR) into the design/construction of the structure.

For the purposes of determining what shall constitute a non-conforming use, nothing contained herein shall be construed to prohibit the construction of educational facilities previously approved by Zoning Resolution of the Community Zoning Appeals Board or Board of County Commissioners within twelve (12) months prior to the effective date of this ordinance.<<

Sec. 33-39[[7]]>>2<<. Administration and enforcement.

It shall be the duty of the Director >>of the Department of Planning and Zoning ~~[[Department]]~~ of Miami-Dade County, Florida, << to administer and enforce the regulations prescribed herein in accordance with Section 2-118, Code of ~~[[Metropolitan]]~~ >>Miami-<<Dade County, Florida.

In the event of any violation of the regulations contained herein, the person responsible for such violation shall be given notice in writing by the Director. Such notice shall indicate the nature of the violation and the necessary action to correct or abate the violation. A copy of said notice shall be sent to the Director of the ~~[[Dade County]]~~ >>Aviation Department and Team Metro of Miami-Dade County<< ~~[[Port Authority]]~~. A >> Planning and Zoning<< Department administrative official shall order discontinuance of use of land or buildings; removal of trees to conform with height limitations set forth herein; removal of buildings, additions, alteration, or structures; discontinuance of any work being done; or shall take any or all other action necessary to correct violations and obtain compliance with all the provisions of this article.

Sec. 33-~~[[398]]~~>>400<<. Permits.

Applications for permits under this article shall be obtained from the appropriate ~~[[Building]]~~ >>planning<< and >>z<<[[Z]]oning >>d<< ~~[[D]]~~epartment or agency.

>>Approval of a<<[[A]]pplications for permits for all construction, for adding height to any existing structures, and for all alterations, repairs, or additions that will change the use of the structure from the existing use to any commercial >>, << ~~[[or]]~~ industrial >>educational facility or residential<< use in any airport zone classification district lying within unincorporated >>and incorporated<< areas of >>Miami-<<Dade County, shall be obtained from the Director ~~[[:]]~~ >> of the Department of ~~Dade County~~ Planning and Zoning Department. such application for permits shall include the height and location of derricks, draglines, cranes and other boom-equipped machinery, if such machinery is to be used during construction. No person shall operate such equipment until approval is obtained from the Director of the Aviation Department<<.

All applications for permits made to appropriate municipal ~~[[Building]]~~ >>Planning<< and Zoning Department ~~>>S<<~~ or agencies for all construction or for adding height to any existing structure, and for all alterations, repairs, or additions that will change the use of structure from the existing use to any commercial ~~>>I<<~~ ~~[[ef]]~~ industrial >>educational facility or residential<< use in any airport zone classification district lying within a municipality for which airport zone classification district boundaries have been established herein, shall be approved by the Director >>of the Miami-Dade County Planning and Zoning Department<< or by his duly authorized representative prior to issuance of the permit by any municipal ~~[[Building]]~~ >>Planning<< and Zoning Department or agency for the purpose of assuring compliance with the minimum standards governing zoning as set forth in this article; provided, however, no approval by the Director >>of the Miami-Dade County Planning and Zoning Department<< will be required for building and use permits from municipalities which have adopted by ordinance effective airport zoning regulations, the minimum standards of which are at least as restrictive as the minimum standards prescribed herein as such apply to the areas covered by this article~~[[;]]~~ >>No<< approval by the Director >>of the Dade County Planning and Zoning Department<< will be required for building and use permits from municipalities which have adopted by ordinance effective general zoning regulations, the minimum standards of which are at least as restrictive as the minimum standards prescribed herein as such apply to the areas covered by this article; providing, however, that no municipality may grant any variance to said general zoning regulations which would make said minimum standards less restrictive than the minimum standards prescribed herein.

Permits will be approved by the Director >>of the Miami-Dade County Planning and Zoning Department<< or his duly authorized representative unless the proposal fails to meet the requirements of all applicable zoning regulations and building codes including the provisions of this article.

Permits when >>applied for by<< ~~[[issued to]]~~ applicants intending to use derricks, draglines, cranes and other boom-equipped machinery for such construction, reconstruction or alteration >>of any commercial, industrial, educational facility or residential use<<, shall, when the boom operating height exceeds the height limitations imposed by this article, require applicant to mark, or mark and light, the >>machinery<< ~~[[highest point on the~~

beom]] to reflect conformity with the Federal Aviation Administration's >>or the Miami-Dade County Aviation Department<< standards for marking and lighting obstructions. ~~[[and]] >>whichever is the more restrictive, and shall require the applicant in such cases to obtain approval from the Director of the Miami-Dade County Aviation Department for the location, height and time of operation for such construction equipment use prior to the issuance of a construction permit to the applicant.<< [[in such cases the applicant shall notify the Director of the Dade County Port Authority at least twenty-four (24) hours prior to the time that such use is to begin.]]~~

>>Notwithstanding any provision of this ordinance, in granting any permit or variance under this article, the Director or the appropriate board shall require the owner of the structure or tree for which a permit or variance is being sought, to install, operate and maintain thereon, at the owners sole expense, such marking and lighting as may be necessary to indicate to aircraft pilots the presence of an obstruction, such marking and lighting to conform to the specific standards established by rule of the Department of Transportation.<<

Any decision of the Director >>of the Planning and Zoning Department of Miami-Dade County<< may be appealed as provided and prescribed under Article XXXVI, of Chapter 33, Code of ~~[[Metropolitan]]~~ >>Miami-<< Dade County, Florida.

Sec. 33-~~[[399]]~~>>401<<. Nonconforming uses abandoned or destroyed.

Whenever the Director >>of Planning and Zoning Department of Miami-Dade County<< determines that >>the height limits or use standards of this article will be violated by the reconstruction, substitution or replacement of an existing nonconforming use, structure or tree, no permit shall be granted for such reconstruction substitution or replacement.<<[[a nonconforming use, structure or tree has been abandoned or is more than fifty (50) percent burned, torn down, physically deteriorated, or decayed, no permit shall be granted for reconstruction that would permit such structure or tree to violate height limits or use standard of this article.]]

Whether application is made for a permit under this paragraph or not, the Director >>of the Planning and Zoning

Department of Miami-Dade County<< may by appropriate action require the owner of the nonconforming structure or tree to permit the >>Miami-<<Dade County ~~[[Port Authority]]~~ >>Aviation Department<< at its expense to lower, remove, or mark, or mark and light such object as may be necessary to conform to these regulations.

Sec. 33-40[[0]]>>2<<. Variances

>>(1)<< Any person desiring to erect or increase the height of any structure, or permit the growth of any tree or otherwise use his property not in accordance with the regulations prescribed in this article may apply to the appropriate zoning board for a variance from such regulations as provided and prescribed under Article XXXVI or Chapter 33, Code of ~~[[Metropolitan]]~~ >>Miami-<< Dade County, Florida. >>Applications for variances or any other authorization for any construction or use not authorized by Sections 33-392, 33-393, 33-394, 33-395, 33-396 or 33-397 shall be submitted and determined in accordance with the procedures, provisions and requirements set forth in Florida Statutes, Section 333.03(1)(e) and Sections 333.07 through and including 333.11 (1998) or successor legislation. For the purpose of zoning applications filed under this chapter, ~~[[T]]~~>>t<<he appropriate Community Zoning Appeals Board shall constitute the board of adjustment pursuant to Florida Statutes, Section 333.10, subject to all procedures applicable to community zoning appeals boards.<<

>>(2) At the time of filing the application, the applicant shall forward to the Florida Department of Transportation by certified mail, return receipt requested, a copy of the application for the Department's review and comment, if any. A copy of the return receipt must be filed with the Director of the Miami-Dade County Department of Planning and Zoning at the time of filing the application. No public hearing on the application may commence less than forty-six (46) days after receipt of the application by the Department of Transportation. Notwithstanding any provision of the Code of Miami-Dade County, failure to comply with the requirements of this subsection shall be grounds for appeal of a decision rendered by the community zoning appeals board by an applicant, governing body of any municipality, if affected, or any aggrieved party as defined in Section 33-313, Code of Miami-Dade County, the Director or the County Manager to the Board of County Commissioners. The provisions of Section 33-313 shall govern all appeals brought under this subsection.<<

>>(3) No application shall be considered unless a written evaluation and recommendation of the director of the aviation department of his or her designee has been provided to the applicable board. For purposes of applications brought under this section, the procedures of this section shall be in addition to any procedures set forth elsewhere in the Code of Miami-Dade County.
<<

>>(4)<< Approval of such variances [[applications]] shall be [[allowed where]] >>limited to those cases in which<< it is duly found that a literal application or enforcement of the regulations would result in practical difficulty [[of]] ~~and~~>>or<< unnecessary hardship and the relief granted would not be contrary to the public interest but [[with]] >>would<< do substantial justice and be in accordance with the spirit of this article, and such zoning board is hereby admonished that the intent and purpose of this article is to promote the health, safety and general welfare of the inhabitants of Dade County, Florida, by preventing the creation >>of an airport hazard or of a hazard to air navigation<<, [[of establishment of airport hazards]], thereby protecting the lives and property of users of [[New]] >>Kendall-<<Tamiami >>Executive<< Airport and of occupants of land in its vicinity and preventing destruction or impairment of the utility of the airport and the public investment therein.

>>(5) Construction of any educational facility is prohibited at either end of a runway of Kendall-Tamiami Executive Airport within an area which extends 5 miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. In addition to any findings required in this chapter, variances approving construction of an educational facility within the delineated area shall only be granted when the appropriate zoning board makes specific findings detailing how the public policy reasons for allowing construction outweigh health and safety concerns prohibiting such a location.<<

>>(6) Notwithstanding the foregoing provisions of this section, in granting any permit or variance under this article, the Director or the appropriate board shall require the owner of the structure or tree for which a permit or variance is being sought, to install, operate and maintain thereon, at the owners sole expense, such marking and lighting as may be necessary to indicate to aircraft pilots the presence of an obstruction, such marking and lighting to

conform to the specific standards established by rule of the Department of Transportation.<<

>>(7) Notwithstanding any provision contained in any section of this Code, the Board of County Commissioners shall have jurisdiction over any appeal filed by the County Manager from a decision of a Community Zoning Appeals Board rendered pursuant to this section where it is the opinion of the County Manager that a Community Zoning Appeals Board's resolution is incompatible with aviation activity or aviation safety.<<

Sec. 33-40[[1]]>>3<<. ~~[[Hazard marking and lighting.]]~~
>>Conditions to variances.<<

Any ~~[[permit or]]~~ variance granted under this article may, if such action is deemed advisable to effectuate the purposes of this article and reasonable in the circumstance, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain >>at his expense<< or to permit the Dade County ~~[[Port Authority]]~~ >>Aviation Department<< to install, operate, and maintain thereon at the owner's expense such marking, or marking and lighting, as may be necessary to indicate to aircraft pilots the presence of an airport hazard ~~[[:-]]~~ >>or hazard to air navigation.<<

Sec. 33-40[[2]]>>4<<. Penalties and enforcement.

Each violation of this article or of any regulation, order, or ruling promulgated hereunder shall be punishable as provided by Section 33-39, Code of Metropolitan Dade County, Florida.

Sec. 33-40[[3]]>>5<<. Conflicting regulations.

>>Nothing contained in this article shall be interpreted to conflict with or supersede any federal regulation pertaining to the control of hazards to air navigation; provided however, w[[W]]here this article imposes lower height limitations or more stringent restrictions upon the use of land or water than are imposed or required by ~~[[any]]~~ other >>County<< ordinance or resolution. >>or federal rules or regulations. << the provisions of this article shall govern. ~~[[Nothing contained in this article shall, however, be interpreted to conflict with or supersede any federal regulations pertaining to the control of airport hazards.]]~~

Section 2. Article XXXVI of the Code of Metropolitan MIAMI-DADE COUNTY, Florida, is hereby amended to read as follows:

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

* * *

(8) Any appeal filed by the County Manager from any action of the Community Zoning Appeals Boards where it is the opinion of the County Manager that a Community Zoning Appeals Board's resolution has either (a) an overall impact to the County ~~[[or]]~~ >> << (b) is inconsistent with the Miami-Dade County Comprehensive Development Master Plan ~~[[or]]~~ >> or (c) is incompatible with aviation activity or aviation safety. <<

* * *

Section 3. This ordinance does not contain a sunset provision.

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

RA6
JM+CHC



MEMORANDUM

Agenda Item No. 4(D)

TO: Hon. Chairperson and Members
Board of County Commissioners

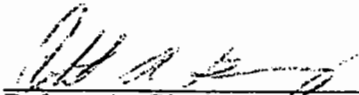
DATE: (Public Hearing 9-24-0
September 12, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to the
Northwest Dade Municipal
Advisory Committee

02-168

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



Robert A. Ginsburg
County Attorney

RAG/jls



MEMORANDUM

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: September 24, 2000

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance Relating the
Northwest Dade Municipal
Advisory Committee

02-168

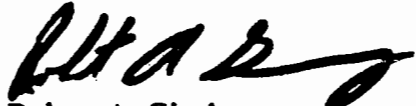
The accompanying ordinance modifying the study area boundaries of the Northwest Municipal Advisory Committee will have no fiscal impact.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 24, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(D)

02-168

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4(D)
9-24-02

Veto _____

Override _____

ORDINANCE NO. 02-168

ORDINANCE RELATING TO THE NORTHWEST DADE MUNICIPAL ADVISORY COMMITTEE; AMENDING ATTACHMENT A OF ORDINANCE NO. 02-100 OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR MODIFICATION OF BOUNDARIES OF THE AREA TO BE CONSIDERED FOR POSSIBLE INCORPORATION; PROVIDING SEVERABILITY; EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Attachment A to Ordinance No. 02-100 of Miami-Dade County, Florida is hereby amended to read as follows:¹

PROPOSED CITY OF NORTHWEST DADE BOUNDARIES

On the East: N.W. 57th Avenue (Red Road)

On the West: Interstate-75

On the South: S.R. 826 (Palmetto Expressway) between N.W. 57 Avenue and N.W. 77 Avenue (inclusive of the area on the North Side of the big curve on S.R. 826) from N.W. 165 Street Northward along the Palmetto/Golden Glades Canal to N.W. ~~[[186]]~~ >>170<< Street, then West ~~[[to N.W. 87 Avenue, then south to N.W. 170 Street then West]]~~ to Interstate I-75.

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

4 .

On the North: The Dade-Broward County Line.

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

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

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

Section 5. This ordinance shall stand repealed on June 27, 2004.

PASSED AND ADOPTED: **SEP 24 2002**

Approved by County Attorney as
to form and legal sufficiency:

RAE
CAC

Prepared by:
Craig H. Coller

Sponsored by Commissioner Natacha Seijas

5

1973

MEMORANDUM

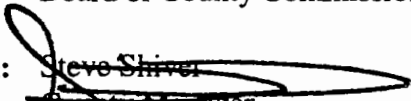


OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

Substitute
Agenda Item No. 4(L)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: September 12, 2002

From: 
County Manager

Subject: Proposed Ordinance Pertaining to
Zoning Regulation of
Telecommunications Facilities

02-153

This substitute differs from the original in that it clarifies certain permitted locations for rooftop antennas to be consistent with the Comprehensive Development Master Plan.

RECOMMENDATION

It is recommended that the attached ordinance pertaining to zoning regulations of telecommunications facilities be adopted.

BACKGROUND

In Miami-Dade County v. Omnipoint, the Third District Court of Appeal held unconstitutional the County's zoning ordinances relating to standards for consideration of special exceptions or unusual uses. The County Attorney's Office is currently seeking judicial review of the Omnipoint decision in the Florida Supreme Court. During the time this matter is pending, the decision is in effect. As a result of the Omnipoint decision, applications for telecommunications facilities previously approved as unusual uses have not been able to be heard.

The proposed ordinance is intended to allow certain additional telecommunications facilities as of right. The proposed ordinance expands the districts in which rooftop and wall mounted antennas are permitted, provides additional criteria for the installation of those antennas and modifies the screening and signage requirements. This is an interim ordinance to give some relief to the industry. Staff will continue to work with industry to draft regulations regarding other telecommunication applications. Staff has reviewed numerous codes of other jurisdictions and is drafting provisions to allow other telecommunications after public hearing, upon specific and measurable criteria.

FISCAL IMPACT

The proposed ordinance creates no fiscal impact on Miami-Dade County.


Attachment



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 12, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Substitute
SUBJECT: Agenda Item No. 4(L)

02-153

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Veto _____

Override _____

Substitute
Agenda Item No. 4(L)
9-12-02

ORDINANCE NO. 02-153

ORDINANCE PERTAINING TO ZONING
REGULATION OF WIRELESS SUPPORTED
SERVICE FACILITIES; EXPANDING DISTRICTS
IN WHICH ROOFTOP ANTENNAS ARE
PERMITTED AS OF RIGHT; PROVIDING
CRITERIA; MODIFYING SCREENING AND
SIGNAGE REQUIREMENTS; AMENDING
SECTIONS 33-62 AND 33-63.2 OF THE CODE OF
MIAMI-DADE COUNTY, FLORIDA; PROVIDING
SEVERABILITY, INCLUSION IN THE CODE
AND AN EFFECTIVE DATE

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

Section 1. Sec. 33-62 of the Code of Miami-Dade County, Florida is hereby
amended to read as follows¹:

Sec. 33-62. Height/>>>and Setback.<<

~~[[The top of the Structure shall not be higher above its foundation]] >>No part of any tower, pole or mast shall be higher<< than ninety (90) percent of the horizontal distance from its [[base]] >>foundation at ground elevation<< to the nearest point on adjacent property under another ownership or to the nearest edge of a highway right-of-way [[, except that masts or other Structures located on roofs of buildings in a BU or IU District shall be designed and erected as required by the South Florida Building Code and signs shall meet the requirements of article VI of this chapter; anything to the contrary notwithstanding, radio towers where incidental to a business or industrial use on the premises in a BU-3 or any IU Zone,]] >>It is provided, however, that in the BU-3~~

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

or IU zoning districts, the following structures 150 feet or less in height above ground elevation shall not be subject to the required setback: (a) radio towers where incidental to a business or industrial use on the premises, or (b) wireless supported service facilities whether a principal or incidental use;~~;<< [[need not conform to the requirements of this section, provided the same does not exceed a height of one hundred fifty (150) feet measured from ground elevation and the same conforms to the provisions of the South Florida Building Code;]]~~ provided, however, that such installation >> under (a) or (b)~~<<~~ shall conform to the provisions of all airport zoning regulations contained herein.

Section 2. Sec. 33-63.2 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 33-63.2. Wireless supported service facilities.

(a) *Permitted Districts* >> and Criteria for Antennas~~<<~~.

(1) >>Permitted Districts.<< Antennas used as part of a Wireless Supported Service Facility, which ~~[[is]]~~ >>are~~<<~~ mounted on existing Structures, shall be permitted in the following zoning districts subject to the criteria outlined below.

~~[[(+)]]~~>>(A)<<In hotels, motels and apartment hotels in an RU-4A district; in all RU-5, RU-5A, OPD, and all business and industrial districts.

>>(B) On multi-family residential buildings in an RU-4L, RU-4M, RU-4 and RU-4A district.

(C) In any district on any structure lawfully being used for any of the following purposes, where the site is located at the intersection of section-line roads, a transition area, or abutting a major roadway as depicted on the Land Use Plan Map of the Comprehensive Development Master Plan, or section center: public or private/nonpublic educational facilities on a site of 10 or

more gross acres, hospitals, race tracks, stadiums, or public or private utilities. <<

(2) >>Criteria<< Antennas may be located on existing Structures with a height of thirty (30) feet or greater, so long as the Antennas do not extend >>(i)<< more than thirteen (13) feet above the highest point of the roof of a building as measured in accordance with the provisions with Section 33-1(17) or >>(ii)<< the highest point on the Structure >>as measured from the average elevation of the finished building site to the top of the structure<<.

[(a)]>>(A)<< Except for Cylinder type Antennas, Antennas shall be screened from view or wall mounted and shall not exceed nine (9) Sectors.

[(+)]>>(B)<< Where wall mounted>>,<< Antennas shall not extend above the wall where located and shall be painted to match the supporting Structure. Wall mounted Antennas shall be limited to one (1) Sector per building elevation.

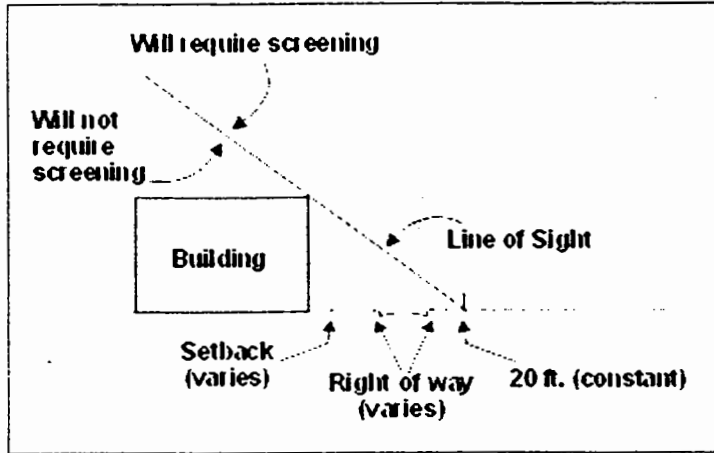
[(#)]>>(C)<< Wall mounted Antennas not exceeding the height of the wall where located and painted to match the supporting Structure will be allowed on roof top elevator bulkheads, roof top enclosures for mechanical equipment, and roof top Accessory Wireless Equipment Buildings in addition to (b)(2)(i), above, but shall be limited to one (1) Sector per elevation[[s]] on a particular roof top Structure where they are placed.

[(##)]>>(D)<< Where roof mounted:

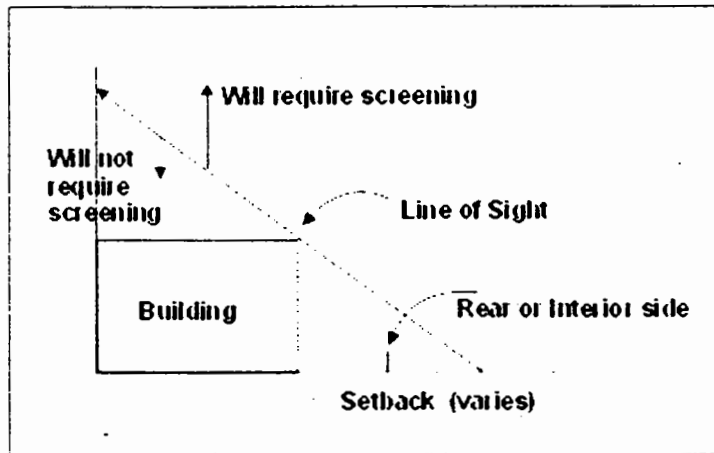
1. Requests to install roof mounted Antennas shall be accompanied by line of site analysis for each building elevation. The line of site analysis shall be provided for in the [[sketch]] >>sketches<<shown below as [[figure]] >>figures<< 33-63.2(b)(2)iii >>and iv. In conducting such analysis,<< [[F]] >>t<<he width of the right-of-way shall be equal to the width of the right-of-way fronting the particular elevation.

GRAPHIC LINK: Figure 33-63.2(b)(2)iii

Figure 33-63.2(b)(2)iii



>>Figure 33-63.2(b)(2)iv<<



2. Any Antennas or portion thereof above the line of site will require screening. All required screening used in conjunction with such roof top installations shall be architecturally compatible and harmonious in color and materials with the supporting Structures >> and any existing or approved screening on the structure. Screening materials at corners shall be the same length and height on all corners.<<.

~~[[2-]]~~ >>(i)<< ~~[[Where screening is required and where the screening is located within thirteen (13) feet of a corner of a Structure, screening material shall be installed on the two (2) side of the corner, nearest the exterior wall~~

~~of the Structure. The screening material at the corners shall be the same length and height on both corners. After the initial Antennas installation, any additional Antennas installed within twenty (20) feet of the corner where the initial installation took place and which require screening shall be continuously screened in the same fashion as the initial installation.]] >>An initial antenna installation within 13 feet of the corner of a structure shall require screening along the rooflines of both sides of the corner to a distance of 13 feet.<<~~

~~[[3.]] >>(ii)<< [[Where screening is required and where screening is not located within thirteen (13) feet of the corner of the roof, or continuously as provided for in 4, above, screening material shall be installed between the Antennas(s) and the nearest exterior wall of the Structure.]] >>An initial antenna installation more than 13 feet from the corner of a structure, or the installation of any antenna subsequent to a prior antenna installation, shall provide screening along the entire rooflines from which the line of sight analysis shows that the antenna can be seen. <<~~

~~[[4. Screening for installations not covered by 1., 2. or 3 above shall be as required by the Director.]]~~

~~[[3]] >>3.<<Cylinder type Antennas shall be limited to three (3) per Structure and shall be painted to match the Structure.~~

~~[[4]] >>4.<<No sign shall be allowed on an Antenna.~~

~~[[5]] >>5.<<No signals, lights, or illumination shall be permitted on an Antenna, unless required by any applicable federal, state or local rule, regulation or law.~~

~~[[6]] >>6.<<Accessory Wireless Equipment Buildings used in conjunction with Antennas, if located on the ground, shall comply with the minimum principal building setback requirements of the zoning district in which there located. Self-standing, non sheltered equipment cabinet(s) used in conjunction with Antennas,~~

if located on the ground shall be deemed mechanical equipment similar to air conditioning units and shall be limited to a height not to exceed eight (8) feet and an area not to exceed eighty (80) square feet. There shall be no minimum spacing between Accessory Wireless Equipment Buildings and the building located on the property.

~~[[(7) Antennas meeting the criteria outlined in this Section shall not require an unusual use.]]~~

(b) >> Permitted Districts and Criteria for << Antenna Support Structures.

>> (1) Permitted Districts. << Wireless Supported Service Facilities including Antenna Support Structures of one hundred (100) feet or less in height used in connection with a Wireless Supported Service Facility shall be permitted in the BU-3 and in all Industrial Districts. When the Antenna Support Structure is greater than one hundred (100) feet in height, a public hearing is required pursuant to pursuant to Section 33.13(e). ~~[[Antenna Support Structures, which exceed one hundred fifty (150) feet in height, must comply with the requirements of Section 33-62.]]~~

>> (2) Criteria. <<

~~[[(1)]]~~ *>> Signage. << [[No sign shall be allowed on the Antenna Support Structures or the Antennas.]]* *>> No advertising signs, including commercial advertising, logo, political signs, flyers, flags or banners, whether or not posted temporarily, shall be permitted on any part of the antenna support structures or antenna with the exception of the following:*

- A. Warning, danger or other sign designed to maintain public safety;
- B. Any federal, state or municipal flags located on such facilities designed to look like a flagpole; or
- C. Permitted signage associated with the principle use on the property where the principle use incorporates a camouflaged antenna support structure. <<

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

Section 6. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: **SEP 12 2002**

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

JAC

Joni Armstrong Coffey

RECEIVED
LEGAL COUNSEL SEC.

02 SEP 26 PM 1:01



MEMORANDUM

CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
Substitute **DADE COUNTY, FLORIDA**
Agenda Item No. 4(J)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: **September 12, 2002**

From: Steve Shiver
County Manager

Subject: Proposed Ordinance Pertaining to
Zoning Regulations of Downtown
Kendall Urban Center Zoning
District

02-152

This substitute differs from the original in that it modifies the designation of the street which parallels and is west of the Metrorail Corridor, south of Kendall Drive, from a 'B' Street to a 'D' Street on the Street Frontage Regulating Plan.

RECOMMENDATION

It is recommended that the attached ordinance pertaining to zoning regulations for the Downtown Kendall Urban Center District be adopted. This ordinance will provide further definition to the criteria within the Code to allow more flexibility in the mixing of residential uses and a more logical street pattern adjacent to the Palmetto Expressway of the Metrorail Corridor.

BACKGROUND

The review of a number of development proposals within the area south of Kendall Drive have indicated to staff that several, relatively minor, modifications to the regulations are warranted. Both the street Frontage and Open Space Regulating Plans are proposed to be modified to adjust the location of two minor streets to accommodate development more consistent with the design principles underlying the Downtown Kendall Urban Center District regulations. In addition, these changes will also allow a mezzanine within townhouse units to be enlarged up to eighty (80%) percent of the area of the ground floor of the unit. This provision will encourage large, two-story units to front the streets. Lastly, a modification of the minimum width of service streets ('D') is recommended to be reduced from fifty-four (54) feet to thirty-five (35) feet. In some instances, the narrower width will adequately accommodate service vehicles with two twelve (12) foot travel lanes plus an eight (8) foot wide sidewalk.

In summary, these modifications represent a further fine-tuning of the Downtown Kendall Urban Center regulations which are necessary to achieve the objectives of the plan.

FISCAL IMPACT

This modification will not have a fiscal impact on Miami-Dade County.

Attachments



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 12, 2002

FROM: *Robert A. Ginsburg*
Robert A. Ginsburg
County Attorney

Substitute
SUBJECT: Agenda Item No. 4(J)

02-152

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No. 4(J)
9-12-02

ORDINANCE NO. 02-152

ORDINANCE RELATING TO ZONING REGULATIONS OF
DOWNTOWN KENDALL URBAN CENTER DISTRICT;
MODIFYING REGULATING PLANS; MODIFYING
PROVISIONS RELATING TO MEZZANINES AND MINIMUM
WIDTH OF 'D' STREETS; PROVIDING SEVERABILITY,
INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

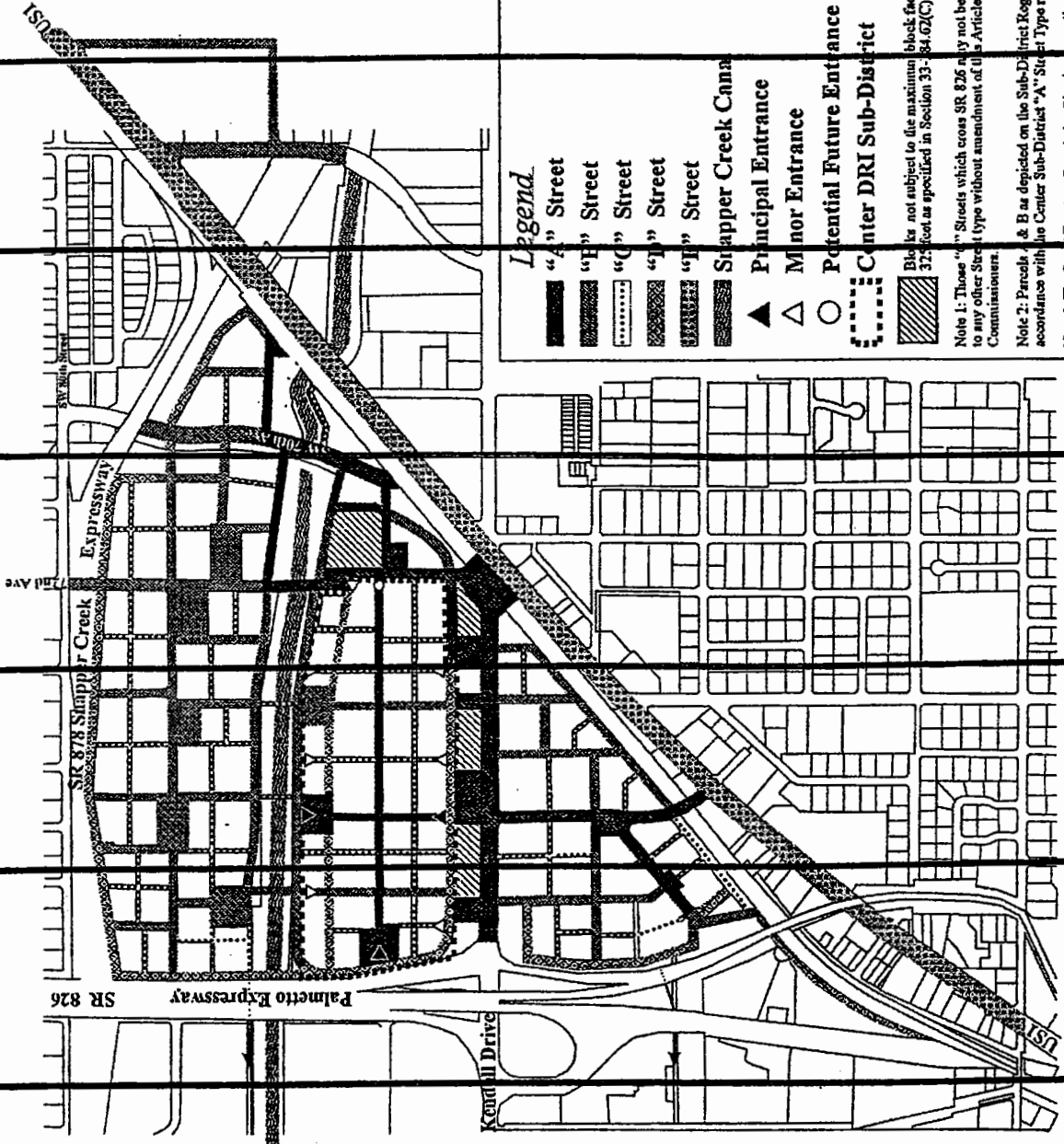
Section 1: Sec. 33-284.61 of the Code of Miami-Dade County, Florida, is
hereby amended to read as follows:¹

~~[[Sec. 33-284.61—Regulating Plans.
(B) Street Frontage Plan]]~~

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

02-152

[[B-Street Frontage Plan]]



Legend

- "A" Street
- "B" Street
- "C" Street
- "D" Street
- "E" Street
- Slippin Creek Canal
- ▲ Principal Entrance
- △ Minor Entrance
- Potential Future Entrance
- Center DRI Sub-District
- ▨ Blocks not subject to the maximum block face length of 375 feet as specified in Section 33-84.62(C)(4)(c).

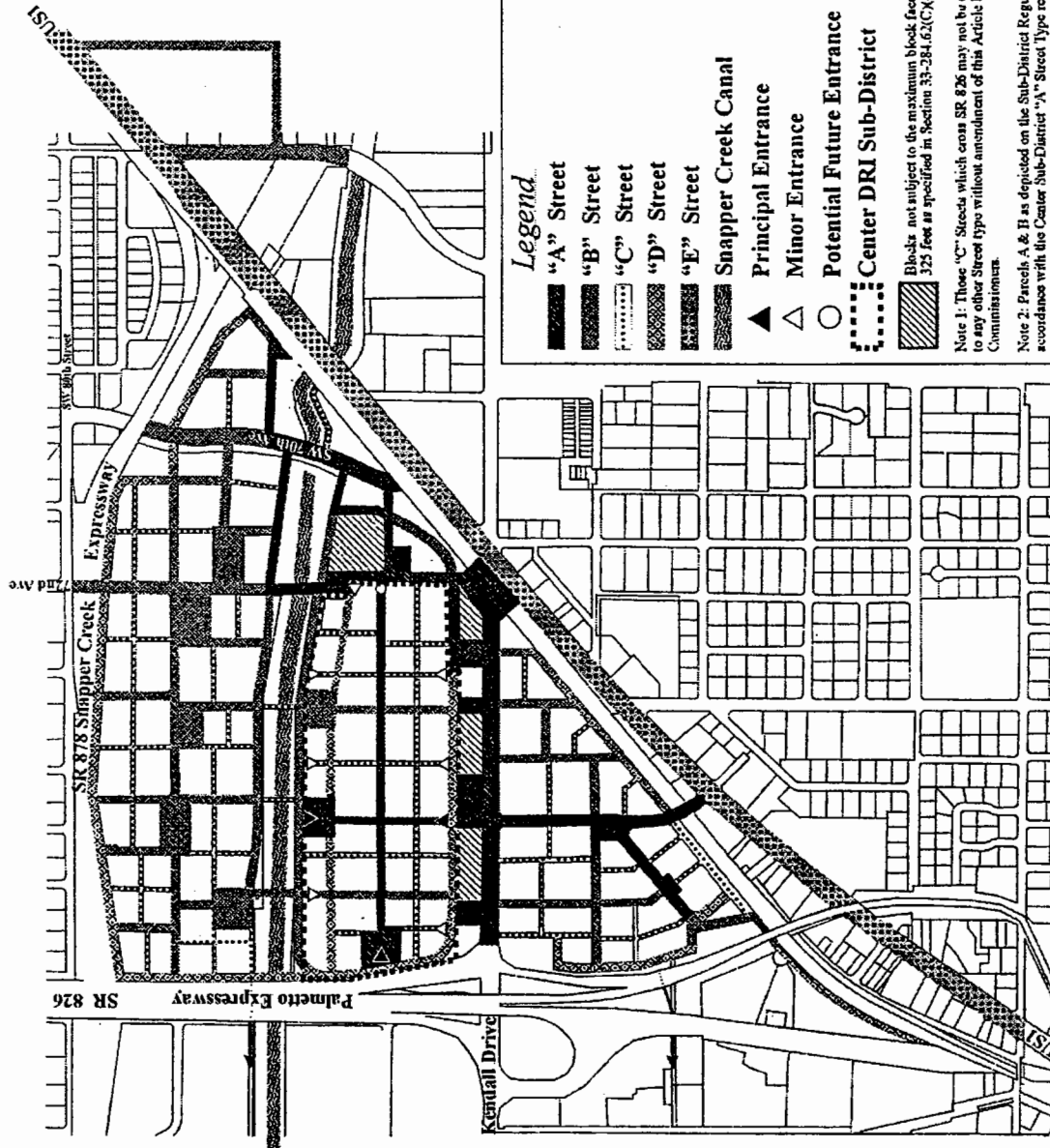
Note 1: Those "A" Streets which cross SR 826 may not be used for vehicular traffic or converted to any other Street type without amendment of the Article by the Board of County Commissioners.

Note 2: Parcels A & B as depicted on the Sub-District Regulating Plan shall be developed in accordance with the Center Sub-District "A" Street Type requirements, including colorado.

Note 3: The Street Frontage Regulating Plan is not applicable to development within the Center DRI Sub-District when built in accordance with the Center DRI Sub-District provisions, except as noted above in Note 2.

1

>>B. Street Frontage Plan<<



Legend

- "A" Street
- ▨ "B" Street
- ▩ "C" Street
- ▧ "D" Street
- ▦ "E" Street
- ▤ Snapper Creek Canal
- ▲ Principal Entrance
- △ Minor Entrance
- Potential Future Entrance
- ⋯ Center DRI Sub-District

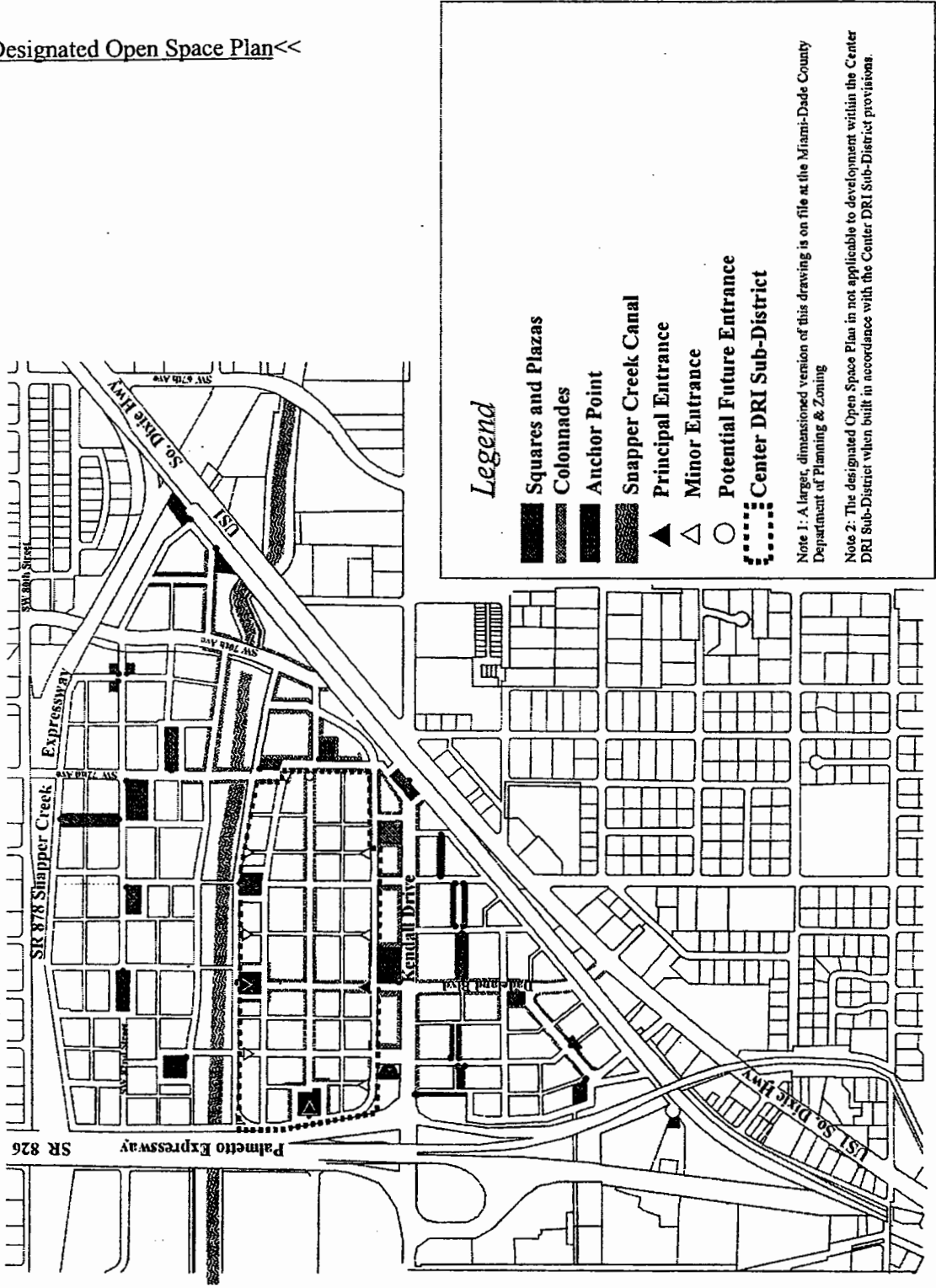
Blocks not subject to the maximum block face length of 325 feet as specified in Section 33-284.62(C)(4)(c).

Note 1: Those "C" Streets which cross SR 826 may not be used for vehicular traffic or converted to any other Street type without amendment of this Article by the Board of County Commissioners.

Note 2: Parcels A, & B as depicted on the Sub-District Regulating Plan shall be developed in accordance with the Center Sub-District "N" Street Type requirements, including colonnades.

Note 3: The Street Frontage Regulating Plan is not applicable to development within the Center DRI Sub-District when built in accordance with the Center DRI Sub-District provisions, except as noted above in Note 2.

>>C. Designated Open Space Plan<<



02-152

Sec. 33-284.62 Development Parameters.

(C) General Requirements.

All new and renewal development shall comply with the following parameters irrespective of Sub-District and frontage categories:

* * *

(3) Lots and Buildings.

* * *

(c) Each story shall be between eight (8) feet and fourteen (14) feet high from floor to ceiling. Floors more than fourteen (14) feet, as measured from floor to ceiling, will count as additional floors. Within the pedestal, one story may exceed fourteen (14) feet, up to thirty (30) feet, provided no mezzanine area >>intended for commercial use<< exceeds ten (10) percent >>and no mezzanine area intended for residential use exceeds 80%<< of the area of the floor immediately below.

* * *

(4) Streets, Alleys, and Paseos.

New streets shall be located according to the Street Frontage Plan. These locations are schematic to allow flexibility in the design of the site plan and may be modified or deleted by the Director so long as the following requirements are met:

* * *

(d) All new "A", >>and<< "B", [~~and "D"~~] streets, both public and private, shall have a minimum right-of-way width of fifty-four (54) feet. All new "A" and "B" Streets shall have curb and gutter, and have sidewalks on both sides of the travel lanes. Where possible, there shall be parking lanes which in addition to on-street parking may be used for "drop off" areas, valet stands, or bus stops. "D" Streets shall have >>a minimum width of thirty-five (35) feet with<<a sidewalk on at least one side of the street.

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

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

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: **SEP 12 2002**

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

AC

Jeni Armstrong Coffey

RECEIVED
LEGAL COUNSEL SEC.

02 SEP 26 PM 1:01

MEMORANDUM

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

Amended
Agenda Item No. 4(E)

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: (Public Hearing 9-12-02
July 9, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance amending Section
33-284.27(I) of the Code to
modify required common open
space in Planned Area
Development (PAD)

O#02-149

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Jimmy L. Morales.

RECEIVED
LEGAL COUNSEL SEC.
02 NOV -5 AM 10:46

Robert A. Ginsburg
Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 12, 2002

FROM: Steve Shiver
County Manager

A handwritten signature in black ink, appearing to read 'Steve Shiver', written over the printed name.

SUBJECT: Ordinance amending
Section 33-284.27(I) of the
Code to modify required common
open space in Planned
Area Development (PAD)

The proposed ordinance amending Section 33-284.27(I) of the County Code modifying the required common open space in a Planned Area Development (PAD) will not have a fiscal impact upon Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 12, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Amended
SUBJECT: Agenda Item No. 4(E)

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 4(E)
9-12-02

ORDINANCE NO. 02-149

ORDINANCE AMENDING SECTION 33-284.27(I) OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO MODIFY THE REQUIRED COMMON OPEN SPACE IN PLANNED AREA DISTRICT (PAD); PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. The required common open space provision contained in Section 33-284.27(I) of the Code of Miami-Dade County is hereby amended to read as follows: ¹

Sec. 33-284.27

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

* * *

(I) *Common open space.*

Open space for the common benefit of the residents of the proposed development shall be provided in accordance with the requirements [~~hereby established.~~] >>in the following table:<<

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

<u>>> Dwelling Units per Residential Net Acre</u>	<u>Percentage of the Development Tract, Site Area to be Developed to Common Open Space</u>
<u>Up to 10</u>	<u>30%</u>
<u>11-20</u>	<u>33%</u>
<u>21-30</u>	<u>35%</u>
<u>31-40</u>	<u>38%</u>
<u>41 or more</u>	<u>40%<<</u>

Development tract(s) which comply with Section 33-284.27(H) shall meet the open space requirements of the applicable zoning district and not those listed ~~[[below]]~~ >>above.<< Areas to be credited toward the common open space requirements ~~[[are categorized as follows]]~~ >>may include the following:<<

(1) Landscaped ground areas maintained with grass, trees and shrubbery, and unencumbered with any structure or off-street parking or private drives~~[[:-]]~~ >>including those on roof decks and other above-grade surfaces.<<

(2) ~~[[Lakes]]~~ >>E<<[[e]] ntrance features, pedestrian walks and sitting areas, shuffle board courts, swimming pools, tennis courts, accessory buildings related to active or passive recreational uses and other passive or active uses including golf courses, which shall be restricted for said use. ~~[[for a minimum of 40 years.]]~~

>>(3) Tree preservation zones of "natural forest communities" as defined in Section 24B-1, Code of Miami-Dade County.

(4) Water bodies, but such water areas shall not be credited for more than 50 percent of the required common open space.

(5) Land for perimeter walls, buffers, fences and berms shall be considered part of the common open space.<<

~~[[(3) — Category (1) type areas on roof decks and other above-grade surfaces.~~

~~— (4) — Category (2) type areas on roof decks and other above-grade surfaces.~~

~~Following are the minimum and maximum amounts for each category of common open space:~~

	<u>Minimum</u>	<u>Maximum</u>
<u>Category (1)</u>	<u>60</u>	<u>80%</u>
<u>Category (2)</u>	<u>20</u>	<u>40</u>
<u>Category (3)</u>	<u>None</u>	<u>20</u>

Category (4) ————— None ————— 10]]

[[Common open space at grade or above grade in categories (1) through (4) above shall be provided in each development tract in accordance with the following table. Dwelling units per Residential Gross Acre	Percentage of the Development Tract, Site Area to be Devoted to Common Open Space (excluding all dedicated rights-of-way)
Up to 3	20.0%
4	24.0
5	28.0
6	31.0
7	34.0
8	36.0
9	38.0
10	40.0
11	41.0
12	42.0
13	43.0
14	44.0
15	45.0
16	46.0
17	47.0
18	48.0
19	49.0
20	50.0
21	51.0
22	52.0
23	53.0
24	54.0
25	55.0
26	56.0
27	57.0
28	58.0
29	59.0

~~Over 29: One (1) percent increase in open space for each additional dwelling unit per acre up to a maximum of seventy five (75) percent open space.]]~~

* * *

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

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

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: **SEP 12 2002**

Approved by County Attorney as
to form and legal sufficiency:

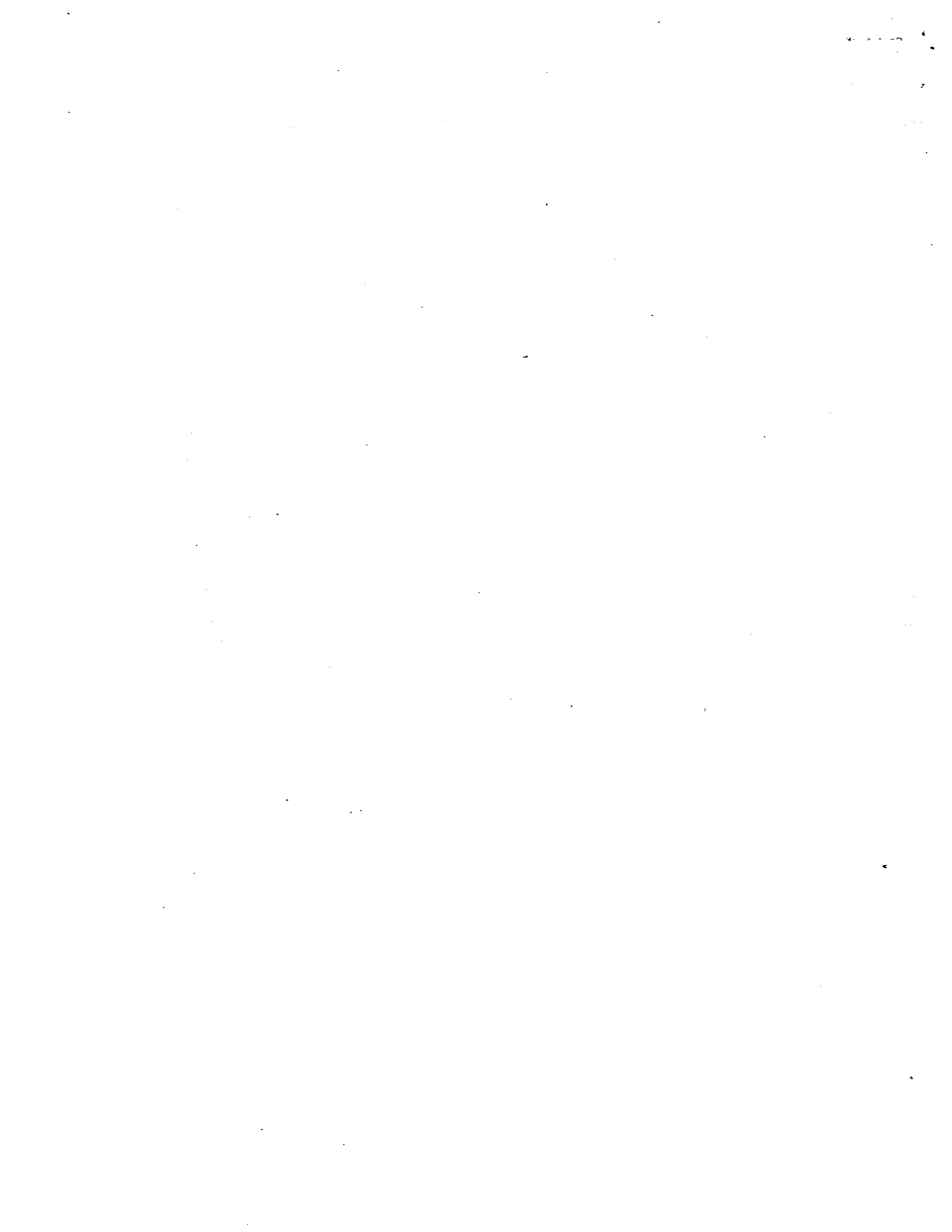
LMC

Prepared by:

JM

John McInnis

Sponsored by Commissioner Jimmy L. Morales





MEMORANDUM

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
Substitute **DADE COUNTY, FLORIDA**
Agenda Item No. 4(N)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: July 23, 2002

From: Steve Shiver
County Manager

Subject: Proposed Ordinance Pertaining to
Zoning Regulations for Single
Family and Duplex Residential
Zoning Districts

02-138

This substitute differs from the original in that it adds certain standards and clarifies others for the alternative site development option in single family and duplex dwellings.

RECOMMENDATION

It is recommended that the Board approve the attached ordinance providing new regulations for most zoning districts allowing single family or duplex uses. The proposed ordinance provides additional site development standards to be applied at public zoning hearings to determine lot setbacks, area, frontage, depth and coverage, and structure height.

BACKGROUND

The proposed ordinance establishes additional new standards for single family and duplex development in the GU, RU-1, RU-1Z, RU-1M(a), RU-1M(b), RU-2, RU-TH, RU-3, RU-3M, RU-3B, RU-4L, RU-4M, RU-4, RU-4A, EU-M, EU-S, EU-1, EU-1C, EU-2, and AU zoning districts. Under the new regulatory scheme, the Community Zoning Appeals Boards and this Board would apply the new objective standards at public hearing to determine whether an applicant has met the specific requirements to obtain the requested alternative development authorization. If the standards are met, the applicant shall be granted the alternative approval, unless it is demonstrated at the hearing that the proposed development contravenes the public interest in certain enumerated ways.

The standards for approval are designed to be objective, measurable criteria by which an alternative development proposal shall be considered for approval at a particular site. The standards address a proposed development's specific impacts, including impacts on privacy, lighting, shadows and neighborhood character; preservation of sufficient open space and architectural consistency on the parcel proposed for development; and buffering and other mitigation of impacts.

The proposed ordinance also requires the approval of alternative development where the evidence shows that the strict application of the underlying district regulations would result in an unnecessary hardship.

The proposed ordinance differs materially from the prior non-use variance regulatory scheme, in that it establishes specific objective standards to be applied at public hearing. Further, it requires approval of an application if the specific standards are met, unless the evidence shows the application to be contrary to the enumerated public interest standards. This regulatory scheme is designed to address the concerns of the Third District Court of Appeal, as articulated in the Miami-Dade County v. Omnipoint case. These new standards will allow certain single family and duplex development proposals to move forward while the appeal of the Omnipoint decision is pending in the Florida Supreme Court.

FISCAL IMPACT


The proposed ordinance creates no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 23, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Substitute
SUBJECT: Agenda Item No. 4(N)

02-138

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No. 4(N)
7-23-02

ORDINANCE NO. **02-138**

ORDINANCE PERTAINING TO ZONING; MODIFYING CHAPTER 33 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE") TO INCLUDE STANDARDS FOR APPROVAL AFTER PUBLIC HEARING OF SETBACKS, MINIMUM LOT AREA, FRONTAGE AND DEPTH, MAXIMUM LOT COVERAGE, AND MAXIMUM STRUCTURE HEIGHT, FOR SINGLE FAMILY DWELLINGS AND DUPLEXES IN CERTAIN ZONING DISTRICTS PERMITTING RESIDENTIAL USES; PROVIDING PURPOSE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE.

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

Section 1. Sec. 33-311 of the Code of Miami-Dade County, Florida, is hereby amended as follows:¹

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

(A) Except as otherwise provided by this chapter, the Community Zoning Appeals Boards and Board of County Commissioners shall have the authority and duty to consider and act upon applications, as hereinafter set forth, after first considering the written recommendations thereon of the Director or Developmental Impact Committee.

* * *

>>(14) Alternative Site Development Option for Single Family and Duplex Dwellings. This subsection provides for the establishment of an alternative site

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

02-138

development option, after public hearing, for single family and duplex dwellings, when such uses are permitted by the underlying district regulations, in the GU, RU-1, RU-1Z, RU-1M(a), RU-1M(b), RU-2, RU-TH, RU-3, RU-3M, RU-3B, RU-4L, RU-4M, RU-4, RU-4A, RU-5, EU-M, EU-S, EU-1, EU-1C, EU-2, and AU zoning districts, in accordance with the standards established herein. In considering any application for approval hereunder, the Community Zoning Appeals Board shall consider the same subject to approval of a site plan or such other plans as necessary to demonstrate compliance with the standards herein.

(a) Purpose. The purpose of this subsection is to create objective standards to regulate the site-specific development of single family and duplex uses in specified zoning districts. The standards provided in this subsection are alternatives to the generalized standards contained in regulations governing the specified zoning districts. The site development standards permit alternative patterns of site development in accordance with the Comprehensive Development Master Plan ("CDMP") where the public interest served by the underlying district regulations and CDMP will be served, and the objectives of the creative urban design, urban infill development and redevelopment, or the preservation and enhancement of property values will be promoted, as demonstrated by the proposed alternative development's compliance with the standards of this subsection. A zoning application for development in compliance with the alternative standards shall be approved upon demonstration at public hearing that the proposed development is in compliance with the applicable alternative standards and does not contravene the enumerated public interest standards established herein.

(b) For the purposes of this subsection, the following terms shall have the following meanings:

"Immediate vicinity" means an area in which a parcel of land proposed for alternative development is located that is physically, functionally or geographically identifiable as a distinct realm, place or neighborhood, or an area within a radius of not more than five hundred (500) feet from the parcel proposed for alternative development, whichever is smaller.

"Open space" means that portion of a parcel of land which is not covered with a building and is open to the sky and may include patios, limited roof overhangs, screened enclosures with screened roofs, open trellises, walkways, swimming pools, tennis courts, landscaped areas, decks, and non-covered parking areas.

"Parcel proposed for alternative development" means the site of the structure for which approval is sought under this subsection.

"Proposed alternative development" means any building activity for which approval is sought under this subsection.

“Underlying district regulations” means the site development regulations of the particular zoning district in which the proposed alternative development is located, such as setbacks, lot area, frontage, and depth, lot coverage, and structure height.

(c) Setbacks for a single family or duplex dwelling shall be approved after public hearing upon demonstration of the following:

(1) the character and design of the proposed alternative development will not result in a material diminution of the privacy of adjoining residential property; and

(2) the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity, taking into account existing structures and open space; and

(3) the proposed alternative development will not reduce the amount of open space on the parcel proposed for alternative development to less than 40% of the total net lot area; and

(4) any area of shadow cast by the proposed alternative development upon an adjoining parcel of land during daylight hours will be no larger than would be cast by a structure constructed pursuant to the underlying district regulations, or will have no more than a *de minimus* impact on the use and enjoyment of the adjoining parcel of land; and

(5) the proposed alternative development will not involve the installation or operation of any mechanical equipment closer to the adjoining parcel of land than any other portion of the proposed alternative development, unless such equipment is located within an enclosed, soundproofing structure; and

(6) the proposed alternative development will not involve any outdoor lighting fixture that casts light on an adjoining parcel of land at an intensity greater than permitted by this code; and

(7) the architectural design, scale, mass, and building materials of any proposed structure or addition are aesthetically harmonious with that of other existing or proposed structures or buildings on the parcel proposed for alternative development; and

(8) the wall of any building within a setback area required by the underlying district regulations shall be improved with architectural details and treatments that avoid the appearance of a “blank wall”; and

(9) the proposed alternative development will not result in the destruction or removal of mature trees within a setback required by the underlying district regulations, with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the same side of the lot; and

(10) any windows or doors in any building to be located within an interior side setback required by the underlying district regulations shall be designed and located so that they are not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; and

(11) total lot coverage shall not be increased by more than twenty percent (20%) of the lot coverage permitted by the underlying district regulations; and

(12) the area within an interior side setback required by the underlying district regulations located behind the front building line will not be used for off-street parking except:

(A) in an enclosed garage where the garage door is located so that it is not aligned directly across from facing windows or doors on buildings located on an adjoining parcel of land; or

(B) if the off-street parking is buffered from property that abuts the setback area by a solid wall at least six (6) feet in height along the area of pavement and parking, with either:

(i) articulation to avoid the appearance of a "blank wall" when viewed from the adjoining property, or

(ii) landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement regarding its maintenance in recordable form from the adjoining landowner; and

(13) any structure within an interior side setback required by the underlying district regulations:

(A) is screened from adjoining property by landscape material of sufficient size and composition to obscure at least sixty

percent (60%) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure at time of planting; or

(B) is screened from adjoining property by an opaque fence or wall at least six (6) feet in height that meets the standards set forth in paragraph (f) herein; and

(14) any proposed alternative development not attached to a principal building, except canopy carports, is located behind the front building line; and

(15) any structure not attached to a principal building and proposed to be located within a setback required by the underlying district regulations shall be separated from any other structure by at least three (3) feet; and

(16) when a principal building is proposed to be located within a setback required by the underlying district regulations, any enclosed portion of the upper floor of such building shall not extend beyond the first floor of such building within the setback; and

(17) the eighteen (18) inch distance between any swimming pool and any wall or enclosure required by this code is maintained; and

(18) safe sight distance triangles shall be maintained as required by this code; and

(19) the parcel proposed for alternative development will continue to provide on-site parking as required by this code; and

(20) the parcel proposed for alternative development shall satisfy underlying district regulations or, if applicable, prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002), regulating lot area, frontage and depth; and

(21) the proposed development will meet the following:

(A) interior side setbacks will be at least three (3) feet or fifty percent (50%) of the side setbacks required by the underlying district regulations, whichever is greater;

(B) side street setbacks shall not be reduced by more than fifty percent (50%) of the underlying district regulations;

(C) interior side setbacks for active recreational uses shall be no less than seven (7) feet in an EU, AU or GU zoning district or three (3) feet in all other zoning districts to which this subsection applies;

(D) front setbacks will be at least twelve and one-half (12-½) feet or fifty percent (50%) of the front setbacks required by the underlying district regulations, whichever is greater;

(E) rear setbacks will be at least three (3) feet for detached accessory structures and ten (10) feet for principal structures.

(d) The lot area, frontage, or depth for a single family or duplex dwelling shall be approved upon demonstration of at least one of the following:

(1) the proposed lot area, frontage or depth will permit the development or redevelopment of a single family or duplex dwelling on a parcel of land where such dwelling would not otherwise be permitted by the underlying district regulations due to the size or configuration of the parcel proposed for alternative development, provided that:

(A) the parcel is under lawful separate ownership from any contiguous property and is not otherwise grandfathered for single family or duplex use; and

(B) the proposed alternative development will not result in the further subdivision of land; and

(C) the size and dimensions of the lot are sufficient to provide all setbacks required by the underlying district regulations; and

(D) the lot area is not less than ninety percent (90%) of the minimum lot area required by the underlying district regulations; and

(E) the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and

(F) the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and

(G) sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

(2) the proposed alternative development will result in open space, community design, amenities or preservation of natural resources that enhances the function or aesthetic character of the immediate vicinity in a manner not otherwise achievable through application of the underlying district regulations, provided that:

(A) the density of the proposed alternative development does not exceed that permitted by the underlying district regulations; and

(B) the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (August 2, 2002); and

(C) each lot's area is not less than eighty percent (80%) of the lot area required by the underlying district regulations; and

(D) the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and

(E) the parcel proposed for alternative development is not zoned AU of GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and

(F) sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

(3) the proposed lot area, frontage or depth is such that:

(A) the proposed alternative development will not result in the creation of more than three (3) lots; and

(B) the size and dimensions of each lot are sufficient to provide all setbacks required by the underlying district regulations; and

(C) no lot area shall be less than the smaller of:

(i) ninety percent (90%) of the lot area required by the underlying district regulations; or

(ii) the average area of the developed lots in the immediate vicinity within the same zoning district; and

(D) the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity; and

(E) the parcel proposed for alternative development is not zoned AU or GU, nor is it designated agricultural or open land under the Comprehensive Development Master Plan; and

(F) sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

(4) if the proposed alternative development involves the creation of new parcels of smaller than five (5) gross acres in an area designated agricultural in the Comprehensive Development Master Plan:

(A) the abutting parcels are predominately parcelized in a manner similar to the proposed alternative development on three (3) or more sides of the parcel proposed for alternative development; and

(B) the division of the parcel proposed for alternative development will not precipitate additional land division in the area.

(C) the size and dimensions of each lot in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations; and

(D) the proposed alternative development will not result in an obvious departure from the aesthetic character of the surrounding area defined by the closest natural and man-made boundaries lying with the agricultural designation; and

(E) sufficient frontage shall be maintained to permit vehicular access to all resulting lots.

(e) A lot coverage ratio for a single family or duplex dwelling shall be approved upon demonstration of the following:

(1) total lot coverage shall not be increased by more than twenty percent (20%) of the lot coverage permitted by the underlying district regulations; and

(2) the proposed alternative development will not result in the destruction or removal of mature trees on the lot with a diameter at breast height of greater than ten (10) inches, unless the trees are among those listed in section 24-60(4)(f) of this code, or the trees are relocated in a manner that preserves the aesthetic and shade qualities of the lot; and

(3) the increase in lot coverage will not result in a principal building with an architectural design, scale, mass or building materials that are not aesthetically harmonious with that of other existing or proposed structures in the immediate vicinity; and

(4) the proposed alternative development will not result in an obvious departure from the aesthetic character of in the immediate vicinity.

(f) An alternative maximum height of walls, hedges or fences for a single family or duplex dwelling shall be approved upon demonstration of the following:

(1) no wall, hedge or fence shall exceed eight (8) feet in height;
and

(2) no wall, hedge or fence located in a front setback required by the underlying district regulations shall exceed six (6) feet in height;
and

(3) the additional height of a proposed wall, hedge or fence will not obscure in whole or in part an existing view or vista to any landmark, natural area, or waterbody from any window or door in a residential unit on an adjoining parcel of land; and

(4) proposed walls or fences shall be:

(A) articulated to avoid the appearance of a "blank wall" when viewed from adjoining property, or

(B) landscaped with landscaping that is at least three (3) feet in height at time of planting, located along the length of the wall between the wall and the adjoining property, accompanied by specific provision for the maintenance of the landscaping, such as but not limited to, an agreement from the landowner regarding its maintenance in recordable form from the adjoining property owner, or

02-138

(C) where facing a public right-of-way, set back at least two and one-half (2-1/2) feet from the right-of-way line and extensively landscaped with shrubs of a minimum of three (3) feet in height when measured immediately after planting, which will form a continuous, unbroken, solid, visual screen within one (1) year after time of planting; hedges of a minimum of three (3) feet in height immediately after planting, which will form a continuous, unbroken, solid, visual screen within one (1) year after time of planting; and/or climbing vines of a minimum of thirty-six (36) inches in height immediately after planting; and

(5) proposed fences shall be constructed or installed so that the "unfinished" side is directed inward toward the center of the parcel proposed for alternative development; and

(6) proposed fences are constructed of durable materials and are decorative; and

(7) proposed fences are not comprised of chain link or other wire mesh, unless located in an AU or GU with AU trend zoning district; and

(8) safe sight distance triangles are maintained pursuant to this code.

(g) Notwithstanding the foregoing, no proposed alternative development shall be approved upon demonstration that the proposed alternative development:

(1) will result in a significant diminution of the value of property in the immediate vicinity; or

(2) will have substantial negative impact on public safety due to unsafe automobile movements, heightened vehicular-pedestrian conflicts, or heightened risk of fire; or

(3) will result in a materially greater adverse impact on public services and facilities than the impact that would result from development of the same parcel pursuant to the underlying district regulations; or

(4) will combine severable use rights obtained pursuant to Chapter 33B of this code in conjunction with the approval sought hereunder so as to exceed the limitations imposed by section 33B-45 of this code.

(h) Proposed alternative development under this subsection shall provide additional amenities or buffering to mitigate the impacts of the development as approved, where the amenities or buffering expressly required by this subsection are insufficient to mitigate the impacts of the development. The purpose of the amenities or buffering elements shall be to preserve and protect the quality of life of the residents of the approved development and the immediate vicinity in a manner comparable to that ensured by the underlying district regulations. Examples of such amenities include but are not limited to: active or passive recreational facilities, common open space, additional trees or landscaping, convenient covered bus stops or pick-up areas for transportation services, sidewalks (including improvements, linkages, or additional width), bicycle paths, buffer areas or berms, street furniture, undergrounding of utility lines, and decorative street lighting. In determining which amenities or buffering elements are appropriate for a proposed development, the following shall be considered:

- (A) the types of needs of the residents of the parcel proposed for development and the immediate vicinity that would likely be occasioned by the development, including but not limited to recreational, open space, transportation, aesthetic amenities, and buffering from adverse impacts; and
- (B) the proportionality between the impacts on residents of the proposed alternative development and the immediate vicinity and the amenities or buffering required. For example, a reduction in lot area for numerous lots may warrant the provision of additional common open space. A reduction in a particular lot's interior side setback may warrant the provision of additional landscaping. <<

Section 3. Sec. 33-311(A)(4) of the Code of Miami-Dade County, Florida, is hereby amended as follows:

>> (c) Alternative non-use variance standard. Upon appeal or direct application in specific cases to hear and grant applications from the terms of the zoning and subdivision regulations for non-use variances for setbacks, minimum lot area, frontage and depth, maximum lot coverage and maximum structure height, the Board (following a public hearing) may grant a non-use variance for these items, upon a showing by the applicant that the variance 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 non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises; and further provided, no non-use variance from any airport zoning regulation shall be granted under this subsection.<<

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

Section 7. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUL 23 2002

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

Joni Armstrong Coffey

JAC

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LEGAL COUNSEL SEC.
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MEMORANDUM

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

Agenda Item No. 4(G)

TO: Hon. Chairperson and Members
Board of County Commissioners


(Public Hearing 7-23-02)
DATE: July 9, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to Zoning;
increase maximum number of
stories and floor area ratio in the
RU-4M zoning district

02-132

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Jose "Pepe" Cancio, Sr.


Robert A. Ginsburg
County Attorney

RAG/jls

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MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 23, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance pertaining
to zoning; increasing maximum
number of stories and floor area
ratio in the RU-4M zoning district

02-132


The proposed ordinance pertaining to zoning increasing the maximum number of stories and floor area ratio in the RU-4M (modified apartment house) zoning district will not have a fiscal impact upon Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 23, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(G)

02-132

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

nda Item No. 4 (G).
7-23-02

Veto _____

Override _____

ORDINANCE NO. 02-132

**ORDINANCE PERTAINING TO ZONING;
INCREASING MAXIMUM NUMBER OF
STORIES AND FLOOR AREA RATIO IN THE
RU-4M (MODIFIED APARTMENT HOUSE)
ZONING DISTRICT, AMENDING SECTION 33-
207.3 OF THE CODE OF MIAMI-DADE
COUNTY, FLORIDA; PROVIDING
SEVERABILITY, INCLUSION IN THE CODE
AND AN EFFECTIVE DATE**

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

Section 1. Section 33-207.3 of the Code of Miami-Dade County, Florida.

is hereby amended as follows:¹

Sec. 33-207.3. Uses permitted.

No land, body of water or structure shall be used, or permitted to be used and no structures shall be hereafter erected, constructed, moved or reconstructed, structurally altered or maintained for any purpose in a RU-4M district which is designed, arranged or intended to be used or occupied for any purpose, except for one (1) of the following uses:

* * *

(B) Multiple family apartment house use with only one (1) principal building on a lot, parcel or tract, designed for more than four (4) family units subject to the following:

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

* * *

- (4) *Height.* No building or structure, or part thereof, shall be erected or altered to a height exceeding >>nine<<[[~~eight~~]] ([[8]])>>9<< stories and shall not exceed one hundred (100) feet.
- (5) *Floor area ratio.* The floor area ration shall not exceed the following

Height of Building	Floor Area Ratio
1-story	0.30
2-story	0.50
3-story	0.75
4-story	0.80
5-story	0.85
6-story	0.90
7-story	0.95
8-story	1.00
>> <u>9-story</u> <<	>> <u>1.05</u> <<

* * *

- (7) *Open Space.* On each lot with structures not exceeding a height of four (4) stories or fifty (50) feet, there shall be provided an open space equal to at least twenty-five (25) percent of the total lot area: On each lot with structures over four (4) but not exceeding six (6) stories or seventy-five (75) feet, there shall be provided an open space equal to at least thirty (30) percent of the total lot area: on each lot with structures over six (6) but not exceeding >>nine (9)<<[[~~eight~~ (8)]] stories or one hundred (100) feet there shall be provided an open space equal to at least thirty-five (35) percent of the total lot area; said space shall be unencumbered with any structure or off-street parking, and shall be landscaped and well maintained with grass, trees and shrubbery, expecting only areas used as pedestrian walks.

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.

02-132

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

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUL 23 2002

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

Prepared by: JAC

Joni Armstrong Coffey

778001

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LEGAL COUNSEL SEC.
02 AUG 19 PM 3:21

MEMORANDUM

Agenda Item No. 4(D)

TO: Hon. Chairperson and Members
Board of County Commissioners

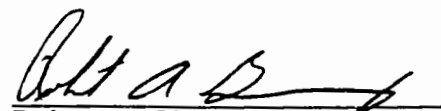
DATE: (Public Hearing 7-23-02)
June 18, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance excluding from the
study area of a Municipal
Advisory Committee all areas not
within the sponsoring
Commissioner's district

02-130

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Dennis C. Moss.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 23, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance excluding from the
study area of a Municipal
Advisory Committee all areas
not within the sponsoring
Commissioner's district

02-130


The proposed ordinance excluding from the study area of a Municipal Advisory Committee all areas not within the sponsoring Commissioners' district will not have a fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 23, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(D)

02-130

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4(D)
7-23-02

Veto _____

Override _____

ORDINANCE NO. 02-130

ORDINANCE EXCLUDING FROM THE STUDY AREA OF A MUNICIPAL ADVISORY COMMITTEE ALL AREAS NOT WITHIN THE SPONSORING COMMISSIONER'S DISTRICT EXCEPT THOSE AREAS IN THE DISTRICTS OF OTHER COMMISSIONERS CONSENTING TO INCLUSION OF SPECIFIED AREAS; PROVIDING APPLICABILITY; CREATING SECTION 20-29 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 20-29 is hereby created to read as follows:

Sec. 20-29. Municipal Advisory Committee - Limitation of Study Area.

- (A) In the event a Municipal Advisory Committee is created where part of the study area is outside the sponsoring Commissioner's district, such area shall automatically be excluded from the Municipal Area Committee's consideration.
- (B) The restriction set forth in Paragraph 1 may be waived by the Commissioner(s) whose district the study area comes within by filing a memorandum with the Clerk of the Board indicating consent to all or part of the study area.
- (C) This Ordinance shall apply to existing as well as to all future Municipal Advisory Committee's created after the effective date of this Ordinance.

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

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

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUL 23 2002

Approved by County Attorney as
to form and legal sufficiency:

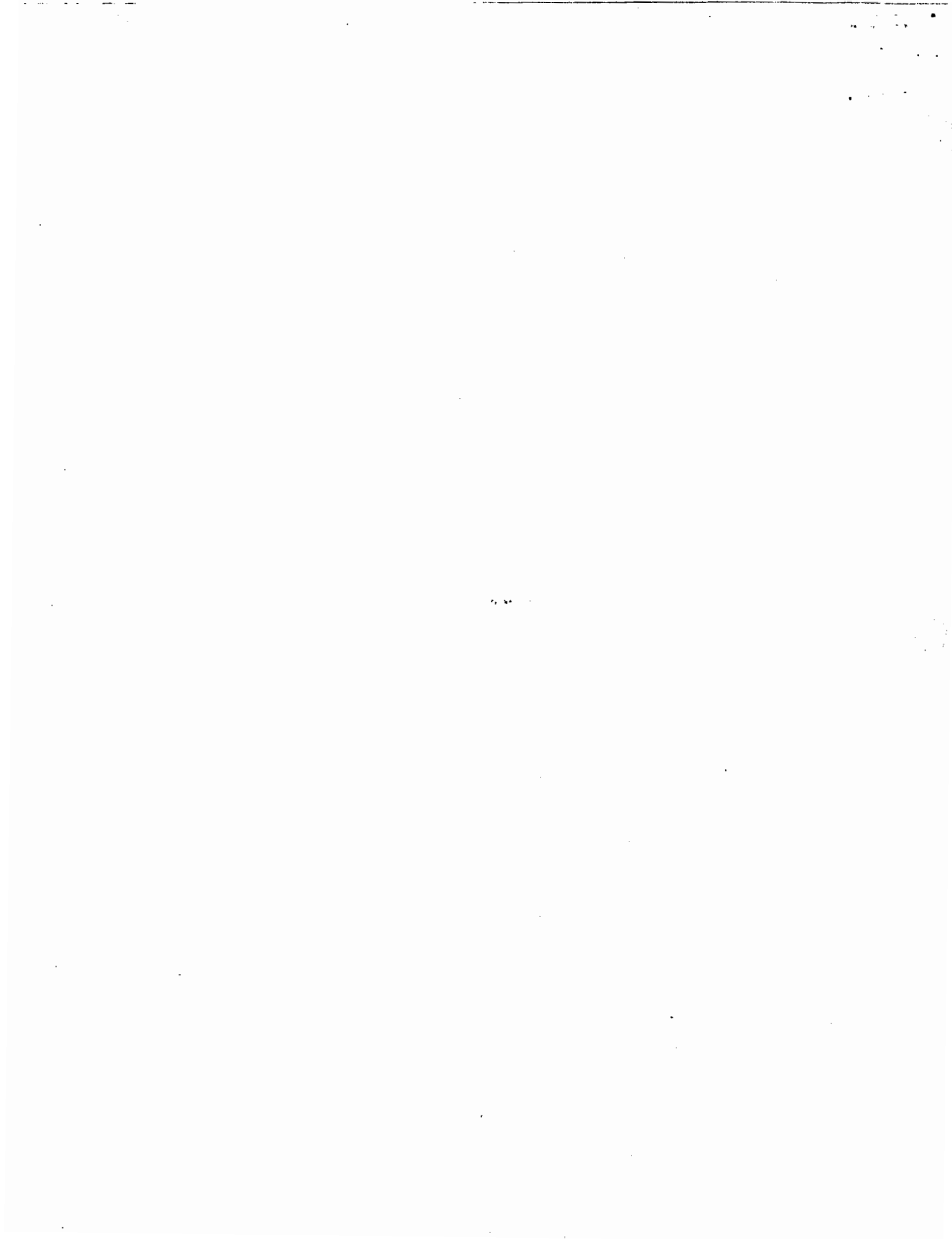
RAG

Prepared by:

CRK

Craig H. Coller

Sponsored by Commissioner Dennis C. Moss





MEMORANDUM

Not On **CLERK OF THE BOARD**
Agenda **OF COUNTY COMMISSIONER**
LESLIE A. GIBSON
DADE COUNTY, FLORIDA

(Public Hearing 7-9-02)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance Creating the
Trails at Monterey
Community Development
District

02-124

RECOMMENDATION

It is recommended that the Board adopt the attached ordinance creating the Trails at Monterey Community Development District (CDD) in Unincorporated Miami-Dade County, pursuant to the authority granted by the Miami-Dade County Home Rule Charter for the purposes set forth in Chapter 190 of the Florida Statutes.

BACKGROUND

Caribe at Tamiami, LLC., owner of the Trails at Monterey Development, has filed an application to create the Trails at Monterey CDD in connection with said development. Trails at Monterey is a 92.47-acre residential development lying wholly within Unincorporated Miami-Dade County, in the area bounded by S.W. 154 Avenue on the east, S.W. 157 Avenue on the west, theoretical S.W. 20th Lane on the south and Southern Right-of-Way of Tamiami Trail (SW 8th Street) on the north. The CDD is designed to provide a financing mechanism for community infrastructure, services and facilities, along with certain ongoing operations and maintenance for the Trails at Monterey development. The development plan for the lands within the proposed CDD includes construction of approximately 415 residential units, with associated roadway, storm drainage and water and sewer facilities estimated to cost approximately \$9.894 million. A detailed summary of CDD elements, as well as their cost and anticipated lack of fiscal impact to government agencies, is presented in the attached application submitted by Caribe at Tamiami, LLC. In accordance with Florida Statute 190, Caribe at Tamiami, LLC., has paid a filing fee of \$15,000 to the County. All roadways within the boundaries of the CDD will be public and as such will be maintained by Miami-Dade County.

This Board is authorized by the Florida Constitution and the Miami-Dade County Home Rule Charter to establish governmental units such as the CDD within Miami-Dade County and to prescribe such government's jurisdiction and powers.

FISCAL IMPACT

The creation of the Trails at Monterey Community Development District will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 9, 2002

FROM: Robert A. Ginsburg
County Attorney

Not On
SUBJECT: Agenda Item No. 4(DD)

02-124

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Veto _____

Override _____

Not On
Agenda Item No. 4 (DD)
7-9-02

ORDINANCE NO. **02-124**

ORDINANCE GRANTING PETITION OF CARIBE AT TAMIAMI, LLC., ("PETITIONER") FOR ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING TRAILS AT MONTEREY COMMUNITY DEVELOPMENT DISTRICT ("DISTRICT"); PROVIDING FOR NAME, POWERS AND DUTIES; PROVIDING DESCRIPTION AND BOUNDARIES; PROVIDING INITIAL MEMBERS OF BOARD OF SUPERVISORS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, the Florida Legislature created and amended Chapter 190, Florida Statutes, to provide an alternative method to finance and manage basic services for community development; and

WHEREAS, Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter grants the Miami-Dade County Board of County Commissioners the authority to exercise all powers and privileges granted to municipalities and counties by the laws of this State; and

WHEREAS, Article VIII, section 6(1) of the Florida Constitution provides for exclusive County Charter authority to establish all governmental units within Miami-Dade County and to provide for their government and prescribe their jurisdiction and powers; and

WHEREAS, Caribe at Tamiami, LLC., ("Petitioner") has petitioned for the establishment of the Trails at Monterey Community Development District (the "District"); and

02-124

WHEREAS, a public hearing has been conducted by the Miami-Dade County Board of County Commissioners in accordance with the requirements and procedures of Section 190.005(2)(b), Florida Statutes, and the applicable requirements and procedures of the Miami-Dade County Home Rule Charter and Code; and

WHEREAS, the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area, thereby providing a solution to the County's planning, management and financing needs for delivery of capital infrastructure therein without overburdening the County and its taxpayers; and

WHEREAS, the Board of County Commissioners finds that the statements contained in the Petition are true and correct; and

WHEREAS, the creation of the District is not inconsistent with any applicable element or portion of the State comprehensive plan or the Miami-Dade County Comprehensive Development Master Plan; and

WHEREAS, the area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community; and

WHEREAS, the creation of the District is the best alternative available for delivering the community development services and facilities to the area that will be served by the District; and

WHEREAS, the proposed services and facilities to be provided by the District will be compatible with the capacity and uses of existing local and regional community development services and facilities; and

WHEREAS, the area that will be served by the District is amenable to separate special-district government; and

WHEREAS, having made the foregoing findings, after a public hearing, the Miami-Dade County Board of County Commissioners wishes to exercise the powers bestowed upon it by Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter in the manner provided by Chapter 190, Florida Statutes; and

WHEREAS, the Miami-Dade County Board of County Commissioners finds that the District shall have those general and special powers authorized by Sections 190.011 and 190.012, Florida Statutes, and set forth herein, and that it is in the public interest of all of the citizens of Miami-Dade County that the District have such powers,

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

Section 1. The foregoing findings, which are expressly set forth herein, are hereby adopted and made a part hereof.

Section 2. The Petition to establish the Trails at Monterey Community Development District over the real property described in Exhibit A attached hereto, which was filed by Caribe at Tamiami, LLC., a Florida limited liability company, on March 20th, 2002 and which Petition is

on file at the Office of the Clerk of the Board, is hereby granted. A copy of the Petition is attached in its entirety and incorporated herein (Exhibit C).

Section 3. The external boundaries of the District shall be as depicted on the location map attached hereto and incorporated herein as Exhibit B.

Section 4. The initial members of the Board of Supervisors shall be as follows:

Carlos (Charlie) Martinez

Anthony Seijas

Carlos Gonzales

Fernando Martinez

Julie Leisi

Section 5. The name of the District shall be the "Trails at Monterey Community Development District."

Section 6. The Trails at Monterey Community Development District is created for the purposes set forth in Chapter 190, Florida Statutes, pursuant to the authority granted by Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter.

Section 7. Pursuant to Section 190.005 (2) (d), Florida Statutes, the charter for the Trails at Monterey Community Development District shall be Sections 190.006 through 190.041, Florida Statutes.

Section 8. The Miami-Dade County Board of County Commissioners hereby grants to the Trails at Monterey Community Development District all general powers authorized pursuant to Section 190.011, Florida Statutes, and hereby finds that it is in the public interest of all citizens of Miami-Dade County to grant such general powers.

Section 9. The Miami-Dade County Board of County Commissioners hereby grants to the Trails at Monterey Community Development District the special powers authorized pursuant to Section 190.012 (1), Florida Statutes and Sections 190.012 (2)(d) and (f), (except for powers regarding waste disposal), Florida Statutes and Section 190.012 (3), Florida Statutes, and hereby finds that it is in the public interest of all citizens of Miami-Dade County to grant such special powers.

Section 10. All bonds issued by the Trails at Monterey Community Development District pursuant to the powers granted by this ordinance shall be validated pursuant to Chapter 75, Florida Statutes.

Section 11. No bond, debt or other obligation of the Trails at Monterey Community Development District, nor any default thereon, shall constitute a debt or obligation of Miami-Dade County, except upon the express approval and agreement of the Miami-Dade Board of County Commissioners.

Section 12. Notwithstanding any power granted to the Trails at Monterey Community Development District pursuant to this Ordinance, neither the District nor any real or personal property or revenue in the District shall, solely by reason of the District's creation and existence, be exempted from any requirement for the payment of any and all rates, fees, charges, permitting fees, impact fees, connection fees, or similar County rates, fees or charges, special taxing districts special assessments which are required by law, ordinance or County rule or regulation to be imposed within or upon any local government within the County.

Section 13. Notwithstanding any power granted to the Trails at Monterey Community Development District pursuant to this Ordinance, the District may exercise the power of eminent domain outside the District's existing boundaries only with the prior specific and express

approval of the Board of County Commissioners of Miami-Dade County.

Section 14. 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 15. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board. It is provided, however, that this ordinance shall not become effective, in whole or in part, unless on or before 5:00 p.m. on the 10th day after the date of enactment, a proposed Interlocal Agreement has been submitted and received by the County Manager, in a form acceptable to the County Attorney, and executed by each member of the Board of Supervisor designates named in Section 4 hereof, having provisions in substantially the following form:

(a) Except upon the prior written consent of Miami-Dade County, which shall not be unreasonably withheld, the District shall not apply for or use grants or loans of money or other property from the United States, the State of Florida, any other unit of local government in Florida, or any other person or entity (except in connection with any financings of the District, and any loans made to the District by the developer/s, their affiliates and/or lenders in connection with the land development orders for property that is the subject of the Petition approved hereby, as they may be amended from time to time) for any District purpose. Any and all such requests by the District for authorization to apply for or use such grants or loans shall be made to Miami-Dade County, which shall have the sole discretion to decide whether to allow application for any such loans or grants. Should the County apply for any such loans or grants on behalf of the District, the District shall pay all costs to the County in connection with any such application/s;

(b) The Miami-Dade County Water and Sewer Department shall provide all water and wastewater service to the District and all lands within the District boundaries.

(c) The Trails at Monterey Community Development District shall, to the best of its ability, fully utilize economic development enhancement resource agencies and programs designed to involve small and minority businesses in the development and expansion of permanent job opportunities within the District. The proposed Interlocal Agreement containing this provisions shall contain examples of such agencies and programs. The Trails at Monterey Community Development District will attempt to access the range of job skills available in the region and promote greater labor force enhancement. At a minimum, the Trails at Monterey Community Development District shall encourage all landowners in the District to provide potential commercial tenants with information about employment and training agencies that maintain a database of trained/skilled workers to consider in meeting the District's employment needs.

(d) The Trails at Monterey Community Development District shall adopt and utilize specific measures designed to involve small and minority businesses in the development and expansion of permanent job opportunities. Such measures shall be in substantially the forms employed by Miami-Dade County, specifically, the Miami-Dade County Community Small Business Enterprise Program; the Black, Women and Hispanic Enterprise Programs; fair subcontracting measures; nondiscrimination in bidding and contracting measures; and prompt payment measures.

(e) The Trails at Monterey Development District shall provide for the election of a member to its Board of Supervisors who is deemed by the Board of County Commissioners to represent the voice of Miami-Dade County.

02-124

(f) In addition to notice required under Section 190.048, Florida Statutes, the Trails at Monterey Community Development District shall provide a separate notice to each prospective purchaser of residential property in the District, prior to execution of any contract for sale, describing the type and amount of all projected taxes and assessments on the property in the District, including a good-faith estimate of the taxes and assessments on the individual parcel being considered for prospective purchase.

(g) The Trails at Monterey Community Development District shall adopt and utilize measures providing for employment of welfare recipients by entities contracting with the District. Such measures shall be in substantially the form of Miami-Dade County Resolution R-1206-97, as the same shall be amended from time to time.

Section 16. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplished such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 17. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUL 09 2002

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Joni Armstrong Coffey

EXHIBIT A

TRAILS AT MONTEREY COMMUNITY DEVELOPMENT DISTRICT

LEGAL DESCRIPTION

PARCEL 1

The South 420 feet of the North 883 feet of the East ½ of the West ½ of the West ½ of the Southwest ¼ of Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 2

The North 210 feet of the South 883 feet of the West ½ of the West ½ of the Northwest ¼, subject to an easement for ingress, egress and utilities over the West 55 feet and over the East 25 feet thereof, Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL 3

a. The North 210 feet of the South 1303 feet of the West ½ of the West ½ of the West ½ of the Northwest ¼, subject to an easement for ingress and egress and utilities over the West 55 feet, of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

b. The South 673 feet of the West ½ of the West ½ of the West ½ of the Northwest ¼, subject to an easement for ingress and egress and utilities over the West 55 feet and over the South 43 feet, of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

c. The South 673 feet of the West ½ of the East ½ of the West ½ of the Northwest ¼, subject to an easement for ingress and egress and utilities over the West 25 feet and the South 43 feet, of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL 4

The East ½ of the West ½ of the West ½ of the Northwest ¼, less the South 2353 feet and subject to an easement for ingress, egress and utilities over the North 55 feet and over the East 25 feet thereof of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL 5

The North 210 feet of the South 1093 feet of the West ½ of the West ½ of the Northwest ¼ and the North 210 feet of the South 1303 of the East ½ of the West ½ of the West ½ of the Northwest ¼ in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 6

The North 210 feet of the South 1933 feet of the East ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 7

The North 673 feet of the West ½ of the East ½ of the West ½ of the Southwest ¼, subject to an easement for ingress, egress and utilities over the West 25 feet and over the North 43 feet thereof, as well as the South 673 feet of the East ½ of the East ½ of the West ½ of the Northwest ¼, subject to an easement for ingress, egress and utilities over the East 25 feet and over the South 43 feet thereof, Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL 8

The South 673 feet of the East ½ of the West ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 9

The West ½ of the West ½ of the West ½ of the Northwest ¼, less the South 2353 feet, subject to an easement for ingress, egress and utilities over the West 55 feet thereof, in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 10

The North 673 feet of the West ½ of the West ½ of the West ½ of the Southwest ¼, and the North 463 feet of the East ½ of the West ½ of the West ½ of the Southwest ¼, subject to an easement for ingress, egress and utilities over the North 43 feet, over the West 55 feet and over the East 25 feet thereof, in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 11

The West ½ of the East ½ of the West ½ of the Northwest ¼, less the South 1933 feet, subject to an easement for ingress and egress and utilities over the West 25 feet and over the North 55 feet, (of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.)

PARCEL 12

The North 210 feet of the South 1723 feet of the East ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 13

All of Tracts 56 and 57, and that portion of Tract 41 lying Southerly of the Southerly Right-of-Way line of Tamiami Trail, all of "MIAMI EVERGLADES LAND COMPANY, LTD" a subdivision of the West ½ of Section 4, Township 54 South, Range 39 East, according to the plat thereof recorded in Plat Book 3, Page 129, of the Public Records of Miami-Dade County, Florida, less and except the following described property:

Begin at the intersection of the West line of Section 4, Township 54 South, Range 39 East and the South Right-of-Way line of State Road No. 27 (now State Road No. 90) as recorded in Deed Book 2105 at Page 554, of the Public Records of Miami-Dade County, Florida; thence Easterly along the South Right-of-Way line of State Road No. 27 (now State Road No. 90) for 330 feet; thence Southerly parallel to the West line of said Section 4 for 95 feet; thence Westerly, parallel to said South Right-of-Way line of State Road No. 27 (now State Road No. 90) for 330 feet to a point on the West line of the said Section 4; thence Northerly along the West line of said Section 4 for 95 feet to the Point of Beginning.

PARCEL A

The West 35 feet of the North 210 feet of the South 1513 feet of the East ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL B

The West 35 feet of the North 35 feet of the North 210 of the South 1303 feet of the East ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL C

A portion of Tract 41 and 56 of "MIAMI EVERGLADES LAND COMPANY, LTD." a subdivision of the West ½ of Section 4, Township 54 South, Range 39 East, according to the plat thereof recorded in Plat Book 3, Page 129, of the Public Records of Miami-Dade County, Florida, being particularly described as follows:

Begin at the intersection of the West line of the said West ½ of Section 4 and the South Right-of-Way line of Tamiami Trail (S.W. 8th Street & State Road No. 5); thence Southerly along the said West line of the said West ½ of Section 4 for 95.00 feet; thence Easterly along a line that is parallel with the said South Right-of-Way line of Tamiami Trail (S.W. 8th Street & State Road No. 5) for 40.02 feet to a point that is 40.00 feet East of, as measured at right angles to, the said West line of the West ½ of Section 4; thence Northerly, along a line that is 40.00 feet East of, and parallel with, the said West line of the West ½ of Section 4 for 95.00 feet to a point on the said South Right-of-Way line of

Tamiami Trail (S.W. 8th Street & State Road No. 5); thence Westerly along the said South Right-of-Way line of Tamiami Trail (S.W. 8th Street & State Road No. 5) for 40.02 feet to the Point of Beginning.

AND

The area bounded by the South Right-of-Way line of Tamiami Trail (S.W. 8th Street & State Road No. 5) and bounded by a line that is 40.00 feet East of, and parallel with, the West line of the West ½ of Section 4, Township 54 South, Range 39 East and bounded by a 25 foot radius arc concave to the Southeast, said arc being tangent to both of the last described lines.

PARCEL A

The North 210 feet of the South 1513 feet of the East ½ of the West ½ of the Northwest ¼ in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL B

The North 210 feet of the South 1303 feet of the East ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

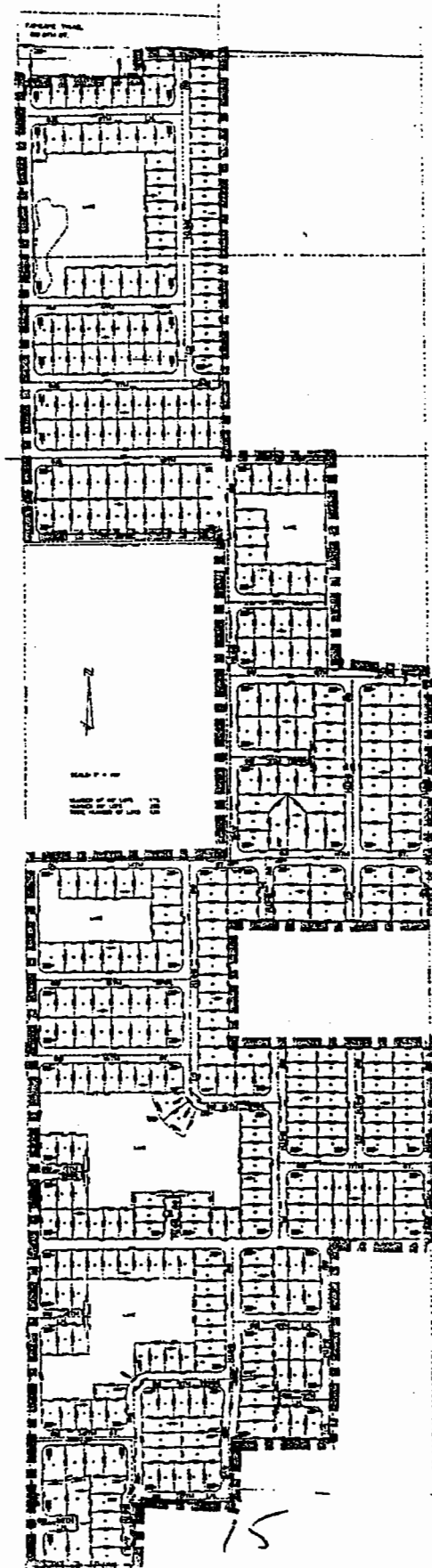
PARCEL C

The South 210 feet of the North 883 feet of the West ½ of the West ½ of the West ½ of the Southwest ¼ in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL D

The South 210 feet of the North 1093 feet of the West ½ of the West ½ of the West ½ of the Southwest ¼ in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

EXHIBIT B
TRAILS AT MONTEREY COMMUNITY DEVELOPMENT DISTRICT
MAP OF DISTRICT



PETITION FOR ORDINANCE

FOR

**Trails at Monterey
Community Development District**

March 26, 2002

Prepared by

Special District Services, Inc.
4600 East Park Drive, Suite 201
Palm Beach Gardens, Florida 33410

Tele: 561-630-4922
Toll Free: 877-737-4922

IN RE: AN ORDINANCE TO ESTABLISH)
THE TRAILS AT MONTEREY)
COMMUNITY DEVELOPMENT DISTRICT)

PETITION

Petitioner, Caribe at Tamiami, LLC a Florida Limited Liability Company, (“Petitioner”), hereby petitions the Miami-Dade County Commission to establish a Community Development District (“District”) with respect to the land described herein and in support of the Petition, Petitioner states:

1. The proposed District is located within the unincorporated area of Miami-Dade County. Exhibit 1 depicts the general location of the project. The proposed District covers approximately 92.47 acres of land. The metes and bounds description of the external boundaries of the District is set forth in Exhibit 2. There is no real property within the internal boundaries of the proposed District which is to be excluded from the District.

2. Attached to this Petition as Exhibit 3, 3A, and 3B and made a part hereof is the written consent to the establishment of the District by the owners of 100% of the real property to be included in the District.

3. The five persons designated to serve as initial members of the Board of Supervisors of the proposed District are as follows:

Carlos “Charlie” Martinez	5754 S.W. 100 th Street	Miami, FL 33156
Anthony Seijas	1330 West Avenue, Apt. #1401	Miami, FL 33139
Carlos Gonzales	16901 S.W. 79 th Court	Miami, FL 33157
Fernando Martinez	9881 S.W. 148 th Terrace	Miami, FL 33176
Julie Leisi	11120 N.W. 10 th Place	Coral Springs, FL 33071

4. The proposed name of the District to be established is Trails at Monterey Community Development District (“TAMCDD”).

5. There are no existing major trunk water mains, sewer interceptors or outfalls.

6. The proposed timetable for the construction of District services and the estimated cost of constructing the services, based on available data, are shown on Exhibits 4A and 4B. These are good faith estimates but are not binding on the Petitioner and the District and is subject to change.

7. Petitioner is in the process of developing the project as a residential community. The proposed uses for the land within the District are 415 residential units. The proposed uses for the land included within the proposed District are consistent with the Miami-Dade County Comprehensive Development Master Plan and the Miami-Dade County Future Land Use Element. The County Master Plan and Future Land Use Element designate the land contained within the proposed District for low density residential. The future general distribution, location and extent of public and private uses of land proposed for the area within the District are shown on Exhibit 5.

8. Exhibit 6 is a Statement of Estimated Regulatory Costs prepared in accordance with the requirements of Section 120.541, Florida Statutes.

9. The District is seeking and hereby requests the right to exercise all powers provided for in Section 190.06 through 190.041, Florida Statutes (except for powers regarding waste disposal or collection of any waste other than commercial or industrial), Florida Statutes, including the special powers provided by Section 190.012, Florida Statutes.

10. The Petitioner is Caribe at Tamiami, LLC a Florida limited liability company, whose address is 14260 SW 119 Avenue, Miami, FL 33186.

11. The property within the proposed District is amenable to operating as an independent special district for the following reasons:

a. Establishment of the District and all land uses and services planned within the proposed District are not inconsistent with applicable elements or portions of the effective Miami-Dade County Comprehensive Development Master Plan, as amended.

b. The area of land within the proposed District is part of a unified plan of development for which a development plan has been or will be approved by Miami-Dade County. The land encompassing the proposed District is of sufficient size and is sufficiently compact and continuous to be developed as one functional inter-related community.

c. The community development services of the District will be compatible with the capacity and use of existing local and regional community development services and facilities.

d. The proposed District will be the best alternative available for delivering community development services to the area to be served because the District provides a governmental entity for delivering those services and facilities in a manner that does not financially impact persons residing outside the District and provides a responsible perpetual entity capable of making reasonable provisions for the operation and maintenance of the District services and facilities in the future.

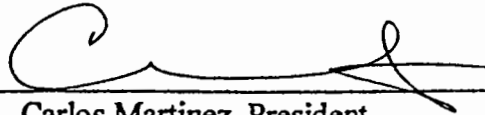
WHEREFORE, Petitioner respectfully requests the Miami-Dade County Commission to:

1. Hold a public hearing as required by Section 190.005(2)(b), Florida Statutes to consider the establishment of the Trails at Monterey Community Development District and;

a) Adopt an ordinance pursuant to Chapter 190, Florida Statutes, granting this Petition and establishing the Trails at Monterey Community Development District.

Respectfully submitted this 20th day of March, 2002.

Caribe at Tamiami, LLC
A Florida Limited Liability Company



By: Carlos Martinez, President
14260 SW 119 Avenue
Miami, FL 33186

EXHIBIT 1

LOCATION MAP

TRAILS AT MONTEREY COMMUNITY DEVELOPMENT DISTRICT

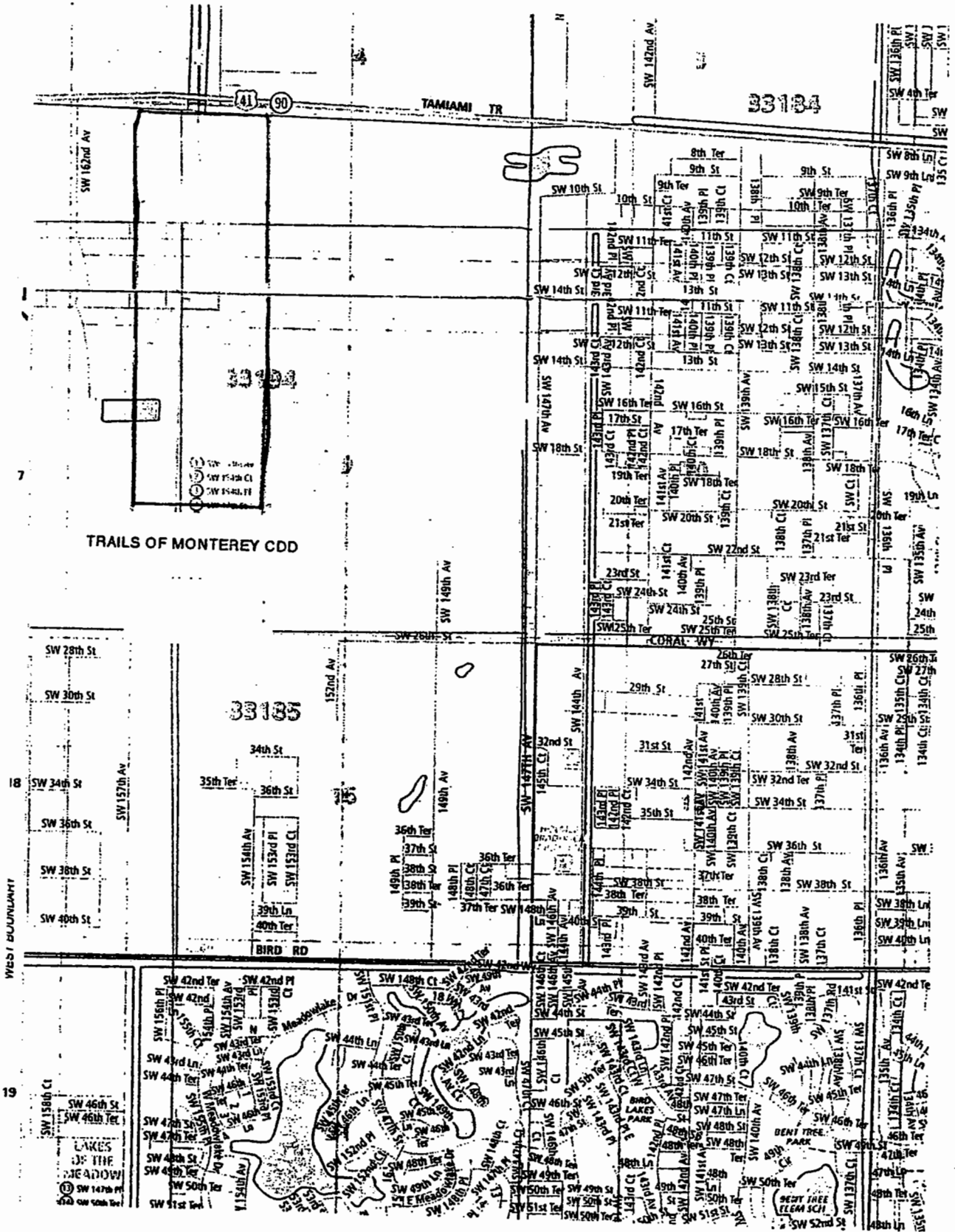


EXHIBIT 2

TRAILS AT MONTEREY COMMUNITY DEVELOPMENT DISTRICT

LEGAL DESCRIPTION

PARCEL 1

The South 420 feet of the North 883 feet of the East ½ of the West ½ of the West ½ of the Southwest ¼ of Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 2

The North 210 feet of the South 883 feet of the West ½ of the West ½ of the Northwest ¼, subject to an easement for ingress, egress and utilities over the West 55 feet and over the East 25 feet thereof, Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL 3

a. The North 210 feet of the South 1303 feet of the West ½ of the West ½ of the West ½ of the Northwest ¼, subject to an easement for ingress and egress and utilities over the West 55 feet, of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

b. The South 673 feet of the West ½ of the West ½ of the West ½ of the Northwest ¼, subject to an easement for ingress and egress and utilities over the West 55 feet and over the South 43 feet, of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

c. The South 673 feet of the West ½ of the East ½ of the West ½ of the Northwest ¼, subject to an easement for ingress and egress and utilities over the West 25 feet and the South 43 feet, of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL 4

The East ½ of the West ½ of the West ½ of the Northwest ¼, less the South 2353 feet and subject to an easement for ingress, egress and utilities over the North 55 feet and over the East 25 feet thereof of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL 5

The North 210 feet of the South 1093 feet of the West ½ of the West ½ of the Northwest ¼ and the North 210 feet of the South 1303 of the East ½ of the West ½ of the West ½ of the Northwest ¼ in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 6

The North 210 feet of the South 1933 feet of the East ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 7

The North 673 feet of the West ½ of the East ½ of the West ½ of the Southwest ¼, subject to an easement for ingress, egress and utilities over the West 25 feet and over the North 43 feet thereof, as well as the South 673 feet of the East ½ of the East ½ of the West ½ of the Northwest ¼, subject to an easement for ingress, egress and utilities over the East 25 feet and over the South 43 feet thereof, Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL 8

The South 673 feet of the East ½ of the West ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 9

The West ½ of the West ½ of the West ½ of the Northwest ¼, less the South 2353 feet, subject to an easement for ingress, egress and utilities over the West 55 feet thereof, in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 10

The North 673 feet of the West ½ of the West ½ of the West ½ of the Southwest ¼, and the North 463 feet of the East ½ of the West ½ of the West ½ of the Southwest ¼, subject to an easement for ingress, egress and utilities over the North 43 feet, over the West 55 feet and over the East 25 feet thereof, in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 11

The West ½ of the East ½ of the West ½ of the Northwest ¼, less the South 1933 feet, subject to an easement for ingress and egress and utilities over the West 25 feet and over the North 55 feet, (of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.)

PARCEL 12

The North 210 feet of the South 1723 feet of the East ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL 13

All of Tracts 56 and 57, and that portion of Tract 41 lying Southerly of the Southerly Right-of-Way line of Tamiami Trail, all of "MIAMI EVERGLADES LAND COMPANY, LTD" a subdivision of the West ½ of Section 4, Township 54 South, Range 39 East, according to the plat thereof recorded in Plat Book 3, Page 129, of the Public Records of Miami-Dade County, Florida, less and except the following described property:

Begin at the intersection of the West line of Section 4, Township 54 South, Range 39 East and the South Right-of-Way line of State Road No. 27 (now State Road No. 90) as recorded in Deed Book 2105 at Page 554, of the Public Records of Miami-Dade County, Florida; thence Easterly along the South Right-of-Way line of State Road No. 27 (now State Road No. 90) for 330 feet; thence Southerly parallel to the West line of said Section 4 for 95 feet; thence Westerly, parallel to said South Right-of-Way line of State Road No. 27 (now State Road No. 90) for 330 feet to a point on the West line of the said Section 4; thence Northerly along the West line of said Section 4 for 95 feet to the Point of Beginning.

PARCEL A

The West 35 feet of the North 210 feet of the South 1513 feet of the East ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL B

The West 35 feet of the North 35 feet of the North 210 of the South 1303 feet of the East ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, Miami-Dade County, Florida.

PARCEL C

A portion of Tract 41 and 56 of "MIAMI EVERGLADES LAND COMPANY, LTD." a subdivision of the West ½ of Section 4, Township 54 South, Range 39 East, according to the plat thereof recorded in Plat Book 3, Page 129, of the Public Records of Miami-Dade County, Florida, being particularly described as follows:

Begin at the intersection of the West line of the said West ½ of Section 4 and the South Right-of-Way line of Tamiami Trail (S.W. 8th Street & State Road No. 5); thence Southerly along the said West line of the said West ½ of Section 4 for 95.00 feet; thence Easterly along a line that is parallel with the said South Right-of-Way line of Tamiami Trail (S.W. 8th Street & State Road No. 5) for 40.02 feet to a point that is 40.00 feet East of, as measured at right angles to, the said West line of the West ½ of Section 4; thence Northerly, along a line that is 40.00 feet East of, and parallel with, the said West line of the West ½ of Section 4 for 95.00 feet to a point on the said South Right-of-Way line of

Tamiami Trail (S.W. 8th Street & State Road No. 5); thence Westerly along the said South Right-of-Way line of Tamiami Trail (S.W. 8th Street & State Road No. 5) for 40.02 feet to the Point of Beginning.

AND

The area bounded by the South Right-of-Way line of Tamiami Trail (S.W. 8th Street & State Road No. 5) and bounded by a line that is 40.00 feet East of, and parallel with, the West line of the West ½ of Section 4, Township 54 South, Range 39 East and bounded by a 25 foot radius arc concave to the Southeast, said arc being tangent to both of the last described lines.

PARCEL A

The North 210 feet of the South 1513 feet of the East ½ of the West ½ of the Northwest ¼ in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL B

The North 210 feet of the South 1303 feet of the East ½ of the West ½ of the Northwest ¼ of Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL C

The South 210 feet of the North 883 feet of the West ½ of the West ½ of the West ½ of the Southwest ¼ in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL D

The South 210 feet of the North 1093 feet of the West ½ of the West ½ of the West ½ of the Southwest ¼ in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

EXHIBIT 3

**CONSENT AND JOINDER
TO CREATION OF A COMMUNITY DEVELOPMENT DISTRICT**

THE UNDERSIGNED is the owner of certain lands located in Miami-Dade County, Florida, and more fully described as follows:

See Exhibit "A" attached hereto and incorporated herein.

The above-described land is hereinafter referred to as the "Property."

The undersigned understands and acknowledges that Caribe at Tamiami, LLC, a Florida limited liability company ("Petitioner") intend to submit an application to create a Community Development District in accordance with the provisions of Chapter 190 of the Florida Statutes.

As an owner of lands which are intended to constitute a part of the Community Development District, the undersigned understands and acknowledges that pursuant to the provisions of Section 190.005(1)(a)(2), Florida Statutes, the Petitioner is required to include the written consent to the establishment of the Community Development District of one hundred percent (100%) of the Owners of the lands to be included within the Community Development District.

The undersigned hereby consents to the creation of a Community Development District which will include the Property within the lands to be part of the Community Development District and agrees to further execute any documentation necessary or convenient to evidence this consent and joinder during the application process for the creation of the Community Development District.

The undersigned hereby acknowledges and agrees that the foregoing consent and obligation to execute additional documentation is and shall be a covenant running with the land which shall bind the undersigned's heirs, personal representatives, administrators, successors-in-title and assigns and shall remain in full force and effect three (3) years from the date hereof.

Executed this 20th day of March, 2002.

Caribe at Tamiami, LLC

By: _____

Printed Name: Carlos Martinez

Title: President

PARCEL C

The South 210 feet of the North 883 feet of the West ½ of the West ½ of the West ½ of the Southwest ¼ in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

PARCEL D

The South 210 feet of the North 1093 feet of the West ½ of the West ½ of the West ½ of the Southwest ¼ in Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

EXHIBIT 3A

**CONSENT AND JOINDER
TO CREATION OF A COMMUNITY DEVELOPMENT DISTRICT**

THE UNDERSIGNED is the owner of certain lands located in Miami-Dade County, Florida, and more fully described as follows:

See Exhibit "A" attached hereto and incorporated herein.

The above-described land is hereinafter referred to as the "Property."

The undersigned understands and acknowledges that Caribe of Miami, L.L.C. ("Petitioner") has submitted an application to create a Community Development District in accordance with the provisions of Chapter 190 of the Florida Statutes.

As an owner of lands which are intended to constitute a part of the Community Development District, the undersigned understands and acknowledges that pursuant to the provisions of Section 196.005(1)(a)(2), Florida Statutes, the Petitioner is required to include the written consent to the establishment of the Community Development District of one hundred percent (100%) of the Owners of the lands to be included within the Community Development District.

The undersigned hereby consents to the creation of a Community Development District which will include the Property within the lands to be part of the Community Development District and agrees to further execute any documentation necessary or convenient to evidence this consent and joinder during the application process for the creation of the Community Development District.

The undersigned hereby acknowledges and agrees that the foregoing consent and obligation to execute additional documentation is and shall be a covenant running with the land which shall bind the undersigned's heirs, personal representatives, administrators, successors-in-title and assigns and shall remain in full force and effect three (3) years from the date hereof.

Executed this 23rd day of April, 2002.


By: 
Printed Name: JOSE L. CONCEPCION
Title: _____

EXHIBIT 3B

**CONSENT AND JOINDER
TO CREATION OF A COMMUNITY DEVELOPMENT DISTRICT**

THE UNDERSIGNED is the owner of certain lands located in Miami-Dade County, Florida, and more fully described as follows:

See Exhibit "A" attached hereto and incorporated herein.

The above-described land is hereinafter referred to as the "Property."

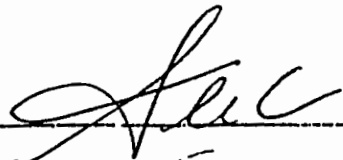
The undersigned understands and acknowledges that Caribe of Tamiami, L.L.C. ("Petitioner") has submitted an application to create a Community Development District in accordance with the provisions of Chapter 190 of the Florida Statutes.

As an owner of lands which are intended to constitute a part of the Community Development District, the undersigned understands and acknowledges that pursuant to the provisions of Section 196.005(1)(a)(2), Florida Statutes, the Petitioner is required to include the written consent to the establishment of the Community Development District of one hundred percent (100%) of the Owners of the lands to be included within the Community Development District.

The undersigned hereby consents to the creation of a Community Development District which will include the Property within the lands to be part of the Community Development District and agrees to further execute any documentation necessary or convenient to evidence this consent and joinder during the application process for the creation of the Community Development District.

The undersigned hereby acknowledges and agrees that the foregoing consent and obligation to execute additional documentation is and shall be a covenant running with the land which shall bind the undersigned's heirs, personal representatives, administrators, successors-in-title and assigns and shall remain in full force and effect three (3) years from the date hereof.

Executed this 23 day of April, 2002.

By: 

Printed Name Sergio Concepcion

Title: Individual

EXHIBIT A

TRAILS AT MONTEREY COMMUNITY DEVELOPMENT DISTRICT

LEGAL DESCRIPTION

PARCEL B

The North 210 feet of the South 1303 feet of the East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of Section 9, Township 54 South, Range 39 East, lying and being in Miami-Dade County, Florida.

EXHIBIT 4A

TRAILS OF MONTEREY COMMUNITY DEVELOPMENT DISTRICT

ESTIMATED INFRASTRUCTURE CONSTRUCTION TIME TABLE

<u>IMPROVEMENT</u>	<u>START DATE</u>	<u>COMPLETE DATE</u>
<u>PHASE I</u>		
EARTHWORK	April 2002	July 2002
STORM DRAINAGE	July 2002	September 2002
WATER	July 2002	September 2002
SANITARY SEWER	July 2002	September 2002
SIGNS & MARKINGS	September 2002	November 2002
CONCRETE AND PAVING	September 2002	November 2002
<u>PHASE II</u>		
EARTHWORK	July 2002	September 2003
STORM DRAINAGE	September 2003	December 2003
WATER	September 2003	December 2003
SANITARY SEWER	September 2003	December 2003
SIGNS & MARKINGS	December 2002	February 2003
CONCRETE AND PAVING	December 2002	February 2003

EXHIBIT 4B

**TRAILS AT MONTEREY COMMUNITY DEVELOPMENT DISTRICT
CONSTRUCTION COSTS ESTIMATES**

WATER SUPPLY SYSTEM		\$1,205,674
WASTEWATER SYSTEM		\$1,118,111
LIFT STATION/GENERATOR HOUSE		\$429,400
SURFACE WATER MANAGEMENT		\$724,621
PAVING		\$1,117,048
EARTHWORK		\$2,872,726
LANDSCAPING		\$332,499
SOFT COSTS		\$410,530
	SUBTOTAL	\$8,210,609
CONTINGENCIES	7.50%	\$615,796
FEES & PERMITS	4.50%	\$369,477
PERFORMANCE BONDS	2.00%	164,212
ENGINEERING AND TESTING	6.50%	533,690
	TOTAL CONSTRUCTION COST	\$9,893,784

EXHIBIT 5

**TRAILS AT MONTEREY COMMUNITY DEVELOPMENT DISTRICT
DISTRICT MAP**

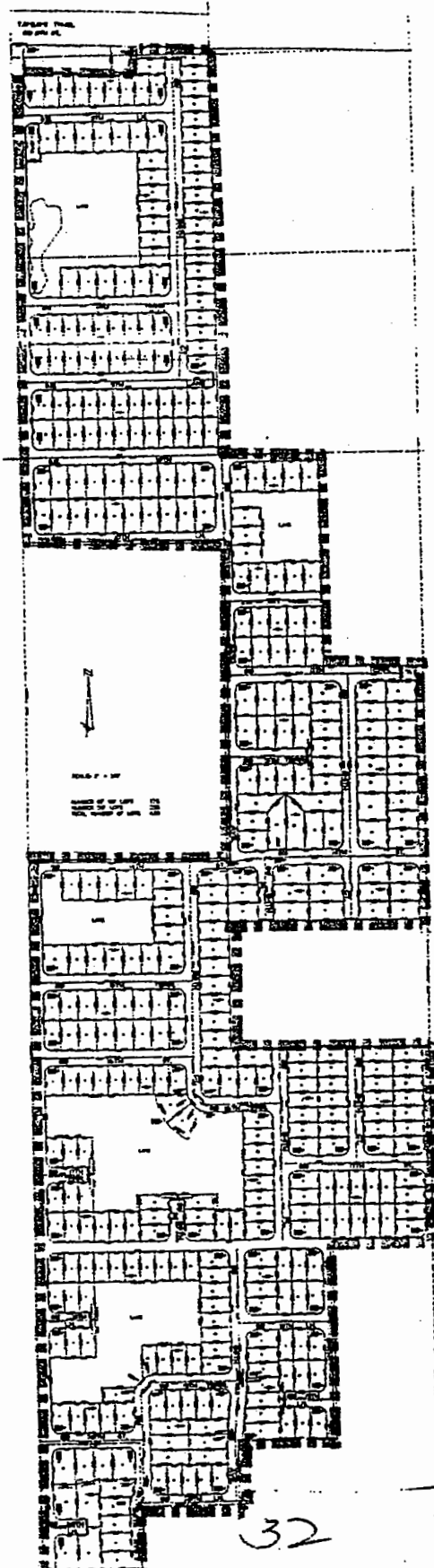


EXHIBIT 6

**TRAILS AT MONTEREY
COMMUNITY DEVELOPMENT DISTRICT**

STATEMENT OF ESTIMATED REGULATORY COSTS

March 26, 2002

Prepared by
Special District Services, Inc.
4600 East Park Drive, Suite 201
Palm Beach Gardens, Florida 33410
Tele: 561-630-4922
Toll Free: 877-737-4922

1.0 INTRODUCTION

1.1 Purpose and Scope

This statement of estimated regulatory costs supports the Caribe at Tamiami, LLC, a Florida limited liability company, (“Petitioner”) petition to establish a community development district to be known as Trails at Monterey Community Development District (the “CDD”). The CDD will own, operate and maintain a portion of the community infrastructure for a development to be known as Trails at Monterey, located in the unincorporated area of Miami-Dade County, Florida.

A community development district is an independent special taxing district authorized by Chapter 190, F.S. (the “Act”) to plan, finance, construct, operate and maintain community infrastructure in planned community developments. As stated in the Act, a CDD provides:

“...a solution to the state’s planning, management, and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and their taxpayers”. Section 190.002 (1) (a), F.S.

Trails at Monterey CDD is not a substitute for Miami-Dade County, which is the local general purpose governmental unit having jurisdiction over the CDD. The reason is the CDD does not have the planning, zoning and regulatory powers granted to Miami-Dade County. As a result, all development undertaken within the CDD must be consistent with all requirements of Miami-Dade County.

A CDD’s powers are strictly limited to planning, financing, constructing, operating and maintaining community infrastructure.

The scope of this statement of estimated regulatory costs is statutorily limited to evaluating the consequences of creating the Trails at Monterey CDD. The policy of the State regarding the scope of the CDD establishment process is explicitly set out in Section 190.002 (2) (d), F.S. as follows:

“That the process of establishing such a district pursuant to uniform general law be fair and based only on factors material to managing and financing the service-delivery function of the district, so that any matter concerning permitting or planning of the development shall not be material or relevant.”

Therefore, the only relevant concern is whether Trails at Monterey CDD will be a financially visible entity.

1.2 Trails at Monterey Development

The proposed Trails at Monterey Development is located within Miami-Dade County, Florida. The developer ("Developer") is Caribe at Tamiami, LLC, Florida limited liability company. The proposed Development is designed as a master planned residential development containing 415 dwelling units serving south Florida markets.

Trails at Monterey Development is located in the unincorporated area of Miami-Dade County, Florida, on the south side of SW 26th Street, east and west of 152nd Avenue. Trails at Monterey is planned as a self-sustaining residential community. Projected build-out of the project is 3 to 5 years.

1.3 Trails at Monterey Community Development District (CDD)

The Petitioner proposes to establish the Trails at Monterey Community Development District to acquire, construct, operate and/or maintain some of the infrastructure and community facilities in the Trails at Monterey development. Table 1 outlines the proposed development plan timetable and the schedule for completion of the various projects.

Table 2 shows the infrastructure that is proposed to be constructed by the CDD and the estimated costs.

The financial design of Trails at Monterey CDD was carefully formulated to help assure that the CDD will be strong, stable, and able to stand alone throughout its lifetime. A detailed cash-flow analysis has been developed for the proposed range of potential future economic conditions in which the proposed district might have to operate. In all cases, the proposed financial structure allowed the CDD to remain financially strong and capable of carrying out its obligations. The important features of the financial design for proposed CDD are discussed below.

As outlined in Table 2, Trails at Monterey CDD is projected to finance the construction of the surface water management system. The bonds used to finance the surface water management system will be retired through the use of non-ad valorem assessments levied on all property owners in the district.

The CDD will own, operate and maintain the surface water management system in the CDD. To defray the costs of operating and maintaining the infrastructure, the CDD will make use of non-ad valorem maintenance assessments levied on all assessable property in the district.

The CDD is projected to finance the construction of the water distribution system and the wastewater collection and transmission facilities. The bonds used to finance such infrastructure will be retired through the use of non-ad valorem assessments levied on all property owners in the district.

The water distribution system and the wastewater collection and transmission facilities will be conveyed to Miami-Dade County Utilities Department. Thus, the operation and maintenance of these facilities will be the responsibility of the Utilities' Department.

The CDD is projected to finance the construction of the internal roadway system. The bonds used to finance such infrastructure will be retired through the use of non-ad valorem assessments levied on all property owners in the district.

The CDD will own, operate and maintain the internal roadway system in the make use of non-ad valorem maintenance assessments levied on all assessable property in the district.

The CDD is projected to finance the construction a certain portion of the offsite roadway system. The bonds used to finance such infrastructure will be retired through the use of non-ad valorem assessments levied on all property owners in the district.

The CDD will convey the offsite roadway system to Miami-Dade County or another governmental agency for ownership, operation and maintenance. The bonds used to finance such infrastructure will be retired through the use of non-ad valorem assessments levied on all property owners in the district.

Finally, the Petitioner has no plans for the CDD to issue general obligation debt or to levy ad valorem taxes. The financial structure of the District is such that there is no need to use ad valorem taxation.

2.0 COSTS AND BENEFITS OF ESTABLISHING THE TRAILS AT MONTEREY COMMUNITY DEVELOPMENT DISTRICT

2.1 Costs to Miami-Dade County to Implement the Proposed Community Development District

Chapter 190.005 (2), F.S. mandates that the exclusive and uniform method for the establishment of a community development district of less than 1000 acres in size shall be by an ordinance adopted by the county commission of the county having jurisdiction over the majority of land in the area in which the district is to be located.

The one-time cost of reviewing the CDD petition is minimal. The County has its own in-house staff to process petitions filed for other reasons. Therefore, the marginal addition of one more petition to review results in little, if any, additional cost. Review of the proposed development will not be necessary since the project was previously approved through the PUD process. Considerable fees were paid by the Petitioner for that review.

Beyond the minimal administrative costs outlined above, there will be only inconsequential costs to Miami-Dade County and the general citizenry because of the

establishment of the Trails at Monterey CDD. The CDD is designed to serve the needs of its property owners by financing, constructing, operating and maintaining the infrastructure and other services needed by district residents. The CDD will not require subsidies from Miami-Dade County.

Finally, the CDD will pay its own election costs and will pay substantial fees for other urban services, such as tax assessment and collection. Thus, the net costs to Miami-Dade County and its citizens due to establishment of the Trails at Monterey CDD are negligible.

Concern that district obligations, particularly debt payments, could become state or county obligations is without foundation. This point was made explicitly clear by the Legislature when it adopted Section 190.002 (3) F. S.

“...It is further the purpose and intent of the Legislature that no debt or obligations of a district constitute a burden on any local general purpose government without its consent.” Section 190.002 (3) F. S.

2.2 Benefits to Miami-Dade County and Its Citizens

There are several types of benefits (both indirect and direct) which will flow to Miami-Dade County and its citizens if the CDD is established. First, with regard to the indirect benefits, approval of the CDD satisfies the intent of the Act by providing a solution to the planning, management and financing of capital infrastructure to service projected growth without overburdening Miami-Dade County and its taxpayers. Section 190.002 of the Act is quoted as follows:

“(1) The Legislature finds that: (a) there is a need for uniform, focused and fair procedures in state law to provide a reasonable alternative for the establishment, power, operation and duration of independent districts to manage and finance basic community development services; and that, based upon a proper and fair determination of applicable facts, an efficient, effective, responsive, and economic way to deliver these basic services, thereby providing a solution to the state’s planning, management, and financing needs for delivery of capital infrastructure in order to service projected growth without overburdening other governments and their taxpayers.” Section 190.002, F. S.

A second indirect benefit which Miami-Dade County and its citizens receive is the improved level of planning and coordination which the CDD will provide. This benefit will minimize any potential negative impacts to other citizens and jurisdictions.

“It is in the public interest that long range planning, management, and financing and long-term maintenance, upkeep, and operation of basic services for community development districts be under one coordinated entity.” Section 190.002-(1) (c), F. S.

By enacting the Act, the Legislature recognized that substantial public benefits accrue from well-planned community developments in Florida. Trails at Monterey CDD is just the type of planned development envisioned in Chapter 190, F. S.

It is most difficult to place a dollar value on these indirect benefits; however, they are certainly substantial. Furthermore, given the minimal costs incurred by Miami-Dade County if the CDD is approved, the benefits clearly overwhelm any such costs, yielding significant net benefits to Miami-Dade County and its citizens.

Trails at Monterey CDD will provide a number of direct economic benefits to Miami-Dade County and its citizens. First, the CDD is the best means of assuring that CDD residents receive the services they need, while at the same time restricting the cost to only those who receive the services. This financial structure binds those who receive the CDD services to the obligation to pay for those services. At the same time, this structure also allows future CDD residents to control the entity which provides the services and levies the assessments to pay for those services. Miami-Dade County and its citizens are not involved in any way in the financial obligations, operation or maintenance of the district.

A second economic benefit which accrues to Miami-Dade County and its citizens is that establishment of the CDD frees the County of responsibilities and costs of the management and administrative burden of the CDD. Thus, it will be possible for the County Commission to continue to focus on those areas of the county that require more immediate attention.

Conversely, residents of the CDD will be able to address their concerns about infrastructure to the Board of Supervisors of the CDD. This focus will lighten the burden on the County Commission compared with what would likely occur without the CDD.

The CDD is an independent governmental unit, it has its own independent board and budget, and it must see to its own administration. This arrangement for governing and administering the district means a considerable cost saving to the County over other types of arrangements. Any other form of government or financial structure would result in the County being at least partially responsible for the community's services.

Third, approval of the proposed CDD would minimize some increases in the cost of County funded services. As new development occurs in any community, residents of the new area demand increased levels of services over and above those provided before development. The costs of providing these services are spread to the remaining taxpayers in the jurisdiction of the local government(s) providing the services. If this were to happen, taxing and spending levels would increase, and costs would be passed on, at least in part, to surrounding residents. The result would further strain the County budget. Without the CDD, development of Trails at Monterey could possibly increase the demands on Miami-Dade County to extend and improve services to the community.

Fourth, the CDD proposes to construct the water distribution system and the wastewater collection and transmission facilities and to deed same to Miami-Dade County at no cost. The estimated cost to the CDD to construct these facilities is expected to exceed \$ 2,753,185. In addition to this donation, Miami-Dade County Utilities Department's customer base will increase by approximately 415 households.

The proposed CDD will serve the needs of its residents. The board of supervisors of the CDD will determine the level and quality of the community services the residents want and are willing to pay for. The CDD will provide the residents of Trails at Monterey CDD with a mechanism for satisfying these needs without recourse to the County Commission.

All of these benefits have substantial value. The financial benefits to the County and its citizens include the avoided costs of administering public services for the community. In addition, there are significant, if only intangible, benefits which result from having a district to ensure that CDD residents get the services they need. The CDD also ensures that its property owners, and only its property owners, pay for the services they receive.

2.3 Costs to the Petitioner

The petitioner will incur substantial costs if the CDD is approved. These costs can be grouped into four categories: (1) planning and applying for the CDD; (2) contributions for management and technical assistance; (3) payment of CDD taxes; and (4) donation of capital facilities.

It is costly and time consuming to plan and apply for a CDD of the size and complexity proposed for Trails at Monterey CDD. First, the Petitioner has secured a team of professionals including attorneys, engineers, planners, and special district experts to insure that the CDD will perform as provided by the Act.

Second, the CDD will need financial support from the Petitioner to secure managerial and technical assistance, especially in the early years of its operation.

Third, the Petitioner will pay substantial CDD assessments and fees over the life of the project. During the first several years of the project, the Petitioner will be the CDD's largest taxpayer.

Fourth, the Petitioner assumes considerable risk in establishing the CDD and allowing the advance funding of the infrastructure. As the developer in the initial stages of development, the Petitioner assumes the sole liability for all the debt incurred by the CDD until the land is developed and sold to individual homeowners.

2.4 Benefits to the Petitioner

The CDD will also provide the Petitioner with several benefits. First, the CDD will provide access to financing for a portion of the community's infrastructure. While this particular benefit to the petitioner is obvious, it is not the most significant one. In fact, the importance of this benefit, while significant, would not be enough by itself to entice the Petitioner to establish the CDD.

The value to the Petitioner of financing a portion of the infrastructure through the CDD amounts to an annual financing cost difference in today's market which results in a cost saving. As a result, the potential gross savings will accrue to the future homeowners in the CDD and does not represent a net cost saving to the Petitioner. As noted above, with the establishment of the CDD, the Petitioner will be obligated to pay substantial assessments and fees to the CDD.

Other benefits for the Petitioner in establishing the CDD exist beyond the financing of a portion of the community's infrastructure. Most important among these is that the proposed CDD is a mechanism for providing long term, on-going maintenance and operation of CDD facilities. Ultimately, the CDD will be controlled and operated by the CDD homeowners for their own benefit. This helps assure that the high standard which the Petitioner has set for the CDD will be preserved throughout the life of the project.

2.5 Costs to the Consumers

Consumers are people who will purchase land and residences in the Trails at Monterey CDD. Should the CDD be established, district homeowners will be required to pay CDD assessments over and above their County taxes. CDD assessments do not affect or offset County taxes. It is this increment of expenses which is the cost of the CDD to the consumers.

As noted above, the CDD plans to finance, construct, operate and maintain a variety of infrastructure and community services for the benefit of its homeowners. Currently, homeowners in unincorporated Miami-Dade County are subject to a number of different ad valorem and non-ad valorem taxes. All of these taxes will continue to exist regardless of whether the CDD is approved. Homeowners of the CDD will continue to pay County taxes notwithstanding the existence of the CDD. Thus, these costs cannot properly be viewed as taxes that arise from the CDD itself, even though district homeowners would pay such taxes. The point is that homeowners will pay these costs in any event. If the CDD is not created, the cost of the infrastructure will be included in the price of the property sold to future homeowners rather than paid over time as a special assessment on the tax bill.

All prospective purchasers will be informed of the existence of the CDD. Chapter 190.048, F. S. requires each contract for the sale of real estate within a CDD include a

specific disclosure statement in boldfaced type immediately prior to the space reserved in the contract for the signature of the purchases.

2.6 Benefits to the Consumers

CDD residents will receive three major classes of benefits. First, CDD residents will receive a higher level of public services and amenities than would otherwise be the case. Trails at Monterey is designed as a single-family residential project with high service demands. To be successful, the Petitioner feels that a mechanism is needed to help ensure a high level of public services consistent with the project goals. The CDD is the best vehicle for this purpose.

Second, the CDD is a mechanism for assuring that the community services and amenities are maintained at a high level throughout the life of the project. This mechanism protects the substantial investment purchasers will make in their homes at Trails at Monterey.

Finally, the CDD is the sole form of governance that allows district property owners to totally control the type, quality and expense of services provided by the CDD.

It is clear that the formation and operation of the Trails at Monterey CDD will benefit its homeowners. The CDD will be controlled by CDD property owners, and will be operated for their benefit. Finally, the CDD will help ensure that the high standards the Petitioner has set for the development will be maintained for the benefit of CDD property owners.

3.0 COMPETITIVE EFFECTS

Approval of the Trails at Monterey CDD will have an effect on competition in the market for housing in Miami-Dade County and in those areas where there are projects similar to the Trails at Monterey. To understand the nature of these competitive effects, it is important to recognize the type of project envisioned at Trails at Monterey. The development is designed as a residential community consisting of 415 residential units. As such, it competes with other developments serving this same market niche. In addition, the granting of a community development district for Trails at Monterey does not provide a competitive advantage which others could not obtain.

4.0 IMPACT OF SMALL BUSINESS

Approval of the Trails at Monterey CDD will have a positive impact on small business as defined in Chapter 288.703 (1), F. S. Many types of neighborhood services will be required by the residents of the CDD. These services can be provided by the small businesses that currently serve the general area. Additional opportunities will also be created for new businesses to be formed or relocate to the area. No negative impacts have been identified for small businesses as defined.

5.0 DATA AND METHODOLOGY

The data used in this analysis, in particular the build-out schedule and average home values, were developed and submitted with the initial application for the Trails at Monterey and updated for the petition for the CDD. Table 2 outlines the capital infrastructure proposed to be constructed by or for the CDD and reflects the best estimates of costs and timing at this juncture.

6.0 PROBABILITY OF A GOOD FAITH WRITTEN PROPOSAL CHAPTER 120.541 (1) (A), F. S.

Since the Petitioner represents the landowners of the property encompassing the proposed CDD, Petitioner is the only substantially affected party who could have standing to submit a good faith written proposal for a lower regulatory cost alternative to the creation of the CDD as provided for in Chapter 120.541 (1) (a), F. S. Petitioner has already explored all feasible alternatives to lower costs, including the alternative of not forming the CDD, and has concluded that creation of the CDD is the best alternative.

7.0 CONCLUSION

The question is whether having a CDD provide the community services is more financially viable, efficient and responsive to the needs of the homeowners than any other form of service provider. After careful review and analysis, the process of elimination suggests that the CDD is, in fact, the most financially viable, efficient and responsive way to provide the community services required for this project.

The estimated budget for the CDD indicates that the various charges to prospective home buyers will be moderate, and well within the ranges typical for Florida communities with strong tax bases. As noted in Table 2, the estimated cost to provide the CDD infrastructure is \$ 9,893,784.

Finally, it is emphasized that the CDD is the only governmental agency responsible for the financial obligations of the district. Florida State law (Section 190.002 (3), F. S.) protects the State of Florida, Miami-Dade County and all other governmental agencies from all obligations of the CDD, whether they are financial, administrative or operational.

TABLE 1

TRAILS OF MONTEREY COMMUNITY DEVELOPMENT DISTRICT

ESTIMATED INFRASTRUCTURE CONSTRUCTION TIME TABLE

<u>IMPROVEMENT</u>	<u>START DATE</u>	<u>COMPLETE DATE</u>
<u>PHASE I</u>		
EARTHWORK	April 2002	July 2002
STORM DRAINAGE	July 2002	September 2002
WATER	July 2002	September 2002
SANITARY SEWER	July 2002	September 2002
SIGNS & MARKINGS	September 2002	November 2002
CONCRETE AND PAVING	September 2002	November 2002
<u>PHASE II</u>		
EARTHWORK	July 2002	September 2003
STORM DRAINAGE	September 2003	December 2003
WATER	September 2003	December 2003
SANITARY SEWER	September 2003	December 2003
SIGNS & MARKINGS	December 2002	February 2003
CONCRETE AND PAVING	December 2002	February 2003

TABLE 2

**TRAILS AT MONTEREY COMMUNITY DEVELOPMENT DISTRICT
CONSTRUCTION COSTS ESTIMATES**

WATER SUPPLY SYSTEM		\$1,205,674
WASTEWATER SYSTEM		\$1,118,111
LIFT STATION/GENERATOR HOUSE		\$429,400
SURFACE WATER MANAGEMENT		\$724,621
PAVING		\$1,117,048
EARTHWORK		\$2,872,726
LANDSCAPING		\$332,499
SOFT COSTS		\$410,530
	SUBTOTAL	\$8,210,609
CONTINGENCIES	7.50%	\$615,796
FEES & PERMITS	4.50%	\$369,477
PERFORMANCE BONDS	2.00%	164,212
ENGINEERING AND TESTING	6.50%	533,690
	TOTAL CONSTRUCTION COST	\$9,893,784

MEMORANDUM

Agenda Item No. 4(N)

TO: Hon. Chairperson and Members
Board of County Commissioners

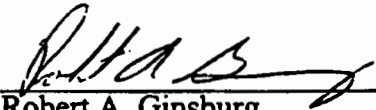
DATE: (Public Hearing 7-9-02)
June 4, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance amending Sec. 33-238
permitting computer, video and
DVD stores in BU-1

02-123

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


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 9, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance amending Sec. 33-238
permitting computer, video
and DVD stores in BU-1

02-123

The proposed ordinance amending section 33-238 permitting computer, video and DVD stores in BU-1 will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 9, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(N)

02-129

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4 (N)
7-9-02

Veto _____

Override _____

ORDINANCE NO. 02-123

ORDINANCE PERTAINING TO ZONING;
AMENDING SECTION 33-238 OF THE CODE OF
MIAMI-DADE COUNTY, FLORIDA;
PERMITTING COMPUTER, VIDEO AND DVD
STORES IN BU-1; PROVIDING SEVERABILITY,
INCLUSION IN THE CODE AND AN EFFECTIVE
DATE

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

Section 1. Section 33-238 of the Code of Miami-Dade County, Florida is
hereby amended as follows:¹

Sec. 33-238. Uses permitted.

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

* * *

>>(10.1) Computer, video, videogame and DVD stores, including
the retail sale or rental of new hardware, software, players,
videotapes and videogames, consoles, and related
computer, video, videogame and DVD products, and the
ancillary resale or exchange of pre-played computer, video,
videogame and DVD products, provided such
establishments contain not more than four thousand (4,000)
square feet of floor area.<<

* * *

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

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

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

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: **JUL 09 2002**

Approved by County Attorney as
to form and legal sufficiency:

RAC

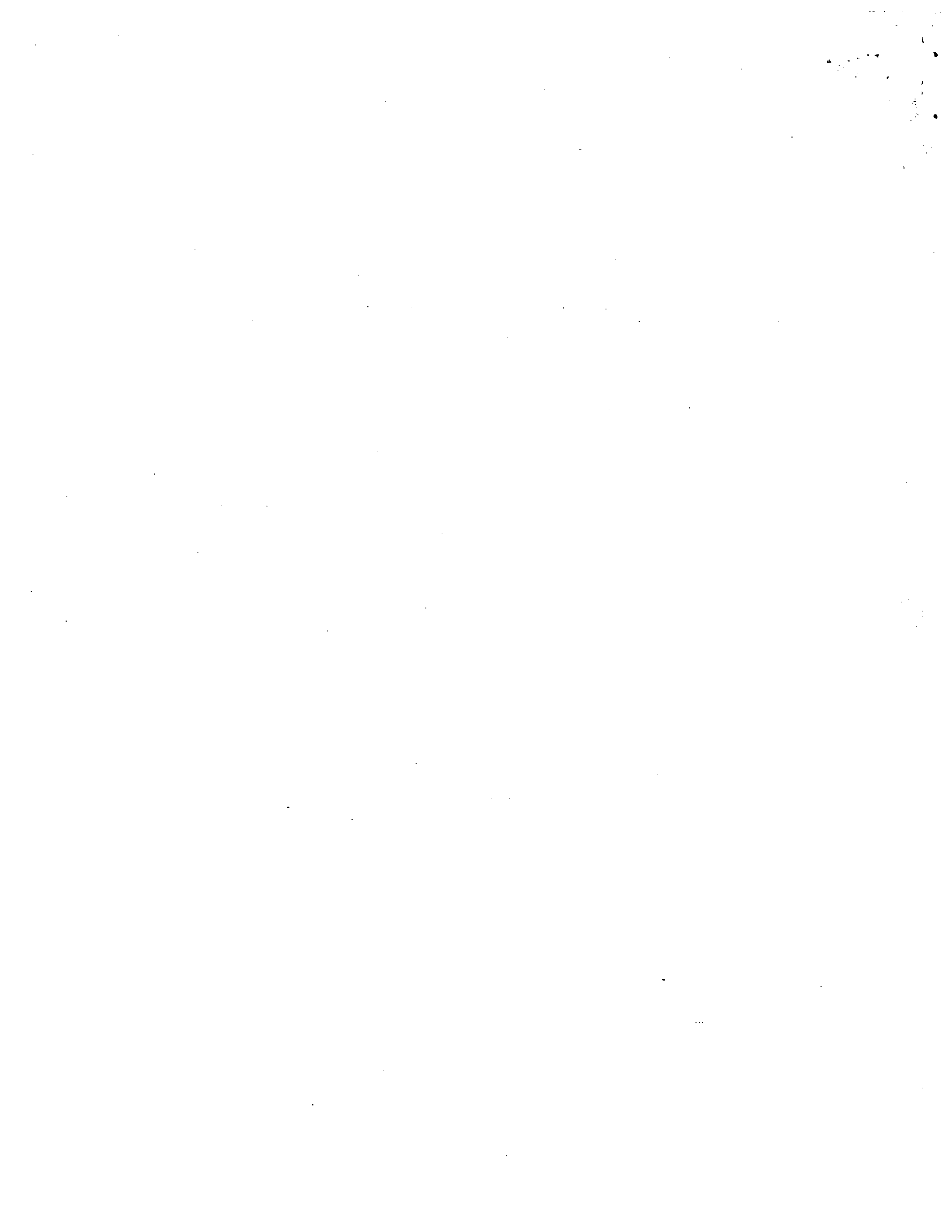
Prepared by:

JM

John McInnis

Sponsored by Commissioner Bruno A. Barreiro

5





MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 9, 2002

SUBJECT: Ordinance creating the Social and
Economic Development Council

FROM: Steve Shiver
County Manager

02-120

The proposed ordinance creating the Social and Economic Development Council will have no fiscal impact on Miami-Dade County.

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

MEMORANDUM

Amended
Substitute No. 2
Agenda Item No. 4(F)

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: July 9, 2002

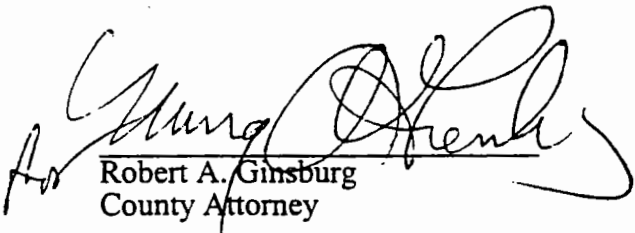
FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance creating the Social
and Economic Development
Council

O#02-120

The accompanying ordinance was prepared and placed on the agenda at the request of Senator Javier D. Souto, Commissioner Dorrin D. Rolle and Commissioner Rebeca Sosa.

This substitute differs from the original by adding six additional members to the Council and by fixing the quorum for the Council at five members.


Robert A. Ginsburg
County Attorney


RAG/jls



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 9, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Amended
Substitute No. 2
SUBJECT: Agenda Item No. 4(F)

02-120

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Amended
Substitute No. 2
Agenda Item No. 4(F)
7-9-02

ORDINANCE NO. 02-120

ORDINANCE CREATING THE SOCIAL AND ECONOMIC DEVELOPMENT COUNCIL FOR MIAMI-DADE COUNTY; SETTING FORTH MEMBERSHIP, ORGANIZATION, DUTIES AND FUNCTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the terrorist attacks on September 11, 2001 have had a devastating impact upon the social and economic fabric of Miami-Dade County; and

WHEREAS, the Mayor of Miami-Dade County declared a Local State of Emergency on October 5, 2001; and

WHEREAS, a general slowdown in aviation, the tourism industry, the trades and the construction industry has caused severe socioeconomic hardship for countless residents of Miami-Dade County; and

WHEREAS, the Board believes that the creation of a think tank charged with the responsibility of developing a short-term and long-term plan to address the social and economic consequences of the downturn, and to reinvigorate the rate of economic development is in the best interest of the County,

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

02-120

Section 1. **Creation of Board.** There is hereby created and established in Miami-Dade County an advisory board to be known as the Social and Economic Development Council for Miami-Dade County ("Council").

Section 2. **Initial Membership.** The Council shall initially consist of the following seventeen (17) members:

- a. Dr. Robert Cruz, Associate Professor of Economics and International Business at Barry University;
- b. Dr. Antonio Jorge, Professor of Political Economy at Florida International University and Senior Research Scholar at the University of Miami's Graduate School of International Studies;
- c. Dr. Kenneth Lipner, Professor of Urban Economics at Florida International University;
- d. Dr. Raul Moncarz, Professor of Finance and Vice-Provost for Academic Affairs, Florida International University;
- e. Dr. Valerie Patterson, Professor and Associate Director of the School of Policy and Management at Florida International University;
- f. Athalie Range, Community Leader;
- g. Dr. Jorge Salazar-Carrillo, Professor of Economics and Director of the Center for Economic Research, Florida International University;
- h. Dr. Albert Smith, President, Florida Memorial College;
- i. Tony Villamil, Chairman of the Beacon Council's Economic Roundtable and Chairperson of the Governor's Council of Economic Advisors;
- j. Dr. Marvin Dunn, Associate Professor and Chair, Psychology Department, Florida International University;

02-120

- k. Dr. Aida Levitan, co-chairman and chief executive officer of Publicis Sanchez & Levitan (PS&L);
- l. John Due, Assistant to Division Director, Division of Citizen Participation, Miami-Dade County Community Action Agency;
- m. Jose Raul Fox, Businessman;
- n. Dr. Willie Williams, Professor of Mathematics (Emeritus), Florida International University;
- o. Dr. Leonardo Rodriguez, Professor of Management and Accounting for the School of Business, Florida International University;
- p. Maria Guitierrez, President, Creative Ideas; and
- q. Marta Flores, Radio Host, Radio Mambi.

Section 3. **Organization.** Dr. Antonio Jorge shall serve as the Chairperson of the Council and Dr. Albert Smith shall serve as the Vice Chairperson. Five (5) members of the Council shall constitute a quorum. The Council shall adopt a schedule of regular meetings. Special meetings of the Council may be called by the Chairperson or upon the written request of five (5) members. All meetings of the Council shall be public and written minutes shall be maintained.

Section 4. **Duties and Functions.** The Council shall be charged with the following duties, functions and responsibilities and will report to the Economic Development and Housing Committee:

- a. To suggest and recommend to the Mayor and Commissioners of Miami-Dade County the appropriate short-run policies and measures to reactivate the economy of the County, with special attention to the needs of low income segments of the population;

- b. To actively participate in and coordinate the efforts for the conceptualization, formulation and implementation of a long-run strategy for the acceleration of the social and economic development of Miami-Dade County. The resulting socioeconomic plan should aim at the rapid increase in the per-capita income of the general population as well as at the diversification of the local economy and the substantial reduction in the prevailing rates of poverty in the County;
- c. To provide a forum and medium for governmental officers and community leaders to study and address the socioeconomic consequences of the terrorist attacks of September 11, 2001;
- d. To make findings and recommendations on a quarterly basis to the Mayor of Miami-Dade County and the Board of County Commissioners regarding the necessary measures to ensure full recovery and future socioeconomic development.

Section 5. **Staff Support.** The County Manager shall provide adequate departmental staff support and access to the necessary resources to enable the Council to carry out its duties, functions and responsibilities.

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

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

Section 8. This ordinance shall become effective ten (10) days after the date of

02-120

enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 9. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED:

JUL 09 2002

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

SDS/SDS

Shannon D. Summerset

Sponsored by Senator Javier D. Souto, Commissioner Dorrin D. Rolle
and Commissioner Rebeca Sosa

MEMORANDUM

Amended
Substitute
Agenda Item No. 4(D)

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: (Public Hearing 7-9-02
July 9, 2002

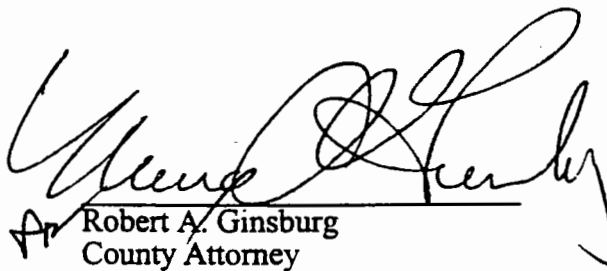
FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance calling special electric
with regard to a new municipalit
currently known as Palmetto Bay

O#02-119

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Katy Sorenson.

The substitute differs from the original version in that a new legal description is attached which maintains the same general boundaries, but is a more detailed description of the property.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

02-119

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: July 9, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance Calling Special
Election with Regard to
New Municipality in the
Area Currently Known
Palmetto Bay

Fiscal Impact Statement

The creation of a new municipality in the area currently known as Palmetto Bay will have a negative impact on the Unincorporated Municipal Service Area (UMSA) budget. In fiscal year 01-02, the revenues derived from the area are approximately \$9.667 million per year, while expenses for the area are estimated at \$6.931 million per year, leaving a \$3.736 million per year surplus from the area.

This new municipality will make a contribution to the Municipal Services Trust Fund (MSTF) of \$1.578 million to defray the impact of its incorporation, therefore, the adverse financial effect will be reduced to \$2.158 million. This partial mitigation payment was negotiated with the Palmetto Bay Area Municipal Advisory Committee and has been approved by the Board. It is consistent with the approach taken with the Town of Miami Lakes, the first municipality to make mitigation payments to the MSTF.

The proposed charter includes all the special conditions under which the incorporation process was approved. Among the special conditions are: the County services the new municipality is required to keep including; the contractual requirements for specialized police services in perpetuity and local patrol police services for an initial period of at least three years; the mitigation payment agreement; the County's retention of regulatory control over a facility of countywide significance; the municipality's continued obligations as to County bonds; and the municipality's favored nation status.

The charter calls for the new municipality to remain a part of and receive services from the Miami-Dade Fire Rescue District, the Miami-Dade Library System, and the Miami-Dade Solid Waste Collection service area, in perpetuity.

Among the elements included in the charter is that the new municipality pay from its municipal funds for the specialized law enforcement services that will be

exclusively provided by the Miami-Dade Police Department. The new municipality will be credited with the payment made through the countywide millage for as long as Miami-Dade County continues to fund specialized police services from the countywide budget.

Charter language specifies that Miami-Dade County may retain payments it would otherwise make to the municipality from fees collected by the County on the municipality's behalf to offset all or a portion of the amount due from the new municipality to the MSTF. Also in reference to the MSTF, and in accordance with the agreement made with the Municipal Advisory Committee, should the Burger King property located at 17777 Old Cutler become tax-exempt, the new municipality's contribution to the MSTF shall be reduced by \$26,966.00 which is the equivalent of 40% of the property taxes (\$66,415.15) generated by this property. Charter language also addresses the fact that just like the contribution to the MSTF will increase in accordance with the Consumer Price Index, the annual reductions associated with the Burger King property would also increase accordingly.

Also of significance is the inclusion of language in the charter regarding the new municipality's agreement to adopt a local government comprehensive plan consistent with Miami-Dade County's Comprehensive Development Master Plan as applied to the site of the Florida Power and Light Cutler Ridge Electric Power Generating Plant, a facility of countywide significance. Jurisdiction over the site for purposes of zoning and building approvals, water and sewer installations, compliance with environmental regulations, street maintenance and utility regulation remains vested with Miami-Dade County regardless of any municipal code, charter, or ordinance provision to the contrary.

Through charter language, there is recognition of the area's continuing obligation as to county bonds. The new municipality agrees that until the bonds are retired, the County shall have the right to receive and apply to debt service on the bonds all of the Stormwater Utility fees and public service taxes collected within the boundaries of the new municipality.

Pursuant to the Home Rule Charter amendment approved in 2000, the charter also includes the stipulation that in order for Article IX to be modified, in addition to the approvals normally required by the municipal charter, approvals by 2/3rds of the total membership of the Board of County Commissioners is required.

The charter for the new municipality is expected to go to a vote in September 2002 when the state primary is held. Therefore, costs associated with the election will be substantially reduced. Notwithstanding the reduction, if created, the proposed municipality will be responsible for the reimbursing the County for all costs associated with the special election.




MEMORANDUM

02-119

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 9, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Amended
Substitute
SUBJECT: Agenda Item No. 4(D)

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Amended
Substitute
Agenda Item No. 4(D)
7-9-02

ORDINANCE NO. 02-119

ORDINANCE CALLING SPECIAL ELECTION IN MIAMI-DADE COUNTY, FLORIDA TO BE HELD ON SEPTEMBER 10, 2002 FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE PROPOSED MUNICIPALITY CURRENTLY KNOWN AS PALMETTO BAY THE QUESTION OF WHETHER THE CHARTER PROPOSED BY THE PALMETTO BAY CHARTER COMMISSION SHOULD BE ADOPTED AS THE MUNICIPAL CHARTER FOR THE PROPOSED MUNICIPALITY AND SHOULD THE PROPOSED MUNICIPALITY BE NAMED THE VILLAGE OF OLD CUTLER OR THE VILLAGE OF PALMETTO BAY; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

WHEREAS, on February 26, 2002, this Board adopted Resolution No. R-213-02 which created and established a Charter Commission with the responsibility for drafting a proposed municipal charter to be submitted to the electors residing within the boundaries of the area currently known as Palmetto Bay; and

WHEREAS, the Palmetto Bay Charter Commission has submitted to this Board, a proposed municipal charter for the area currently known as Palmetto Bay, a copy of which is attached to this resolution and incorporated herein by reference; and

WHEREAS, this Board wishes to submit the proposed charter to the electors of the proposed municipality pursuant to the provisions of Sections 5.03 and 5.05 of the Miami-Dade County Home Rule Charter and Resolution No. R-213-02; and

WHEREAS, the aforementioned proposed charter provides for a vote on whether the name of the proposed municipality shall be the "Village of Old Cutler" or the "Village of Palmetto Bay"; and

WHEREAS, the Board, pursuant to its authority under Section 2.06(A) of the Miami-Dade Home Rule Charter, wishes to submit the question of naming the proposed municipality to the voters in the area pursuant to the request of the Charter Commission as set forth in the proposed charter,

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

Section 1. The foregoing recitations are hereby incorporated herein as a portion of this ordinance.

Section 2. A special election is hereby called and shall be held in Miami-Dade County, Florida, on Tuesday, September 10, 2002 for the purpose of submitting to the qualified electors residing within the boundaries of the proposed municipality currently known as Palmetto Bay, the question of whether the charter proposed by the Palmetto Bay Charter Commission should be adopted as the municipal charter for such proposed municipality and whether the municipality shall be named either the "Village of Old Cutler" or the "Village of Palmetto Bay".

Section 3. Notice of such special election shall be published in accordance with Section 100.342, Florida Statutes (1995).

Section 4. The result of such special election shall be determined by a majority of the qualified electors of the proposed municipality voting upon the questions. The polls at such special election shall be open from 7:00 a.m. until 7:00 p.m. on the day of such special election. All qualified electors residing within the boundaries of the proposed municipality currently

known as Palmetto Bay shall be entitled to vote at said special election. The County registration books shall remain open at the Office of the Miami-Dade County Supervisor of Elections until twenty-nine (29) days prior to the date of such special election, at which time the registration books will close in accordance with the provisions of the general election laws. Touch Screen Voting machines shall be used in such special election, and the following questions shall appear on the ballot in substantially the following form:

**ADOPTION OF MUNICIPAL CHARTER
FOR AREA CURRENTLY KNOWN AS PALMETTO BAY**

Shall the charter proposed by the Palmetto Bay Charter Commission be adopted as the municipal charter for the area currently known as Palmetto Bay?

YES

NO

**NAMING OF PROPOSED MUNICIPALITY
CURRENTLY KNOWN AS PALMETTO BAY**

Please select one name for the proposed municipality from the names set forth below:

VILLAGE OF OLD CUTLER

Or

VILLAGE OF PALMETTO BAY

Section 5. Such questions shall appear on the ballot as separate questions or proposals. Those qualified electors desiring to adopt or approve the municipal charter shall be instructed to vote "YES". Those qualified electors desiring to reject or disapprove the municipal charter shall be instructed to vote "NO." Those qualified electors desiring to name the municipality the Village of Old Cutler shall be instructed to vote for such name. Those

qualified electors desiring to name the proposed municipality the Village of Palmetto Bay shall be instructed to vote for such name.

Section 6. Optical scan or touch screen systems may be used for absentee voting by qualified electors residing within the boundaries of the proposed municipality currently known as Palmetto Bay for voting on these questions at said election. The form of such absentee ballot shall be in accordance with the requirements prescribed by the general election laws, and shall have printed thereon the question regarding approval of the proposed municipal charter, with proper place for voting either "YES" or "NO" and with proper place for naming the proposed municipality either the Village of Old Cutler or the Village of Palmetto Bay.

Section 7. A sample ballot showing the manner in which the questions or proposals aforesaid will appear on the touch screen system at this election shall be published and provided in accordance with the applicable provisions of the general election laws.

Section 8. This election on the questions or proposals aforesaid shall be held and conducted in accordance with applicable provisions of the general law relating to elections and the provisions of the Miami-Dade County Home Rule Charter. The County Manager, the Finance Director, the Supervisor of Elections and the Clerk of the County Commission are hereby authorized and directed to take all appropriate actions necessary to carry into effect and accomplish the provisions of this resolution. This special election shall be a nonpartisan election. Inspectors and clerks to serve as election officials in connection with this election shall be appointed in accordance with the provisions of the general election laws.

Section 9. This election shall be canvassed by the County Canvassing Board, in accordance with the provisions of Section 2.07 of the Home Rule Charter.

Section 10. 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 11. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall be excluded from the Code of Miami-Dade County, Florida.

Section 12. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 13. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUL 09 2002

Approved by County Attorney as
to form and legal sufficiency:

CMA

Prepared by:

CJ

Cynthia Johnson-Stacks

Sponsored by Commissioner Katy Sorenson

VILLAGE OF (SEE SEC. 8.9)
VILLAGE CHARTER

Preamble

Citizens' Bill of Rights

Article I. Corporate Existence, Form of Government, Boundary and Powers

- Sec. 1.1 Corporate Existence.
- Sec. 1.2 Form of Government.
- Sec. 1.3 Corporate Boundary.
- Sec. 1.4 Powers.
- Sec. 1.5 Construction.

Article II. Mayor, Vice-Mayor and Village Council

- Sec. 2.1 Mayor and Vice-Mayor.
- Sec. 2.2 Village Council.
- Sec. 2.3 Election and Term of Office.
- Sec. 2.4 Qualifications.
- Sec. 2.5 Vacancies; Forfeiture of Office; Filling of Vacancies.
- Sec. 2.6 Compensation; Reimbursement for Expenses.
- Sec. 2.7 Recall.

Article III. Administrative

- Sec. 3.1 Village Manager.
- Sec. 3.2 Village Manager; Appointment, Removal.
- Sec. 3.3 Powers and Duties of the Village Manager.
- Sec. 3.4 Acting Village Manager.
- Sec. 3.5 Bond of Village Manager.
- Sec. 3.6 Village Clerk.
- Sec. 3.7 Village Attorney.
- Sec. 3.8 Expenditure of Village Funds.
- Sec. 3.9 Village Boards and Agencies.
- Sec. 3.10 Competitive Bid Requirement/Purchasing.

Article IV. Legislative

- Sec. 4.1 Council Meeting Procedure.
- Sec. 4.2 Prohibitions.
- Sec. 4.3 Ordinances.
- Sec. 4.4 Emergency Ordinances.
- Sec. 4.5 Annual Budget Adoption.
- Sec. 4.6 Fiscal Year.
- Sec. 4.7 Appropriation Amendments During the Fiscal Year.
- Sec. 4.8 Authentication, Recording and Disposition of Ordinances; Resolutions and Charter Amendments.
- Sec. 4.9 Tax Levy, Assessments and Fees.
- Sec. 4.10 Independent Audit.
- Sec. 4.11 Borrowing.

Article V. Elections

- Sec. 5.1 Elections.
- Sec. 5.2 Initiative and Referendum.

Article VI. Charter Amendments

- Sec. 6.1 Procedure to Amend.
- Sec. 6.2 Charter Revision.

Article VII. General Provisions

- Sec. 7.1 Severability.
- Sec. 7.2 Conflicts of Interest; Ethical Standards.
- Sec. 7.3 Village Personnel System.
- Sec. 7.4 Variation of Pronouns.
- Sec. 7.5 No Discrimination.
- Sec. 7.6 Lobbyist.
- Sec. 7.7 Precedence over Related Laws.

Article VIII. Transition Provisions

- Sec. 8.1 Temporary Nature of Article.
- Sec. 8.2 Interim Governing Body.
- Sec. 8.3 Interim Adoption of Codes and Ordinances.
- Sec. 8.4 Taxes and Fees.
- Sec. 8.5 Initial Election of Village Council and Mayor.
- Sec. 8.6 Initial Expenditures.
- Sec. 8.7 First Fiscal Year and Budget.
- Sec. 8.8 Transitional Ordinances and Resolutions.
- Sec. 8.9 Village Name.
- Sec. 8.10 Creation of Village.

Article IX. Special Conditions

- Sec. 9.1 Interlocal Agreement.
- Sec. 9.2 County Services.
- Sec. 9.3 Specialized Law Enforcement Services.
- Sec. 9.4 Local Police Patrol Services.
- Sec. 9.5 Municipal Services Trust Fund.
- Sec. 9.6 Regulatory Control.
- Sec. 9.7 Continuing Obligations as to County Bonds.
- Sec. 9.8 Favored Nation Status.
- Sec. 9.9 Rights of the Village.
- Sec. 9.10 Modifications.

Article X. Transitional Process for Separation, Annexation and De-annexation

- Sec. 10.1 Temporary Nature of Article.
- Sec. 10.2 Annexations and Separations.
- Sec. 10.3 Effect of Annexations on MSTF.
- Sec. 10.4 County Commission Mandate.
- Sec. 10.5 USDA Property.

VILLAGE OF (SEE SEC. 8.9)

MUNICIPAL CHARTER

Charter Commission Note - The following is the Charter of the Village, as adopted by referendum on September 10, 2002, and effective on September 11, 2002.

On February 26, 2002, the Miami-Dade County Board of County Commissioners appointed the following residents as members of the Palmetto Bay Charter Commission: Edward P. Ludovici, as Chairman, Thomas Ringel, as Vice-Chairman, Mary T. Cagle, Stephen Yenzer and Paul J. Schwiep. The Charter Commission met during the months of March, April and May 2002 to draft the Charter for the Village.

PREAMBLE

We, the people of the Village of (SEE SEC. 8.9), in order to secure for ourselves the benefits and responsibilities of home rule, in order to provide a municipal government to serve our present and future needs, do hereby adopt this Charter.

CITIZENS' BILL OF RIGHTS

(A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administration management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:

(1) *Convenient Access.* Every person has the right to transact Village business with a minimum of personal inconvenience. It shall be the duty of the Mayor, the Village Council and the Village Manager to provide, within budget limitations, reasonably convenient times and places for registration and voting, for required inspections, and for transacting business with the Village.

(2) *Truth in Government.* No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.

(3) *Public Records.* All audits, reports, minutes, documents and other public records of the Village and its boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.

(4) *Minutes and Ordinance Register.* The Village Clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions listed by descriptive title. Written minutes of all meetings and the ordinance register shall

be available for public inspection not later than 30 days after the conclusion of the meeting.

(5) *Right to be Heard.* So far as the orderly conduct of public business permits, any interested person has the right to appear before the Village Council or Village agency, board or department for the presentation, adjustment or determination of an issue, request, or controversy within the jurisdiction of the Village. Matters shall be scheduled for the convenience of the public. The Village Council shall adopt agenda procedure and schedule hearings in a manner that will enhance the opportunity for public participation. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits and procedures for the presentation of a matter.

(6) *Right to Notice.* Persons entitled to notice of a Village hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

(7) *No Unreasonable Postponements.* No matter, once having been placed on a formal agenda by the Village, shall be postponed to another day except for good cause shown in the opinion of the Mayor, Village Council, board or agency conducting such meeting, and then only on condition that the affected person shall, upon written request, receive mailed notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.

(8) *Right to Public Hearing.* Upon a timely written request from any interested party, and after presentation of the facts to and approval by the Council, a public hearing shall be held by any Village agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the Law Department of the Village nor to any person whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his/her counsel shall be entitled to present his/her case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts. The decision of such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.

(9) *Notice of Action and Reasons.* Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any Village administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.

(10) *Managers' and Attorneys' Reports.* The Village Manager and Village Attorney shall periodically make a public status report on all major matters pending or concluded within their respective areas of concern.

(11) *Budgeting.* In addition to any budget required by state statute, the Village Manager at the direction of the Mayor shall prepare a budget showing the cost of each department for each budget year. Prior to the Village Council's first public hearing on the proposed budget required by state law, the Village Manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefore, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.

(12) *Quarterly Budget Comparisons.* The Village Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.

(13) *Representation of Public.* The Mayor shall endeavor to designate one or more individuals to represent the Village at all proceedings before County, State and Federal regulatory bodies, significantly affecting the Village and its residents.

(B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the Village. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the Village. The orderly, efficient and fair operation of government requires the participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

(C) All provisions of this Bill of Rights shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this Bill of Rights shall be declared invalid, it shall not affect the validity of the remaining provisions.

ARTICLE I. CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWERS

Section 1.1 Corporate Existence.

A municipal corporation resulting from the election authorized by Resolution R-1296-01 adopted on November 20, 2001 by the Miami-Dade County Board of County Commissioners, which permitted the continuing process of incorporation of the area described in Section 1.3 below, originally known as the Village of Palmetto Bay, and which shall hereafter be known by the name selected for the Village pursuant to the process set forth in Section 8.9 herein below (the "Village") is hereby created pursuant to the Constitution of the State of Florida (the "State") and the Home Rule Charter of Miami-Dade County (the "County"). The corporate existence of the Village shall commence September 11, 2002 or such other date as this charter is approved by election.

Section 1.2 Form of Government.

The Village shall have a "Council-Manager" form of government.

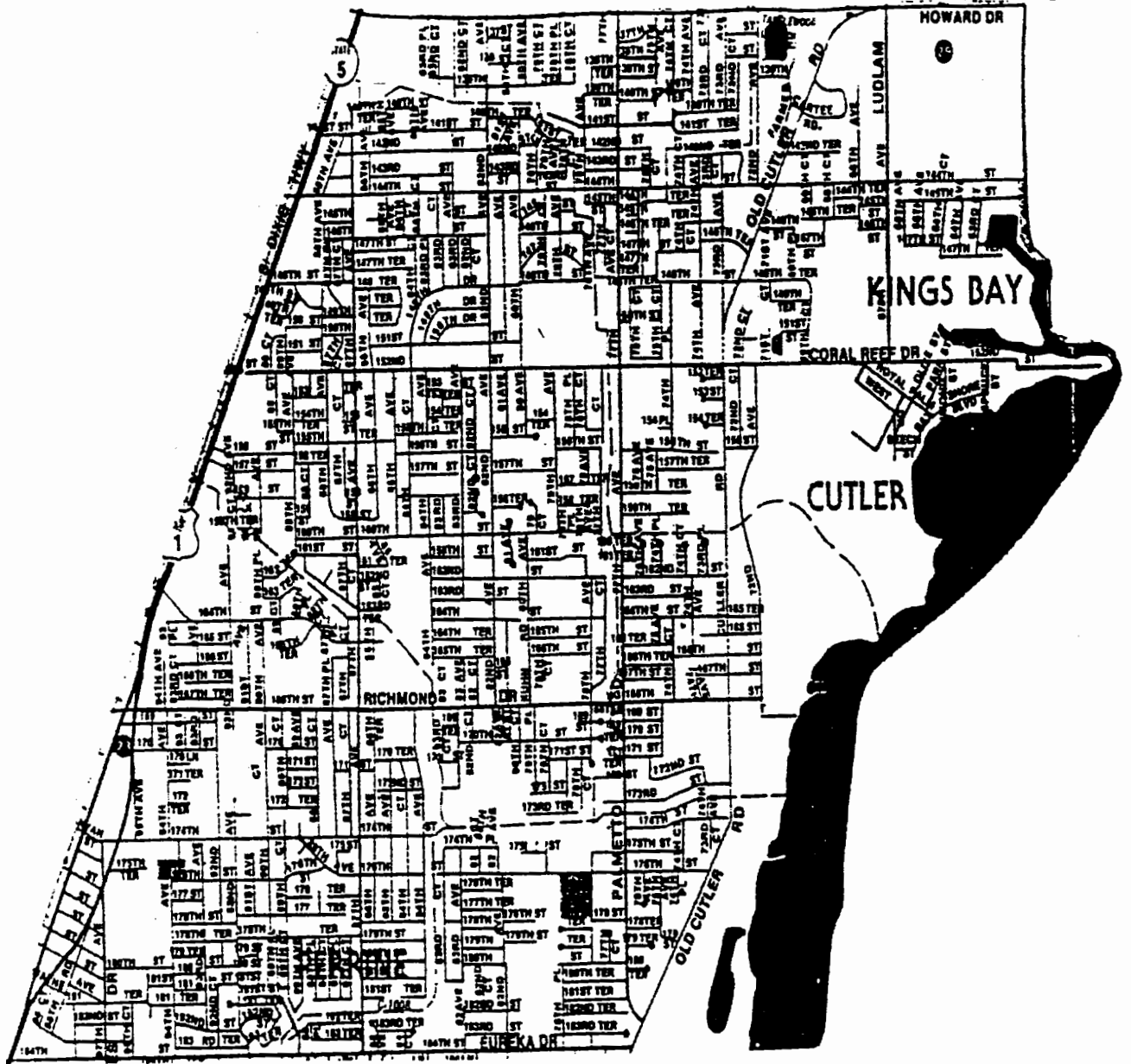
Section 1.3 Corporate Boundary.

The corporate boundaries of the Village are generally described as follows and shown on the map on page 5. In case of a conflict between the Legal Description and the Map, the Legal Description shall govern.

Northern Boundary:	S.W. 136 Street and the City of Coral Gables
Eastern Boundary:	City of Coral Gables and Biscayne Bay
Southern Boundary:	S.W. 184 Street
Western Boundary:	Center line of U.S. 1 from S.W. 136 Street, southwesterly to S.W. 160 Street, then to the centerline of southbound U.S. 1 from S.W. 160 Street to S.W. 184 Street.

The Legal Description for the Village is as follows: See Appendix A

MAP OF VILLAGE



Section 1.4 Powers.

(A) The Village shall have all available governmental, corporate and proprietary powers and may exercise them except when prohibited by law. Through the adoption of this Charter, it is the intent of the electors of the Village to grant to the municipal government established by this Charter the broadest exercise of home rule powers permitted under the Constitution and laws of the State of Florida.

(B) The only limitation concerning alienability of Village owned property is that there shall be no sale, exchange or lease in excess of five (5) years of any park property while it is being used for public purpose unless such sale, exchange or lease is approved by a majority vote at the next regularly scheduled election of the voters of the Village. This provision shall not apply to any valid written contractual obligations entered into prior to the effective incorporation date of this Village nor shall it apply to any Village owned educational facility, library property or parking facility not located in a park or any utility or access easements or rights-of-way. This provision is intended to restrict sales, exchanges or leases and shall not be applicable to any operating, management or other agreements.

Section 1.5 Construction.

This Charter and the powers of the Village shall be construed liberally in favor of the Village.

ARTICLE II. MAYOR, VICE-MAYOR AND VILLAGE COUNCIL

Section 2.1 Mayor and Vice-Mayor.

(A) *Powers of the Mayor.* The Mayor shall preside at meetings of the Council and be a voting member of the Council. In addition, the Mayor shall have the following specific responsibilities:

- (1) The Mayor shall present a State of the Village address annually.
- (2) The Mayor may create and appoint subject to Council approval, committees of the Council, which may include non-Council members. The members of each committee shall select a chair.
- (3) The Mayor shall be recognized as head of the Village government for all ceremonial purposes, for purposes of military law, and for service of process.
- (4) The Mayor shall be the official designated to represent the Village in all dealings with other governmental entities.
- (5) The Mayor shall execute contracts, deeds and other documents on behalf of the Village as authorized by the Council.

(B) *Vice-Mayor.* During the absence or incapacity of the Mayor, the Vice-Mayor shall have all the powers, authority, duties and responsibilities of the Mayor.

Section 2.2 Village Council.

There shall be a Village Council (the "Council") vested with all legislative powers of the Village. The Council shall consist of the Mayor, Vice-Mayor, and three Residential Council members ("Council members"). References in this Charter to the Council and/or Council members shall include the Mayor and Vice-Mayor unless the context dictates otherwise.

Section 2.3 Election and Term of Office.

(A) *Election and Term of Office.* Except for the initial election and terms of office specified in Article VIII, the Mayor, Vice-Mayor and each Council member shall be elected at-large for four year terms by the electors of the Village in the manner provided in Article V of this Charter. Said term shall end upon the swearing in of his/her successor.

(B) *Seats.* Council members shall serve in seats numbered 1-3 described below, collectively "Seats." Individually each is a "Seat." One Council member shall be elected to each Seat.

(C) *Residential Areas. Seats 1-3.* The Village shall be divided into three residential areas. Individually each is a "Residential Area" collectively "Residential Areas." One Council member shall be elected to a Seat from each Residential Area. Council members from Residential Areas are collectively the "Residential Area Council members." Individually each is a "Residential Area Council member." The Residential Areas corresponding to each Seat are formally set forth below:

Seat 1	Northern Boundary:	S.W. 136 Street and the City of Coral Gables
	Eastern Boundary:	City of Coral Gables and Biscayne Bay
	Southern Boundary:	S.W. 152 Street and all of Royal Harbor Yacht Club and Paradise Point
	Western Boundary:	Center line of U.S. 1
Seat 2	Northern Boundary:	S.W. 152 Street excluding all of Royal Harbor Yacht Club and Paradise Point
	Eastern Boundary:	Biscayne Bay
	Southern Boundary:	S.W. 168 Street
	Western Boundary:	Center line of U.S. 1 from S.W. 152 Street southwesterly to S.W. 160 Street, then the centerline of

southbound U.S. 1 from S.W. 160
Street to S.W. 168 Street

Seat 3	Northern Boundary:	S.W. 168 Street
	Eastern Boundary:	Biscayne Bay
	Southern Boundary:	S.W. 184 Street
	Western Boundary:	Center line of southbound U.S. 1

(D) *Affiliations.* Each person running for elected office shall run independently.

(E) *Limitations on Lengths of Service.* No person shall serve as Mayor or Vice-Mayor for more than two consecutive terms. No person may serve on the Council for more than two consecutive terms. No person may serve as a combination of Mayor, Vice-Mayor and Council member for more than eight consecutive years. Notwithstanding Section 2.3(E), any Council member elected to Seat 2 or Vice-Mayor in the 2002 election may serve for a maximum of six years consecutive years.

Section 2.4 Qualifications.

Candidates for Mayor, Vice-Mayor or Council member shall qualify for election by the filing of a written notice of candidacy with the Village Clerk at such time and in such manner as may be prescribed by ordinance ("Qualifying Date") and paying to the Village Clerk a qualifying fee of \$100.00, in addition to any fees required by Florida Statutes. A person may not be a candidate for more than one office in the same election. Only electors of the Village, as defined by Section 5.1(a), who have resided continuously in the Village for at least two years preceding their Qualifying Date shall be eligible to hold the Office of Mayor, Vice-Mayor or Council member. In addition, a person may not be a candidate for an open Residential Council member Seat ("Open Seat") unless that person has resided in the Residential Area s/he seeks to represent continuously for a period of one year preceding his/her Qualifying Date. If at the conclusion of the qualifying period no elector has filed or qualified for an Open Seat, then the qualifying period for that Open Seat shall be reopened for a period of five business days and any qualified elector who resides in the relevant Residential Area and has resided continuously in the Village for at least two years may file a written notice of candidacy for the Open Seat in accordance with the provisions of this Section.

Section 2.5 Vacancies; Forfeiture of Office; Filling of Vacancies.

(A) *Vacancies.* The office of a Council member shall become vacant upon his/her death, resignation, disability, suspension or removal from office in any manner authorized by law, or by forfeiture of his/her office.

(B) Forfeiture of Office

(1) *Forfeiture by disqualification.* The Mayor, Vice-Mayor or Council member, shall forfeit his/her office if at any time during his/her term s/he:

(a) ceases to maintain his/her permanent residence in the Village.

(b) in the case of a Residential Area Council member, upon his/her ceasing to reside in his/her respective Residential Area; a Residential Area Council member shall not forfeit his/her office under this paragraph if, in the process of relocating within a Residential Area, s/he lives outside of his/her Residential Area but within the Village for a period of no more than 90 calendar days.

(c) otherwise ceases to be a qualified elector of the Village.

(2) *Forfeiture by absence.* The Mayor, Vice-Mayor or Council member shall be subject to forfeiture of his/her office, in the discretion of the remaining Council members, if s/he is absent without good cause from any three regular meetings of the Council during any calendar year or if s/he is absent without good cause from any three consecutive regular meetings of the Council, whether or not during the same calendar year.

(3) *Procedures.* The Council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Council member's office, including whether or not good cause for absence has been or may be established. The burden of establishing good cause shall be on the Council member in question; provided, however, that any Council member may at any time during any duly held meeting move to establish good cause for the absence of him/herself or the absence of any other Council member, from any past, present or future meeting(s), which motion, if carried, shall be conclusive. A Council member whose qualifications are in question, or, who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. The Council member in question shall be entitled to a public hearing upon request regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the Village at least one week in advance of the hearing. Any final determination by the Council that a Council member has forfeited his/her office shall be made by a majority of the Council by resolution. All votes and other acts of the Council member in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

(C) *Filling of vacancies.* A vacancy on the Council shall be filled as follows

(1) If less than six months remain in the unexpired term, the vacancy shall be filled by a nomination of the Mayor made within 30 calendar days following the occurrence of the vacancy, subject to confirmation by the Council.

- (2) If six months or more remain in the unexpired term, the vacancy shall be filled by a nomination of the Mayor made within 30 calendar days following the occurrence of the vacancy, subject to confirmation by the Council. The nominee shall fill the vacancy until the next regularly scheduled election in Miami-Dade County at which time an election shall be held to fill the vacancy for the balance of the term. However, if the Council is unable to confirm a nominee, a special election to fill that vacancy shall be held no later than 90 calendar days following the occurrence of the vacancy.
- (3) If the Mayor's position becomes vacant, the Vice-Mayor shall complete the term of Mayor, even if said complete term shall cause the Vice-Mayor to exceed the term limits as specified in Section 2.3 (E). The vacancy of Vice-Mayor thus created shall be filled in the manner that the vacancy of a Council member is generally filled under this Article. If the elected Mayor shall be returned to office, s/he shall automatically resume the duties of the office for the remainder of the term for which elected, and the Vice-Mayor shall be returned to complete the balance of his/her term. The appointment of the person to complete the term of the Vice-Mayor shall be automatically rescinded.
- (4) A vacancy in Seats 1-3 shall be filled by a qualified elector residing in the respective Residential Area. A vacancy for Vice-Mayor shall be filled by any qualified elector of the Village.
- (5) Persons filling vacancies shall meet the qualifications specified in this Article.
- (6) If no candidate for a vacancy meets the qualifications under this Article for that vacancy, the Council shall appoint a person qualified under this Article to fill the vacancy.
- (7) Notwithstanding any quorum requirements established in this Charter, if at any time the full membership of the Council is reduced to less than a quorum, the remaining members may, by majority vote, confirm additional members to the extent otherwise permitted or required under this subsection (c).
- (8) In the event that all members of the Council are removed by death, disability, recall, forfeiture of office and/or resignation, the Governor of the State of Florida shall appoint interim Council members who shall call a special election within not less than 30 calendar days or more than 60 calendar days after such appointment. Such election shall be held in the same manner as the first elections under this Charter; provided, however, that if there are less than six months remaining in any of the unexpired terms, such interim Council appointee(s) by the Governor shall serve out the

unexpired terms. Appointees must meet all requirements for candidates provided for in this Article.

Section 2.6 Compensation; Reimbursement for Expenses.

Council members and the Vice-Mayor shall receive compensation in the amount of \$500.00 per month and the Mayor shall receive compensation in the amount of \$1,000.00 per month. These payments shall be increased, but not decreased, by amendment of this Charter. Furthermore elected officials and authorized employees of the Village shall receive reimbursement in accordance with applicable law, or as may be otherwise provided by ordinance, for authorized expenses incurred in the performance of their official duties.

Section 2.7 Recall

The electors of the Village shall have the power to recall and to remove from office any elected official of the Village to the extent permitted by the Constitution and the laws of the State of Florida. The minimum number of electors of the Village which shall be required to initiate a recall petition shall be ten (10) percent of the total number of electors registered to vote at the last regular Village election.

ARTICLE III. ADMINISTRATIVE

Section 3.1 Village Manager.

There shall be a Village Manager (the "Village Manager") who shall be the chief administrative officer of the Village. The Village Manager shall be responsible to the Council for the administration of all Village affairs and for carrying out policies adopted by the Council. The term, conditions and compensation of the Village Manager shall be established by the Council.

Section 3.2 Village Manager; Appointment, Removal.

The Village Manager shall be appointed by a majority vote of the Council. The Village Manager shall be removed by a majority vote of the Council.

Section 3.3 Powers and Duties of the Village Manager.

The Manager shall:

(1) Be responsible for the appointing, hiring, promoting, supervising and removing of all Village employees, except the Village Attorney and all employees of the Office of the Village Attorney.

- (2) Direct and supervise the administration of all departments and offices but not Village boards or committees, unless so directed by the Council from time to time;
- (3) Attend Council meetings and have the right to take part in discussion but not the right to vote;
- (4) Ensure that all laws, provisions of this Charter and directives of the Council, subject to enforcement and/or administration by him/her or by employees subject to his/her direction and supervision, are faithfully executed;
- (5) Prepare and submit to the Council a proposed annual budget and capital program;
- (6) Submit to the Council and make available to the public an annual report on the finances and administrative activities of the Village as of the end of each fiscal year;
- (7) Prepare such other reports as the Council may require concerning the operations of Village departments, offices, boards and agencies;
- (8) Keep the Council fully advised as to the financial condition and future needs of the Village and make such recommendations to the Council concerning the affairs of the Village as s/he deems to be in the best interests of the Village;
- (9) Execute contracts and other documents on behalf of the Village as authorized by the Council;
- (10) Perform such other duties as are specified in this Charter or as may be required by the Council; and
- (11) Pursue the collection of all allowable fees and taxes and maximize financial reserves as is necessary to sustain the Village and the service levels requested by the citizenry. Periodically compare fee structure to similarly sized municipalities to ensure fair and appropriate pricing.

Section 3.4 Acting Village Manager.

To perform his/her duties during his/her temporary absence or disability, the Village Manager may designate by letter filed with the Council, a qualified employee of the Village. In the event of failure of the Village Manager to make such designation or should the Council be dissatisfied with performance of the person designated, the Council may appoint another employee to serve as Acting Village Manager.

Section 3.5 Bond of Village Manager.

The Village Manager shall furnish a surety bond to be approved by the Council, and in such amount as the Council may fix, said bond to be conditioned on the faithful performance of his/her duties. The premium of the bond shall be paid by the Village.

Section 3.6 Village Clerk.

The Village Manager shall appoint the Village Clerk (the "Village Clerk") subject to the approval of the Council. The Village Clerk shall give notice of all Council meetings to its members and the public, and shall keep minutes of the Council's proceedings. The Village Clerk shall perform such other duties as the Village Manager may prescribe from time to time. The Village Clerk shall report to the Village Manager. The Village Clerk may be removed by the Village Manager. The Village Clerk shall maintain the seal of the Village and attest the Mayor's or Manager's signature, as the case may be, on all documents if needed.

Section 3.7 Village Attorney.

The Council shall hire an individual attorney or law firm to act as the Village Attorney under such terms, conditions, and compensation as may be established by the Council. The Village Attorney shall report to the Council and may be removed by majority vote of the Council.

Section 3.8 Expenditure of Village Funds.

No funds of the Village shall be expended except pursuant to duly approved appropriations.

Section 3.9 Village Boards and Agencies.

The Council shall establish or terminate such boards and agencies as it may deem advisable from time to time. The boards and agencies shall report to the Council.

Section 3.10 Competitive Bid Requirements/Purchasing.

(A) Except as otherwise provided by law, contracts for public improvements and purchases of supplies, materials or services shall be awarded or made on the basis of clearly drawn specifications and competitive bids, except in cases where the Council, based on the written recommendation of the Village Manager, specifically determines by affirmative vote of four Council members that it is impracticable or not advantageous to the Village to do so. The Village Council shall have the power to reject all bids and advertise again.

(B) The Village Manager, by an ordinance approved by a super majority (four or more votes) of the council may be granted purchasing power without competitive bidding or as otherwise mandated by law.

(C) No contract or order shall be issued to any vendor unless or until the Village Manager or his/her designee certifies that there is to the credit of such office, department or agency a sufficient unencumbered budget appropriation to pay for the

supplies, materials, equipment or contractual services for which the contract or order is to be issued.

ARTICLE IV. LEGISLATIVE

Section 4.1 Council Meeting Procedure.

(A) *Meetings.* The Council shall hold at least 11 regular monthly meetings in each calendar year, at such times and places as the Council may prescribe. Special meetings may be held on the call of the Mayor or upon the call of three Council members upon no less than 48 hours notice to the public or such shorter time as a majority of the Council deems necessary in case of an emergency affecting life, health, property or the public peace.

(B) *Rules and Minutes.* The Council shall determine its own rules of procedure and order of business and shall keep minutes open for public inspection.

(C) *Quorum and Voting.* A majority of the Council shall constitute a quorum but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. Voting on ordinances shall be by roll call on final reading. Voting on all other matters shall be by voice vote unless a Council member or the Village Clerk requests otherwise. In the event that three or more Council members are unavailable to vote on a particular matter due to required abstention pursuant to State law, then the remaining members of the Council may vote and approve such matter by unanimous vote.

(D) *Meeting Time Limits.* No meeting of the Council shall extend later than midnight except upon the affirmative vote of a majority of members present at the meeting.

Section 4.2 Prohibitions.

(A) *Appointment and Removals.* Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any Village employees, whom the Village Manager or any of his/her subordinates are empowered to appoint. The Council may express its views and fully and freely discuss with the Village Manager anything pertaining to appointment and removal of such officers and employees.

(B) *Interference With Administration.*

(1) Except for the purpose of inquiries and investigations made in good faith and in accordance with a resolution adopted by the Council, the Council and any of its individual members shall deal with Village employees who are subject to the direction and supervision of the Village Manager solely through the Village Manager, and neither the Council nor its members shall give orders to any such employee, except the Village

Manager and the Village Attorney, either publicly or privately. It is the express intent of this Charter that recommendations for improvement in Village government operations by individual Council members are made solely to and through the Village Manager. Council members may discuss with the Village Manager any matter of Village business; however, no individual Council member shall give orders to the Village Manager.

(2) Any willful violation of this Section by the Mayor or any Council member shall be grounds for his/her removal from office by an action brought in the Circuit Court by the State Attorney of Miami-Dade County.

(C) *Holding Other Office.* No elected Village official shall hold any appointed Village office or Village employment while in office, or any other county, state or federal elected office except as provided in Section 7.4(b). No former elected Village official shall hold any compensated appointive Village office or Village employment until one (1) year after the expiration of his/her term.

Section 4.3 Ordinances.

(A) *Actions Requiring an Ordinance.* In addition to other acts required by law or by specific provision of this Charter to be effected or authorized by ordinance, those acts of the Village Council shall be by ordinance which:

- (1) Adopt or amend an administrative regulation or establish, alter or abolish any Village office, department, board or agency;
- (2) Establish a rule or regulation the violation of which carries a penalty;
- (3) Levy taxes or appropriate funds;
- (4) Grant, renew or extend a franchise;
- (5) Set service or user charges for municipal services or grant administrative authority to set such charges;
- (6) Authorize the borrowing of money in accordance with section 4.11;
- (7) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the Village; or
- (8) Amend or repeal any ordinance previously adopted, except as otherwise provided in this Charter.

Section 4.4 Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt, in the manner provided in this Section, one or more emergency

ordinances, but emergency ordinances may not: levy taxes, grant, renew or extend any municipal franchise; set service or user charges for any municipal services; or authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter if applicable.

(1) *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

(2) *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced and shall be enacted by no less than four members of the Council. After its adoption, the ordinance shall be published and printed as prescribed for other ordinances.

(3) *Effective Date.* An emergency ordinance shall become effective upon adoption or at such other date as may be specified in the ordinance.

(4) *Repeal.* Every emergency ordinance except emergency appropriation ordinances shall automatically be repealed as of the 61st calendar day following its effective date, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this Section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this Section for adoption of emergency ordinances.

(5) *Emergency Appropriations.* The Council may make emergency appropriations in the manner provided in this Section. Notwithstanding the provisions of Section 4.11 to the extent that there are no available unappropriated revenues to meet such appropriations, the Council may authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes, including renewals thereof, shall be payable no later than the last day of the fiscal year next succeeding the fiscal year in which the emergency appropriation ordinance was originally adopted.

Section 4.5 Annual Budget Adoption.

(A) *Balanced Budget.* Each annual budget adopted by the Council shall be a balanced budget and adopted in accordance with Florida law.

(B) *Budget Adoption.* The Council shall by ordinance adopt the annual budget on or before the thirtieth (30th) day of September of each year. If it fails to adopt the annual budget by this date, the Council may by resolution direct that the amounts appropriated for current operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of fifteen (15) days and renewed by resolution each fifteen (15) days, with all items in it prorated accordingly, until such time as the Council

adopts an annual budget for the ensuing fiscal year. An ordinance adopting an annual budget shall constitute appropriation of the amounts specified therein.

(C) *Specific Appropriation.* The budget shall be specific as to the nature of each category of appropriations therein. Reasonable appropriations may be made for contingencies, but only within defined spending categories.

Section 4.6 Fiscal Year.

The fiscal year of the Village government shall begin on the first day of October and shall end on the last day of September of the following calendar year. Such fiscal year shall also constitute the annual budget and accounting year.

Section 4.7 Appropriation Amendments During the Fiscal Year.

(A) *Supplemental Appropriations.* If, during any fiscal year, revenues in excess of those estimated in the annual budget are available for appropriation, the Council may by ordinance make supplemental appropriations for the fiscal year up to the amount of such excess.

(B) *Reduction of Appropriations.* If, at any time during the fiscal year, it appears probable to the Village Manager that the revenues available will be insufficient to meet the amount appropriated, s/he shall report in writing to the Council without delay, indicating the estimated amount of the deficit, and his/her recommendations as to the remedial action to be taken. The Council shall then take such action as it deems appropriate to prevent any deficit spending.

Section 4.8 Authentication, Recording and Disposition of Ordinances; Resolutions and Charter Amendments.

(A) *Authentication.* The Mayor and the Village Clerk shall authenticate by their signature all ordinances and resolutions adopted by the Council. In addition, when Charter amendments have been approved by the electors, the Mayor and the Village Clerk shall authenticate by their signatures the Charter amendment, such authentication to reflect the approval of the Charter amendment by the electorate.

(B) *Recording.* The Village Clerk shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the Council. Ordinances shall, at the direction of the Council, be periodically codified. The Village Clerk shall also maintain the Charter in current form including all Charter amendments.

(C) *Availability of Enactments.* The Council shall establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this Charter available for public inspection and available for purchase at a reasonable price.

Section 4.9 Tax Levy, Assessments and Fees.

The Village, by majority of the Council, shall have the right to levy, assess and collect all such taxes, assessments and fees as are permitted by law, including without limitation, fines, ad valorem taxes, special assessments and fees, excise, franchise or privilege taxes and taxes on services and utilities.

Section 4.10 Independent Audit.

The Council shall provide for an annual independent audit of all Village accounts and may provide more frequent audits as it deems necessary. Audits shall be made in accordance with generally accepted auditing standards by a certified public accountant or firm of such accountants who have no personal interest direct or indirect in the fiscal affairs of the Village government, its employees or officers. Residency, per se, shall not constitute a direct or indirect interest. A summary of the results, including any deficiencies found, shall be made public. A written response to any noted deficiencies shall be the responsibility of the Village Manager. The response shall be made public no more than 90 calendar days from delivery of the independent auditor's report.

Section 4.11 Borrowing.

The Village shall incur no debt unless the incurrence of such debt is approved by a majority of the council.

ARTICLE V. ELECTIONS**Section 5.1 Elections.**

(A) *Electors.* Any person who is a resident of the Village, has qualified as an elector of the State, and registers to vote in the manner prescribed by law shall be an elector of the Village.

(B) *Nonpartisan Elections.* All elections for the Council, Vice-Mayor and Mayor shall be conducted on a nonpartisan basis. The ballot shall not show the party designation of any candidate.

(C) *Election Dates.* A general election shall be held in each even-numbered year, on the day of the first state primary election, or if none is held in any such year, on the first Tuesday following the second Monday in September. A runoff election, if necessary, shall be held on the day of the second state primary election or if none is held in any such year, then on the first Tuesday in October. The Council shall hold no meetings between the general election and the swearing in of those newly elected or re-elected Council members except in the case of an emergency affecting life, health, property or the public peace.

(D) *General Election.* The ballot for the general election shall contain the names of all qualified candidates for Mayor, if the Mayor's term is expiring, and for each of the seats which are to be filled as a result of members' terms expiring. The ballot shall instruct electors to cast one vote for Mayor or Vice-Mayor, if applicable, and one vote for each Council Seat, with a maximum of one vote per candidate. If any candidate for Mayor receives a number of votes greater than 50% of the total number of ballots cast, such candidate shall be the duly elected Mayor and no run-off election for Mayor shall be required. If any candidate for Vice-Mayor receives a number of votes greater than 50% of the total number of ballots cast, such candidate shall be the duly elected Vice-Mayor and no run-off election for Vice-Mayor shall be required. If any candidate for a Council Seat receives a number of votes greater than 50% of the total number of ballots cast, such candidate(s) shall be duly elected to the Council and no run-off election for that Seat(s) shall be required.

(E) *Run-off Election.* If necessary, the ballot for the runoff election shall contain the names of the two candidates for Mayor, the two candidates for Vice-Mayor, and the names of the two candidates for each Council Seat, who received the most votes in the general election. The ballot shall instruct electors to cast one vote for Mayor, one vote for Vice-Mayor, and one vote for each Council Seat, with a maximum of one vote per candidate. The candidate for Mayor receiving the most votes shall be duly elected Mayor. The candidate for Vice-Mayor receiving the most votes shall be duly elected Vice-Mayor. The candidate for each Council Seat receiving the most votes shall be duly elected to that Council Seat.

(F) *Special Elections.* Special elections, when required, shall be scheduled by the Council at such times and in such a manner as shall be consistent with this Charter and State law.

(G) *Single Candidates.* No election for Mayor or Vice-Mayor or any Council Seat shall be required in any election if there is only one duly qualified candidate for Mayor, Vice-Mayor or for any Council Seat. That candidate shall be considered elected by operation of law.

(H) *Commencement of Terms.* The term of office of all elected officials will commence at the next regularly scheduled council meeting following the day of the run-off election or, if there is no run-off election for Mayor, Vice-Mayor or Council Seat, at the next regularly scheduled council meeting after the general election.

Section 5.2 Initiative and Referendum.

(A) *Power to Initiate and Reconsider Ordinances.*

(1) *Initiative.* The electors of the Village shall have the power to propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a Village election, provided that such power shall not extend to the annual budget or

capital program or any ordinance appropriating money, levying taxes or setting salaries of Village officers or employees.

- (2) *Referendum.* The electors of the Village shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a Village election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of Village officers or employees.

(B) *Commencement of Proceedings.* A minimum of ten electors may commence initiative or referendum proceedings by filing with the Village Clerk an affidavit (the "Affidavit") stating they will constitute the petitioners' committee (the "Committee") and be responsible for circulating the petition (the "Petition") and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the Committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the Affidavit of the Committee is filed, the Village Clerk shall at the Committee's request, issue the appropriate Petition blanks to the Committee at the Committee's expense. Petitioners' proposed ordinance shall be approved as to legal sufficiency by the Village Attorney prior to circulation.

(C) *Petitions.*

- (1) *Number of Signatures.* Initiative and referendum petitions must be signed by at least five (5) percent of the total number of electors registered to vote at the last regular Village election.
- (2) *Form and Content.* All pages of a Petition shall be assembled as one instrument of filing. Each signature shall be executed in ink and shall be followed by the printed name and address of the person signing. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (3) *Affidavit of Circulator.* Each page of a Petition shall have attached to it when filed an affidavit executed by the circulator stating that s/he personally circulated the page, the number of signatures contained, that all the signatures were affixed in his/her presence that s/he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (4) *Filing Deadline.* All Petitions must be filed within 60 calendar days of the date a proper Affidavit is filed pursuant to subsection (B) of this section.

(D) Procedure for Filing.

- (1) Certificate of Clerk; Amendment.** Within 20 calendar days after an initiative Petition is filed or within five business days after a referendum Petition is filed, the Village Clerk shall complete a certificate as to its sufficiency ("the Certificate"). If insufficient the Certificate shall specify the particulars of the deficiency. A copy of the Certificate shall be promptly sent to the Committee by registered mail. Grounds for insufficiency are only those specified in subsection (c) of this Section. A Petition certified insufficient for lack of the required number of valid signatures may be amended once if the Committee files a notice of intention to amend it with the Village Clerk within two calendar days after receiving the copy of the Certificate and files a Supplementary Petition ("Supplementary Petition") with the Village Clerk with additional valid signatures within ten calendar days after receiving the copy of such Certificate. Such Supplementary Petition shall comply with the requirements of subsection (c) of this Section. Within five business days after a Supplementary Petition is filed the Village Clerk shall complete a Certificate as to the sufficiency of the Petition as amended ("Amended Petition") and promptly send a copy of such Certificate to the Committee by registered mail. If a Petition or Amended Petition is certified sufficient, or if a Petition or Amended Petition is certified insufficient and the Committee does not elect to amend or request Council review under paragraph (2) of this subsection within the time required, the Village Clerk shall promptly present his/her certificate to the Council and such Certificate shall then be a final determination as to the sufficiency of the petition.
- (2) Council Review.** If a Petition has been certified insufficient and the Committee does not file notice of intention to amend it or if an Amended Petition has been certified insufficient, the Committee may, within two calendar days after receiving the copy of such Certificate, file a request with the Village Clerk that it be reviewed by the Council. The Council shall review the Certificate at its next regularly scheduled meeting following the filing of such request and approve or disapprove it. The Council's determination shall then be a final determination as to the sufficiency of the Petition.

(E) Action on Petitions.

- (1) Action by Council.** When an initiative or referendum Petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 45 calendar days or fails to repeal the referred ordinance within 30 calendar days, it shall submit the proposed or referred ordinance to the electors of the Village. If the Council fails to act on a proposed initiative ordinance or a referred ordinance within the time period contained in this paragraph, the Council shall be deemed to have failed to adopt the proposed

initiative ordinance or failed to repeal the referred ordinance on the last day that the Council was authorized to act on such matter.

- (2) *Submission to Electors.* The vote of the Village on a proposed or referred ordinance shall be held not less than 30 calendar days or more than 60 calendar days from the date the Council acted or was deemed to have acted pursuant to paragraph (1) of this subsection. If no regular election is to be held within the period described in this paragraph, the Council shall provide for a special election, except that the Council may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (3) *Withdrawal of Petitions.* An initiative or referendum Petition may be withdrawn at any time prior to the 15th calendar day preceding the day scheduled for a vote by the Village by filing with the Village Clerk a request for withdrawal signed by at least eight/tenths of the Committee. Upon the filing of such a request, the Petition shall have no further force or effect and all proceedings shall be terminated.

(F) *Results of Election.*

- (1) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. If the proposed initiative ordinance fails, it or any ordinance that is substantially similar may not be submitted in accordance with this Article for at least one year from the date of the election.
- (2) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote for repeal, the repealed ordinance shall be considered repealed upon certification of the election results.

ARTICLE VI. CHARTER AMENDMENTS

Section 6.1 Procedure to Amend.

(A) The Charter may be amended in accordance with the provisions of Section 5.03 of the Home Rule Charter of Miami-Dade County. The Village shall enact an ordinance to implement this Article.

(B) If conflicting amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 6.2 Charter Revision.

(A) At its first regular meeting in December 2005, and thereafter every fifth year, the Council shall appoint and fund a Charter Revision Commission (the "Commission").

(B) The Commission shall consist of five persons including one from each of the three Residential Areas. One appointment shall be made by the Mayor, Vice-Mayor and each Council member. In addition, the Mayor shall appoint one person to the Commission who is the Vice-Mayor or Council member who is serving a second consecutive term, who shall serve as a non-voting Commission member. In the event a second term Vice-Mayor or Council member is not serving, the Mayor may appoint a sitting Vice Mayor or Council member. The Mayor shall not be eligible for appointment to the Commission. The Commission shall commence its proceedings within 45 calendar days after appointment by the Council.

(C) If the Commission determines that an amendment or revision is needed, it shall submit the same to the Council no later than July 1st of the year following its appointment. Alternative proposals may be submitted. The Council shall submit suggested amendments and revisions to the electors of the Village in accordance with the provisions of Section 6.1, at the next regularly scheduled election.

ARTICLE VII. GENERAL PROVISIONS

Section 7.1 Severability.

If any article, section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter or the context in which such article, section or part of section so held invalid may appear, except to the extent that an entire article, section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Section 7.2 Conflicts of Interest; Ethical Standards.

(A) All Council members, officials and employees of the Village shall be subject to the standards of conduct for public officers and employees set by law. The Council may, by ordinance, adopt additional standards of conduct and Code of ethics, but in no case inconsistent with law.

(B) All elected officials, employees and appointed board or committee members shall disclose any interest in real estate or other business(es) upon entering office or being hired and shall re-disclose annually thereafter, except as otherwise provided by law.

(C) Without in any way limiting the generality of the foregoing, no Council member shall have a financial interest, direct or indirect, or by reason of ownership of stock or other equity ownership in any corporation or entity, in any contract or in the sale to the Village or to a contractor supplying the Village of any land or rights or interests in any land, materials, supplies, or services unless, after full disclosure to the Council of the nature and extent of such interest, the same is authorized by the Council before the event or accepted and ratified by the Council after the event. No member of the Council who possesses such a financial interest shall vote on, or participate in the Council deliberations concerning, any such contract or sale. Any violation of this Section with the knowledge of the person or entity contracting with the Village shall render the contract voidable by the Council.

Section 7.3 Village Personnel System.

All new employment, appointments and promotions of Village employees shall be made pursuant to personnel procedures to be established by the Manager from time to time.

Section 7.4 Variation of Pronouns.

All pronouns and any variation thereof used in this Charter shall be deemed to refer to masculine, feminine, neutral, singular or plural as the identity of the person or persons shall require and are not intended to describe, interpret, define or limit the scope, extent, or intent of this Charter.

Section 7.5 No Discrimination.

The Village shall not adopt any ordinance or policy that discriminates against any person due to race, religion, color, national origin, physical or mental disability, creed, age, sexual preference or gender.

Section 7.6 Lobbyists

(A) No person or firm who directly or through a member of the person's immediate family or through a political action committee or through any other person makes a contribution to a candidate who is elected Mayor, Vice-Mayor or Council member, shall be permitted to lobby on behalf of another, any elected official, employee or appointed board or committee member for a period of four (4) years following the swearing in of the subject elected official.

(B) The Village Council shall pass, maintain and enforce an ordinance, which requires all lobbyists as may be defined by the Miami-Dade County Code and/or as may be made more stringent by the Village Council to:

- (1) Register with the Village Clerk prior to lobbying any Village government official ie: Village Council member, employee, board or committee member.

- (2) Disclose in writing all persons and/or entities the lobbyist is representing and submit a letter of permission from said person or entity.
- (3) Submit a full disclosure of the comprehensive terms of all compensation or consideration the lobbyist is being paid for such activities.
- (4) Disclose in writing all Village government officials directly contacted by the lobbyist, any expenditures involved, any fundraising or campaign contributions made directly or indirectly by the lobbyist to any Village government officials or on their behalf.
- (5) Direct the Village Clerk to disseminate to the Village Council, prior to any public hearing, on the event or matter for which such lobbyist may appear all disclosures required herein or as otherwise required by State or County law.

Any violation of this section shall render the issue being lobbied voidable.

Section 7.7 Precedence over Related Laws.

In case of a conflict between the provisions of this Charter and the provisions of the Code to be adopted pursuant thereto, the Charter terms shall control. Moreover, nothing in this Charter shall be construed to alter, abolish, affect or amend the general laws of this State, now in force, or which hereinafter may be enacted relative to or affecting this Village, except where such laws are in direct conflict in which case the provisions of this Charter or Code adopted pursuant thereto shall supersede and be in full force and effect.

ARTICLE VIII. TRANSITION PROVISIONS

Section 8.1 Temporary Nature of Article.

The following sections of this Article are inserted solely for the purpose of effecting the incorporation of the Village and the transition to a new municipal government. Each section of this Article shall automatically, and without further vote or act of the electors of the Village, become ineffective and no longer a part of this Charter at such time as the implementation of such section has been accomplished. In cases of a conflict between this Article and the remainder of the Charter the provisions of this Article shall govern.

Section 8.2 Interim Governing Body.

After adoption of this Charter but prior to the election and acceptance of office of the first elected Village Council, the governing body for the Village shall be the Miami-Dade County Board of County Commissioners (the "County Commission"). In acting as the governing body for the Village during this interim period, the County Commission shall

provide all municipal services to the Village but shall not make decisions, which could reasonably be postponed until the election of the Village Council or which would materially alter or affect the status quo within the Village boundaries. Once the Village Council is seated, notwithstanding the delivery of any services provided by virtue of Article 9 of this Charter or any Interlocal Agreement(s) with Miami-Dade County, it is understood that the Village Council shall make all decisions for the Village.

Section 8.3 Interim Adoption of Codes and Ordinances.

Until otherwise modified or replaced by this Charter or the Village Council, all Codes, ordinances and resolutions in effect on the date of adoption of this Charter shall, to the extent applicable to the Village, remain in full force and effect as municipal Codes, ordinances and resolutions of the Village. Until otherwise determined by the Village Council, said codes, ordinances and resolutions shall be applied, interpreted and implemented by the Village in a manner consistent with established policies of Miami-Dade County on the date of this Charter.

Section 8.4 Taxes and Fees.

Unless otherwise modified by the Village Council, all municipal taxes and fees imposed within Village boundaries by Miami-Dade County as the municipal government for unincorporated Miami-Dade County, which taxes and fees are in effect on the date of adoption of this Charter, shall continue at the same rate and on the same conditions as if those taxes and fees had been adopted and assessed by the Village.

Section 8.5 Initial Election of Village Council and Mayor.

(A) *Transition.* This Section shall apply to the initial general and runoff elections for Council, Vice-Mayor and Mayor. Any conflicting provisions of this Charter shall not apply to such elections.

(1) The general election shall be held on October 1, 2002. The first Village run-off election, if necessary, shall be held on November 5, 2002.

(2) The general and run-off election in 2002 shall be held pursuant to the general election procedures set forth in this Charter except as follows:

(a) Only those candidates will qualify for election who have filed written notice of candidacy for Council member, Vice-Mayor or Mayor (but not more than one) with the Miami-Dade County Elections Department, which notice is received between 7:30 a.m. on September 11, 2002 and 5:00 p.m. on September 13, 2002, and which notice shall:

(i) indicate whether the candidate seeks the office of Council member, Vice-Mayor, or Mayor; if for Council member, a particular seat 1-3 shall be designated;

(ii) contain the candidate's certification that s/he is a qualified elector of the State, is registered to vote in the Village and that the person has resided continuously within the area comprising the Village since September 13, 2000;

(iii) if applicable, a certification that the candidate has resided continuously in the Residential Area they are seeking to represent since September 13, 2001;

(iv) contain or be accompanied by such other information or statement, if any, as may be required by the Miami-Dade County Election Department;

(v) be signed by the candidate and duly notarized; and

(vi) be accompanied by a check payable to the Miami-Dade County Elections Department in the amount of \$100.00 in addition to any fees required by Florida Statutes, as a qualifying fee.

- (3) There will be one Mayor, one Vice-Mayor, and three Council seats to be filled.
- (4) The Mayor will be elected to a term expiring in September 2006 or election of his/her successor.
- (5) The Vice-Mayor will be elected to a term expiring in September 2004 or election of his/her successor.
- (6) The odd numbered seats for Council members shall be elected to terms expiring in September 2006 or election of his/her successor.
- (7) The even numbered seat for Council members shall be elected to terms expiring in September 2004 or election of his/her successor.

(B) *Induction into Office.* Those candidates who are elected at the first regular election shall take office at the initial Council meeting, which shall be held at 7 p.m. on October 3, 2002 or if a run-off election is necessary for any Seat at 7 p.m. on November 7, 2002, at Southwood Middle School.

Section 8.6 Initial Expenditures.

Upon receipt by the Village of its first revenues, the Village shall immediately pay the invoices for utilities and for expenses, if any, incurred in the drafting and production of this Charter, including but not limited to invoices for legal services, secretarial services,

photocopies, mailing and other services authorized by the Village of Palmetto Bay Charter Commission.

Section 8.7 First Fiscal Year and Budget.

The first fiscal year of the Village shall commence on the effective date of this Charter and shall end on September 30, 2002. The 2002-03 budget shall be adopted by the Board of County Commissioners, however the elected Village Council may thereafter amend the budget in accordance with State law.

Section 8.8 Transitional Ordinances and Resolutions.

The Council shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 60 calendar days after the first Council meeting may be passed as emergency ordinances. These transitional ordinances shall be effective for a period of no longer than 180 calendar days and thereafter may be readopted, renewed or otherwise continued only in the manner normally prescribed for ordinances.

Section 8.9 Village Name

The Supervisor of Elections for Miami-Dade County ("Supervisor") shall, at the election approving or disapproving of this charter, place the following question on the ballot insubstantially the following form, provided however, that while the substance of the question shall remain substantively as set forth herein, the Supervisor in his discretion and in accordance with applicable law may revise such language to conform to the law:

Title: Shall the village be named Old Cutler or Palmetto Bay?

Shall the Village be named "The Village of Old Cutler"
or "The Village of Palmetto Bay"?

Village of Old Cutler

Village of Palmetto Bay

The name obtaining the highest number of votes shall be the name of the Village and all references herein to "The Village" shall hereafter mean and include the name as selected pursuant to the election procedure as set forth above. The codifier of this charter shall substitute the name selected in this election pursuant to this section in every reference throughout the Charter where a reference to the "Village" is made.

Section 8.10 Creation of Village.

For the purpose of compliance with Section 200.066, Florida Statutes, relating to the assessment and collection of ad valorem taxes, the Village is created and established no later than December 31, 2002.

ARTICLE IX. SPECIAL CONDITIONS

Section 9.1 Interlocal Agreements.

Within one hundred eighty (180) days after the election of a municipal council, the Village will enter into an interlocal agreement ("Interlocal Agreement") with Miami-Dade County to set forth contractual provisions establishing the municipality's relationship with Miami-Dade County to the extent required by the Charter.

Section 9.2 County Services.

The Village shall remain a part of and receive services at a minimum service level equal to the service level as of the date of approval of this Charter by the electors of the Village, in perpetuity, from the:

- (1) Miami-Dade Fire Rescue District,
- (2) Miami-Dade Library System, and
- (3) Miami-Dade Solid Waste Collection Service Area.

Provided that the County shall not have the right or ability to impair or infringe upon the functions and powers assumed by the village upon incorporation.

Section 9.3 Specialized Law Enforcement Services.

The Village shall pay from its municipal funds, for specialized law enforcement services to be exclusively provided by the Miami-Dade Police Department in perpetuity. Payment amounts and other pertinent terms relating to the provision of specialized police services shall be set forth in a contract between the Village and Miami-Dade County. These specialized police services include, but are not limited to, tactical services, such as special response team, canine, aviation, bomb squad investigations and central investigations, such as narcotics, criminal intelligence, economic crimes, homicide, robbery, sexual crimes, domestic violence, crime scene investigations and property and evidence. Specialized law enforcement services do not include police activities of a countywide nature such as warrants, crime lab, public corruption unit, communications, jail, court services, and all Sheriff's services as defined by State law. For as long as Miami-Dade County continues to fund specialized police services from the countywide budget, residents in the Village shall receive a credit equivalent to the payment made through the countywide millage.

Section 9.4 Local Patrol Police Services.

The Village shall exclusively utilize the Miami-Dade Police Department for a specific level of patrol staffing for an initial period of three years. The utilization of the Miami-Dade Police Department for local patrol services may only be terminated for cause during this initial three (3) year period. Payment amounts and other pertinent items relating to the provision of local patrol services shall be set forth in a contract between

the Village and Miami-Dade County. Such contract shall also provide that "the initial three-year period" shall commence upon the execution of the Local Patrol Contract by all parties. At the end of the three (3) year period the Village may elect not to renew the Local Patrol Contract at which point a transition period of no less than twelve (12) months will begin.

Section 9.5 Municipal Service Trust Fund.

For the reasons outlined in the Palmetto Bay Area Municipal Advisory Committee's Report ("the Report"), the Village shall make an annual contribution from municipal revenues to the County's Municipal Service Trust Fund ("MSTF"). The initial annual contribution amount shall be \$1.578 million, which is the equivalent of one mill of the value of taxable real property within the boundaries of the village on the date the incorporation was approved. Subsequent annual payments will be adjusted in accordance with the Consumer Price Index, as is outlined in the Report, but shall not otherwise be subject to any other increases.

The mitigation amount paid by the Village each year, measured from date of incorporation, will not exceed the millage equivalent payment made by the Town of Miami Lakes in the comparable year, measured from the date of incorporation times the tax roll for Palmetto Bay for the current year.

Contributions to the MSTF shall be in perpetuity, subject to this Article.

The Village agrees that the MSTF will be utilized to (1) maintain police services in the unincorporated areas proximate to the Village (with first priority being given to the now defined Police District 4 area) recognizing that crime does not respect political boundaries and that provision of police services to the neighboring communities directly benefits the Village; and (2) provide a municipal assistance retainer enabling the Village to obtain certain advice, expertise, training, financial budgeting/planning, and technological services, planning and other assistance from the County, as requested by the Village. Zoning services shall be subject to the County's fee schedule and subject to the policies as set by the Village Council.

The Village agrees that Miami-Dade County may retain payments it would otherwise make to the Village from fees collected by the County on behalf of the Village to offset all or a portion of the amount due from the Village to the MSTF.

If the Burger King property located at 17777 Old Cutler Road becomes tax-exempt property the Village's contribution to the MSTF shall be reduced by \$26,966.00, which is the equivalent of 40% of the property taxes (\$67,415.15) generated by this property. Subsequent annual reductions will be increased in accordance with the Consumer Price Index. The contribution by the Village to the MSTF may also be reduced as specified in Article X, Section 10.3.

The contribution by the Village to the MSTF shall be renegotiated should significant changes in the composition of the remaining unincorporated area occur. These changes include but are not limited to:

(A) The remaining unincorporated municipal service area is reduced to fewer than 500,000 residents, or

(B) The unincorporated municipal service area per capita tax base exceeds the Miami-Dade County's per capita tax base.

In the event of 100% incorporation of Miami-Dade County within the Urban Development Boundary the Village's obligation to contribute to MSTF will cease.

Section 9.6 Regulatory Control.

The local government comprehensive plan adopted by the Village of Palmetto Bay pursuant to Chapter 163, Part II, Florida Statutes, shall be consistent with the adopted Miami-Dade County Comprehensive Development Master Plan (the CDMP) as it may be amended from time to time, as applied to the site of the Florida Power and Light Cutler Ridge Electric Power Generating Plant, a facility of countywide significance delineated by the plat dated December 28, 1949 (Cutler Ridge Plant Site). Any use or activity allowed by the CDMP in a land use classification which allows an electric power generating plant shall be allowed at the Cutler Ridge Plant Site and may not be limited or impeded in any way by the local government comprehensive plan adopted by the Village of Palmetto Bay. Jurisdiction over the Cutler Ridge Plant Site for purposes of zoning and building approvals (including but not limited to site plan approvals, issuance of building permits, building inspections, compliance with the South Florida Building Code or other applicable building code, issuance of certificates of occupancy, zoning applications, special exceptions, variances, building and/or zoning moratoria, and all other types of functions typically performed by Building and/or Zoning Departments) water and sewer installations, compliance with environmental regulations, street maintenance (including sidewalks, if applicable) and utility regulation shall be and is hereby vested in Miami-Dade County regardless of any Village of Palmetto Bay code, charter, or ordinance provision to the contrary.

This provision shall not alter or affect the legal rights of any person residing or owning real property within the Village. The Village shall not institute, intervene or otherwise participate in, in opposition to Miami-Dade County or FPL, any judicial or formal administrative proceeding regarding land use or development of the Cutler Ridge Plant Site, or Miami-Dade County's planning or regulatory requirements for any electrical power generating facility of county-wide significance. This section shall be null and void upon an official determination by the Board of County Commissioners of Miami-Dade County that the Cutler Ridge Plant Site is not in use for an electrical power generating facility of county-wide significance and will not be used for such a facility in the future.

This Charter provision shall be deemed self-executing.

Section 9.7 Continuing Obligations as to County Bonds.

The County has heretofore issued \$41,580,000.00 Stormwater Utility Revenue Bond Series 1999 (the "Stormwater Bond") of which \$ 38,805,000.00 remains outstanding as of May 1st, 2002, payable from stormwater utility fees collected in the unincorporated area and within a limited number of cities. The County assesses and collects the stormwater utility fee pursuant to Sections 24-61 through 24-61.5 of the County Code, as amended from time to time and Section 403.0893, Florida Statutes, as amended from time to time (the "Stormwater Utility Fees).

The County has issued \$77,640,000 Public Service Tax Revenue Bonds (UMSA Public Improvements) Series 1999 (the "Series 1999 Public Service Bonds") currently outstanding in the principal amount of \$71,295,000 and will issue an additional series of bonds in an amount not to exceed \$60,000,000 (the "Series 2002 Public Service Bonds") prior to the Village's incorporation payable from Public Service Taxes (defined below) collected in the unincorporated area. The County receives a public service tax pursuant to Section 166.231, Florida Statutes, as amended from time to time, and as of October 1, 2001, from a discretionary communications tax assessed pursuant to Chapter 202, Florida Statutes and Section 29 of the County Code (collectively, "The Public Service Tax). If required by the County the Village agrees to enact an ordinance, pursuant to Section 202.19, Florida Statutes, authorizing the levy of the discretionary services tax a rate no less than the rate established by the County for communications services prior to the incorporation of the Village.

The Stormwater Bonds, the Series 1996 Public Service Bonds, the Series 1999 Public Service Bonds, the Series 2002 Public Service Bonds, and any bonds issued in the future, provided that the Village remains a part of the Stormwater utility system, that are secured either through Stormwater Utility Fees or Public Service Taxes are referred to collectively in this Section as the "Bonds".

The Village agrees that until the Bonds are retired the County shall have the right to receive and apply to debt service on the Bonds all of the Stormwater Utility Fees and the Public Service Taxes collected within the unincorporated area and within the boundaries of the Village. After the County has paid or satisfied the debt service requirements on the Bonds, the County shall make a payment to the Village, equal to its share of the remaining Stormwater Utility Fees and Public Services Taxes on deposit with the County. Its share shall be determined as follows: the County will distribute to the Village the net proceeds available from these taxes. The net proceeds will be calculated by taking the gross taxes attributable to the Village and the subtracting the Village "share" of the debt service payments. The Village's "share" will be determine by calculating the cost of the projects funded by this bonds conducted within the Village boundaries as percentage of the total bond expenditures, an then applying this percentage to the annual bond payments made by the County. The Village may prepay its proportionate share of the aforementioned bonds at any time during the life of the bonds with out penalty.

Section 9.8 Favored Nation Status.

(A) *Contribution to the Municipal Services Trust Fund*

- (1) In the event of the incorporation of a recipient community, defined as one where the revenues generated from the area are less than the cost of providing services to the area, the Village's contribution will not be modified.
- (2) In the event of the incorporation of a donor community, defined as one where the revenues generated from the area are more than the cost of providing services to the area, but where revenues exceed the expenses by less than \$2 million*, the Village's contribution will not be modified.
- (3) In the event of the incorporation of a donor community, defined as one where the revenues generated from the area are more than the cost of providing services to the area, and where revenues exceed expenses by more than \$2 million* but less than \$4 million*, and the newly incorporated area contributes everything in excess of \$2 million* to the MSTF, the contribution will not be modified. If the new municipality contributes an amount lower than as specified in this paragraph, the Village's contribution, shall be reduced to be equal to the new municipality's contribution*.
- (4) In the event of the incorporation of a donor community, defined as one where the revenues generated from the area are more than the cost of providing services to the area, and where revenues exceed expenses by more than \$4 million*, and the newly incorporated area contributes less than one mill of the property taxes, as of the date of incorporation, to the MSTF, the Village's contribution will be reduced to be the same millage as the new municipality's contribution calculated in terms of millage.
- (5) Notwithstanding the forgoing in no event shall this Section cause the Village's contribution to the MSTF to increase and should any newly incorporated area be granted a more favorable status, subject to the terms and conditions of this Section, then the Village shall receive the same benefits.

*This amount will be adjusted in accordance with the Miami-Dade Consumer Price Index.

(B) *County Services*

If a subsequent incorporation is approved without the newly incorporated area being required to remain in the Miami-Dade Fire Rescue District, Miami-Dade Library System, Miami-Dade Solid Waste collection service area, or without contracting with the Miami-Dade Police Department for local patrol and specialized police services, the Village will be entitled to modify its relationship with the County consistent in the manner that each of the aforementioned services is provided to the new municipality.

The provisions of this section, apply only to the service or services modified, and in no way alter the agreement regarding the remaining services.

Section 9.9 Rights of the Village.

The village will be granted all rights powers and privileges afforded to all municipalities and provided under the general laws of the State of Florida subject only to the restrictions placed upon it by this Charter. The village will receive all other municipal revenue sources such as utility taxes including those that the County by right or may otherwise retain, such as the franchise fees, and will continue to receive all services that are provided to cities under the countywide budget.

Section 9.10 Modifications.

Any modifications to Article IX will require:

- (A) All approvals normally required by the municipal charter, and
- (B) Approval by 2/3rds of the total membership of the Miami-Dade County Board of County Commissioners

ARTICLE X. TRANSITIONAL PROCESS FOR SEPARATION, ANNEXATION AND DE-ANNEXATION

Section 10.1 Temporary Nature of Article.

This Article was inserted solely for the purpose of effecting the incorporation of the Village and the transition to a new municipal government. Each section of this Article shall automatically, and without further vote or act of the electors of the Village, become ineffective and no longer a part of this Charter at such time as the implementation of such section has been accomplished but no later than two hundred seventy (270) days after the date of incorporation. In cases of a conflict between this Article and the remainder of the Charter, this Article shall govern.

Section 10.2 Annexations and Separations.

- (A) The area generally known as King's Bay, more particularly described in Appendix "B" (hereinafter referred to as the "Kings Bay Area") has initiated annexation proceedings with the City of Coral Gables. Upon adoption of this Charter, the Village and the electors thereof hereby fully approve the separation from the Village and annexation of the Kings Bay Area into the City of Coral Gables, provided that said annexation shall be completed no later than two hundred seventy (270) days after approval of this Charter by the electorate of the Village. It is the intent of the Village and the electors thereof that the approval granted by this Section, if exercised within the aforesaid 270 days, shall be sufficient to satisfy any approvals required by Section 5.04 of the Miami-Dade

County Home Rule Charter and Chapter 20 of the Code of Miami-Dade County, Florida, as same may be amended from time to time, and that the separation and annexation of the Kings Bay Area may proceed without any further action of the Village, the Village Council, or the electors of the Village, except for the electors residing in the King's Bay area. Thereafter, the King's Bay Area shall have no right to annex to the city of Coral Gables without following all rules of de-annexation as provided for in the Miami-Dade County Home Rule Charter and the provisions of the pre-approvals set forth herein shall be null and void and of no further force and effect.

(B) The pre-approval granted under Section 10.2(A) of this Charter, if exercised within the aforesaid 270 days, shall be deemed to be the approval required by Section 5.04 of the Miami-Dade County Home Rule Charter, as same may be amended from time to time, and the resolution of the governing body of the Village required by Chapter 20 of the Code of Miami-Dade County, Florida as same may be amended from time to time.

The approval granted under Section 10.2(A) is contingent upon an interlocal agreement between the City of Coral Gables and the County as to the application of Chapter 20 of the Code of Miami-Dade County, Florida Section 20-8.1, retention of electric franchise revenues, Section 20-8.2, retention of all utility tax revenues, and Section 20-8.4, retention of garbage and refuse collection and disposal, as same may be amended from time to time, as if the change to the boundaries of the City of Coral Gables resulted from the annexation of unincorporated areas of the county.

(C) The corporate boundary set forth in Section 1.3 hereinabove shall be amended without further action by the Village in the event of annexation. Upon the completion of the annexation process, the corporate boundary shall automatically and without the necessity of further action be modified to exclude such Kings Bay Area. The legal description as set forth in Section 1.3 of the Charter shall be amended to delete said Annexation Area, and such legal description as amended shall be incorporated as the legal description in Section 1.3 of the Charter, as if same were originally set forth therein. The Village Council shall ratify the appropriate legal description at its next regularly scheduled meeting.

Section 10.3 Effect of Annexations on MSTF.

Upon annexation of the Kings Bay Area to the City of Coral Gables, within two hundred seventy (270) days after approval of this Charter by the electorate of the Village, the Village's contribution to the MSTF will be reduced by the net surplus generated by such Annexed Area or Areas, as determined by the County. Upon the completion of the annexation process for any Annexation Area, the contribution to the MSTF shall

automatically and without the necessity of further action be modified to exclude the net surplus generated by such Annexed Area or Areas.

Section 10.4 County commission Mandate

If this Charter is placed upon the ballot by the Board of County Commissioners said placement shall constitute a mandate of the Board of County Commissioners in accordance with the terms of the Palmetto Bay Municipal Advisory Committee Conceptual Agreement and thus the Village will be entitled to 100% of the net surplus revenue generated by the annexed area.

Section 10.5 USDA Property

The property commonly known as the USDA property lying North of SW 144 St., East of SW 67 Ave., South of SW 136 St. and West of the City of Coral Gables shall remain a part of the Village.

Appendix A

Legal Description of the Area Currently Known as Palmetto Bay Proposed Municipal Boundaries June 2002

A PORTION OF MIAMI-DADE COUNTY, FLORIDA, generally bounded on the North by Howard Drive (SW 136th Street); bounded on the East by the City of Coral Gables, by the Waters of Biscayne Bay and by Biscayne National Park; bounded on the South by Eureka Drive (SW 184th Street); and bounded on the West by the South bound lane of State Road 5 (U.S. Highway No. 1) and by State Road 5, as said portion is more particularly described as follows:

BEGINNING at the Northwest corner of Section 22, Township 55 South, Range 40 East, run Easterly along the North line of said Section 22 and along the North section lines of Sections 23 and 24 of Township 55 South Range 40 East (centerline of Howard Drive) to a corner in the boundary of the City of Coral Gables according to Coral Gables Ordinance No. 3548, said corner being a U.S. Land Office Monument (U.S.L.O.) on the North line of said Section 24, lying 2336.54 feet Westerly of the Northeast corner of said Section 24 as measured along said North line;

thence Southerly, following said boundary of the City of Coral Gables for a distance of 576.43 feet, more or less, along the boundary described in Deed Book 3221, at Page 377, of the Public Records of Miami-Dade County, Florida to a point;

thence Southeasterly along said boundary of the City of Coral Gables for a distance of 553.00 feet, more or less, according to said Deed Book 3221, Page 377 to a point;

thence Southwesterly along said boundary of the City of Coral Gables for a distance of 861.00, feet more or less, to a U.S.L.O. monument according to said Deed Book 3221, Page 377;

thence continuing Southwesterly along said boundary of the City of Coral Gables for a distance of 893.21 feet to a U.S.L.O. monument according to said Deed Book 3221, Page 377;

thence Westerly, along said boundary of the City of Coral Gables, for a distance of 1324.66 feet, more or less, to a U.S.L.O. monument marking the Southwest corner of a 95 acre tract transferred from the War Department to the Department of Agriculture, June 23, 1925, according to said Deed Book 3221, Page 377;

thence continue along the Westerly extension of the previous described line and along said boundary of the City of Coral Gables, for a distance of 130.00 feet, more or less, according to said Deed Book 3221, Page 377;

thence Southwesterly along said boundary of the City Coral Gables for a distance of 222.00 feet, more or less, to the Northwest corner of Tract D-6 as shown on the plat of

DEERING BAY as recorded in Plat Book 139 at Page 60 of the Public Records of Miami-Dade County, Florida;

thence Southwesterly, following said boundary of the City of Coral Gables along the Westernmost line of said Tract D-6 of said plat of DEERING BAY to the Southwest corner of said Tract D-6, this point being on the North right-of-way line of Mitchell Drive (S.W. 144th Street);

thence South, at right angles to the North line of the Southwest Quarter (SW 1/4) of said Section 24, Township 55 South, Range 40 East, along said boundary of the City of Coral Gables, for a distance of 15 feet to a point on said North line of the Southwest Quarter (SW 1/4) of said Section 24;

thence East, following said boundary of the City of Coral Gables along the North line of said Southwest Quarter (SW 1/4) of said Section 24, this line being also the centerline of Mitchell Drive (S.W. 144th Street), to the Northeast corner of said Southwest Quarter;

thence South, following said boundary of the City of Coral Gables along the East line of said Southwest 1/4 of said Section 24, this line being also the centerline of S.W. 62 Avenue, to its intersection with the Easterly extension of the South line of Lot 95 of the Plat of KING'S BAY SUBDIVISION, as recorded in Plat Book 57 at Page 45, of the Public Records of Miami-Dade County, Florida;

thence Westerly, following said boundary of the City of Coral Gables along the South line of Lots 95, 94, 93, 92, 91, 90, and 89 inclusive, to the Southwest corner of said Lot 89, this point also being the Northeasterly corner of Lot 88, of said KING'S BAY SUBDIVISION;

thence Southerly, following said boundary of the City of Coral Gables along the East line of Lots 88, 87, 86, 85, 84, and 83 inclusive, to the Southeasterly corner of said Lot 83, this point being also the Northernmost corner of Lot 82, on said KING'S BAY SUBDIVISION;

thence Southeasterly, following said boundary of the City of Coral Gables, along the Northeast line of said Lot 82 to the Northwest corner of Lot 81 of said KING'S BAY SUBDIVISION;

thence easterly, following said boundary of the City of Coral Gables along the North line of Lots 81, 80, and 79 inclusive, to the Northeast corner of said Lot 79 of said KINGS BAY SUBDIVISION;

thence Southeasterly, following said boundary of the City of Coral Gables along the Northeast line of Lots 78, 77, 76 and 75 inclusive, to the Northeast corner of Lot 75 of said KINGS BAY SUBDIVISION on the East line of the Southwest quarter (SW 1/4) of said Section 24, Township 55 South, Range 40 East;

thence South, following said boundary of the City of Coral Gables along the East line of said Southwest quarter (SW 1/4) of said Section 24 to its intersection with the South line of said Section 24 which is the also the North line of Section 25, Township 55 South Range 40 East;

thence Easterly, following said boundary of the City of Coral Gables along said North line of said Section 25, for 1267.67 feet, more or less, to a point at the intersection of said North line of Section 25 with the Northerly extension of the West line of Lot 1, in Block 1 of PARADISE POINT FIRST AMENDMENT as recorded in Plat Book 156 at Page 33 of the Public Records of Miami-Dade County, Florida, said point lying in Paradise Point Inlet, 37.88 feet North of the Northwest corner of said Lot 1;

thence, from said point of intersection, continue Easterly following said boundary of the City of Coral Gables along the North line of Section 25, for a distance of 400 feet to the point of curvature of a 100 foot radius curve, concave Southwesterly as it appears on said plat of PLAT OF PARADISE POINT FIRST AMENDMENT, (said point of curvature being near the Easternmost end of the dock on the South bank at the mouth of said Paradise Point Inlet);

thence departing from said boundary of the City of Coral Gables, run Southerly, perpendicular to the North line of said Section 25, along a line radial to said curve, to the point of intersection of said radial line with the Mean High Waterline on the Southern bank at the mouth of said Paradise Point Inlet;

thence Southeasterly and Southerly along said Mean High Waterline, around Paradise Point, and continuing Westerly, and Southwesterly, and Southerly following said Mean High Water Line along the Western shore of Biscayne Bay, and across the mouth of any streams or inlets to a point on the North right-of-way line of a 135 foot wide right-of-way for Canal C-100 in fractional Section 35, Township 55 South, Range 40 East;

thence East along said North right of way line of said C-100 Canal for 50.00 feet to a point;

thence southerly, perpendicular to said North right-of-way line, across the mouth of said 135 foot wide canal right-of-way to a point on the South right-of-way line of said Canal C-100;

thence due South to the northern boundary of Biscayne National Park according to the dedication thereof recorded in Official Record Book 12823 at Page 3043 of the Public Records of Miami-Dade County, Florida, said northern boundary being the eastward extension of the centerline of SW 176th Street which is also the eastward extension of the North line of the fractional Southwest quarter (SW 1/4) of Section 35, Township 55 South, Range 40 East;

thence Westerly following said boundary of Biscayne National Park along said Eastward extension of the North line of said fractional Southwest quarter (SW 1/4) of said Section 35 to the Mean High Water line on the Western shore of Biscayne Bay;

thence Southerly following said boundary of Biscayne National Park along said Mean High Water line to a point on a line 187.5 feet South of the South Boundary of the TOWN OF CUTLER according to the Map thereof recorded in Plat Book B at Page 17 of the Public Records of Miami-Dade County, Florida, said South Boundary of the Town of Cutler being also the North line of said fractional Southwest quarter (SW 1/4) of said Section 35;

thence Westerly following said boundary of Biscayne National Park along the South line of the North 187.5 feet of said fractional Southwest quarter (SW 1/4) of said Section 35 for a distance of 169 feet, more or less, to a point 750 feet East of the Easterly right-of-way line of Old Cutler Road according to Warranty Deed in Official Record Book 19723, Page 2794 of the Public Records of Miami-Dade County, Florida;

thence Southwesterly along said boundary of Biscayne National Park for 152.71 feet, more or less, to a point on the South line of Tract 2 of DAUGHERTY'S SUBDIVISION as recorded in Plat Book 1, at Page 1 of the Public Records of Miami-Dade County, said point being 815 feet distant from the Southwest corner of said Tract 2 according to the description of said Park boundary in Official Record Book 15202, Page 1856;

thence Westerly following said boundary of Biscayne National Park along said South line of Tract 2 of DAUGHERTY'S SUBDIVISION to the Northeast corner of Tract "A" of BURGER KING WORLD HEADQUARTERS according to the Plat thereof recorded in Plat Book 127, at Page 86 of the Public Records of Miami-Dade County, Florida;

thence southerly following said boundary of Biscayne National Park along the Eastern boundary of said Tract "A" to a corner of Tract "B" of said BURGER KING WORLD HEADQUARTERS;

thence continue Southerly following said boundary of Biscayne National Park along the Eastern boundary of said Tract "B" to a corner of said Tract "A" of said BURGER KING WORLD HEADQUARTERS;

thence continue Southerly, Westerly and Southerly following said boundary of Biscayne National Park along the Eastern boundary of said Tract "A" of said BURGER KING WORLD HEADQUARTERS to the South line of said Section 35 and Southeast corner of said Tract "A";

thence, departing from said boundary of Biscayne National Park, run Westerly along said South line of said fractional Section 35, Township 55 South, Range 40 East, for 1880 feet to the Southwest corner of said Section 35;

thence along the South Section lines of Sections 34 and 33 of Township 55 South, Range 40 East (centerline of Eureka Drive) to the Southwest corner of said Section 33;

thence continue Westerly along the South line of the Southeast quarter (SE 1/4) of Section 32, Township 55 South, Range 40 East (centerline of Eureka Drive) for 2047.42 feet, more or less, to the centerline of the Southbound lane of State Road 5 according to the Florida Department of Transportation Right-of-Way Map thereof recorded in Plat Book 124 at Page 57 of the Public Records of Miami-Dade County, Florida;

thence Northeasterly along said centerline of Southbound State Road 5 as shown on said Right-of-Way Map (P.B. 124, Page 57) to its intersection with the Northwesterly extension of the centerline of SW 164th Street Road;

thence Southeasterly along said Northwesterly extension of said centerline of SW 164th Street Road for 25 feet to the (united) centerline of State Road 5 according to said Right-of-Way Map (P.B. 124, Page 57);

thence Northeasterly, along said centerline of State Road 5 according to Florida State Road Department Right-of-Way Map Section 87020-2512, recorded in Road Plat Book 83 at Page 51 of the Public Records of Miami-Dade County, Florida to the intersection of said centerline with the North line of the Northeast 1/4 of Section 21, Township 55 South Range 40 East;

thence Easterly, along said North line of said Section 21, for 8.60 feet to the Northeast corner of said Section 21, the same being the Northwest corner of Section 22, Township 55 South Range 40 East, and the **POINT OF BEGINNING**.

Appendix B

Legal Description of the Area Currently Known as Kings Bay June 2002

The North 1/2 of the Southwest 1/4 of Section 24, Township 55 South, Range 40 East, in Miami-Dade County Florida, (encompassing KING'S BAY SUBDIVISION as recorded in Plat Book 57 at Page 45 of the Public Records of Miami-Dade County, Florida together with other lands within said North 1/2 of the Southwest 1/4 of said Section 24);

EXCLUDING therefrom the West 1035.00 feet of the South 200.00 feet of said North 1/2 of the Southwest 1/4 of said Section 24;

ALSO EXCLUDING that portion of said KING'S BAY SUBDIVISION previously annexed to the City of Coral Gables by Coral Gables Ordinance No. 3548, which consists of the following three parts: (1) Tract 'A', (2) the 8.11 Acre "Turning Basin" and (3) that part of SW 62nd Avenue which lies South of the Easterly extension of the South line Tract 95 and North of the Southeasterly extension of the Southernmost line of said Tract "A", all as shown on said plat of KING'S BAY SUBDIVISION.



MEMORANDUM

Substitute
Agenda Item No. 4(C)

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: (Public Hearing 7-9-02)
July 9, 2002

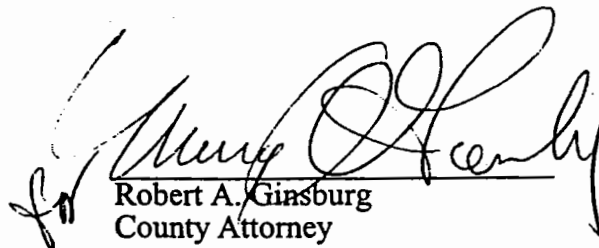
FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance authorizing creation of
a new municipality currently
known as Palmetto Bay

02-118

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Katy Sorenson.

The substitute differs from the original version in that a new legal description is attached which maintains the same general boundaries, but is a more detailed description of the property.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: July 9, 2002

FROM: Steve Shiver
County Manager

A handwritten signature in black ink, appearing to read "Steve Shiver", written over the printed name.

SUBJECT: Ordinance Authorizing
Creation of A New
Municipality in the Area
Currently Known As
Palmetto Bay

02-118

Fiscal Impact Statement

The creation of a municipality in the area currently known as Palmetto Bay will have a negative impact on the Unincorporated Municipal Service Area (UMSA) budget. For fiscal year 01-02, the revenues derived from the area are approximately \$9.667 million per year, while expenses for the area are estimated at \$6.931 million per year, leaving a \$3.736 million per year surplus from the area.

This new municipality will make a contribution to the Municipal Services Trust Fund (MSTF) of \$1.578 million to defray the impact of its incorporation, therefore, the adverse financial effect will be reduced to \$2.158 million. This partial mitigation payment was negotiated with the Palmetto Bay Area Municipal Advisory Committee and has been approved by the Board. It is consistent with the approach taken with the Town of Miami Lakes, the first municipality to make payments to the MSTF.


The charter for this new municipality is expected to go to a vote in September 2002.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 9, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Substitute
SUBJECT: Agenda Item No. 4(C)

02-118

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No. 4(C)
7-9-02

ORDINANCE NO. 02-118

ORDINANCE AUTHORIZING CREATION OF A NEW MUNICIPALITY IN MIAMI-DADE COUNTY, FLORIDA, CURRENTLY KNOWN AS PALMETTO BAY, SUBJECT TO THE APPROVAL OF A MUNICIPAL CHARTER BY QUALIFIED ELECTORS; PRESCRIBING THE MUNICIPAL BOUNDARIES; PRESCRIBING POWERS; APPROVING UNDER CERTAIN CONDITIONS THE MUNICIPAL BOUNDARY CHANGE OF AN AREA KNOWN AS KINGS BAY FROM THE VILLAGE OF PALMETTO BAY TO CORAL GABLES; SUPERSEDING CONFLICTING PROVISIONS; PROVIDING INTERDEPENDENCY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Section 5.05 of the Dade County Home Rule Charter provides that the Board of County Commissioners may authorize the creation of new municipalities in the unincorporated areas of Miami-Dade County, Florida, after hearing the recommendations of the Planning Advisory Board, after a public hearing, and after an affirmative vote of the majority of the electors voting and residing within the proposed boundaries; and

WHEREAS, Chapter 20, Article II of the Code of Miami-Dade County, Florida, provides a procedure for the incorporation of new municipalities in the unincorporated areas of Miami-Dade County, Florida; and

WHEREAS, this Board has received the recommendations of the Planning Advisory Board and the Boundaries Commission with regard to the proposed incorporation of the area currently identified as Palmetto Bay; and

WHEREAS, on September 17, 1996 and November 20, 2001, this Board conducted public hearings upon the issue of creating such new municipality; and

WHEREAS, this Board by Resolution No. R-1296-01, adopted on November 20, 2001, called a special election for February 5, 2002, for the purpose of submitting to the electors voting and residing within the proposed boundaries of Palmetto Bay the question of whether the County Commission shall be authorized to create such new municipality; and

WHEREAS, at the election duly held on February 5, 2002, the creation of such new municipality was approved by a majority of the electors voting and residing within the proposed boundaries; and

WHEREAS, this Board by Resolution No. R-213-02, adopted February 26, 2002, created a charter commission comprised of five electors residing within the boundaries of the proposed municipality; and

WHEREAS, this Board hereby expresses its intent to authorize the creation of the new municipality currently known as Palmetto Bay conditioned upon the electors residing within the proposed boundaries of such municipality approving a municipal charter that substantially incorporates the provisions of the Report and mandating that the municipality enter into an interlocal agreement with Miami-Dade County to implement provisions of such charter, as necessary, pertaining to the municipality's relationship with the County; and

WHEREAS, this Board finds and determines that all provisions and requirements of the Dade County Home Rule Charter and Code governing the creation of a new municipality have been complied with, all steps necessary have been lawfully taken, and all applicable provisions of law have been fully complied with and fulfilled,

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

Section 1. The foregoing recitations are hereby incorporated into this ordinance.

Section 2. The creation of a new municipality in Miami-Dade County, Florida, is authorized, and such municipality, known currently as Palmetto Bay subject to a name change to be determined upon adopting a charter, is hereby created, subject to the provisions of this ordinance, and the approval of the municipal charter provided for herein, and the boundaries of such new municipality are hereby fixed, established and described as follows:

See Exhibit A which is attached hereto and incorporated herein by reference.

A sketch of the boundaries of the proposed municipality is attached to this Ordinance as Exhibit "C."

Section 3. In the event that: (a) the charter of the proposed municipality is approved by the electors of the area, (b) the City of Coral Gables adopts a resolution requesting the boundaries of its city be amended to include the area known as Kings Bay, and (c) the electors of Kings Bay approve such separation and change of municipal boundaries, the Board of County Commissioners hereby approves, subject to the provisions of Palmetto Bay's Charter, such separation from Palmetto Bay and the change to the municipal boundaries of the City of Coral Gables which would effectuate the municipal boundary change transferring from Palmetto Bay to the City of Coral Gables the area known as Kings Bay, as is more particularly described below:

See Exhibit B which is attached hereto and incorporated herein by reference.

It is provided that the approval of the boundary changes as provided in this section shall be effective only upon the condition and with the reservation that the County shall collect and reserve all electric franchise revenues accruing within the Kings Bay area during the full term of the County franchise, and the County shall forever collect and receive all utility tax revenues

accruing within the Kings Bay area in the same manner as though the Kings Bay area is a part of the unincorporated area of the County. It is further provided that the approval of the boundary changes as provided in this section shall be effective only upon the condition and with the reservation that the County shall forever collect and dispose of all residential waste within the Kings Bay area in the same manner as though such area is a part of the unincorporated area of the County, unless the authority to collect such waste is delegated by the County to the governing body of the municipality through a twenty (20) year interlocal agreement which provides for collection services, and a twenty (20) year interlocal agreement which provides for disposal services in substantially the form approved by Resolution No. R-1198-95. Failure to comply with prerequisites (a), (b) and (c) of this section within two hundred and seventy (270) days of the adoption of the proposed municipality's charter shall render this section null and void and of no force and effect and shall extinguish the County's approval as provided herein.

Section 4. All special laws applying only to Miami-Dade County, Florida, or to any municipality in Miami-Dade County, or any general law which the Board of County Commissioners is authorized by the Constitution or the Home Rule Charter to supersede, nullify, modify or amend, or any part of any such law, or any prior ordinances or resolutions of Miami-Dade County, in conflict with any provisions contained in this ordinance, are hereby repealed and superseded.

Section 5. The provisions of this ordinance are interdependent upon one another, and the entire ordinance shall be deemed invalid if any of its provisions are declared invalid or unconstitutional. If any of the sections of this ordinance are found or adjudged to be illegal, void or of no effect, the entire ordinance shall be null and void and of no force or effect.

VILLAGE OF PALMETTO BAY

Legal Description

A PORTION OF MIAMI-DADE COUNTY, FLORIDA, generally bounded on the North by Howard Drive (SW 136th Street); bounded on the East by the City of Coral Gables, by the Waters of Biscayne Bay and by Biscayne National Park; bounded on the South by Eureka Drive (SW 184th Street); and bounded on the West by the South bound lane of State Road 5 (U.S. Highway No. 1) and by State Road 5, as said portion is more particularly described as follows:

BEGINNING at the Northwest corner of Section 22, Township 55 South, Range 40 East, run Easterly along the North line of said Section 22 and along the North section lines of Sections 23 and 24 of Township 55 South Range 40 East (centerline of Howard Drive) to a corner in the boundary of the City of Coral Gables according to Coral Gables Ordinance No. 3548, said corner being a U.S. Land Office Monument (U.S.L.O.) on the North line of said Section 24, lying 2336.54 feet Westerly of the Northeast corner of said Section 24 as measured along said North line;

thence Southerly, following said boundary of the City of Coral Gables for a distance of 576.43 feet, more or less, along the boundary described in Deed Book 3221, at Page 377, of the Public Records of Miami-Dade County, Florida to a point;

thence Southeasterly along said boundary of the City of Coral Gables for a distance of 553.00 feet, more or less, according to said Deed Book 3221, Page 377 to a point;

thence Southwesterly along said boundary of the City of Coral Gables for a distance of 861.00, feet more or less, to a U.S.L.O. monument according to said Deed Book 3221, Page 377;

thence continuing Southwesterly along said boundary of the City of Coral Gables for a distance of 893.21 feet to a U.S.L.O. monument according to said Deed Book 3221, Page 377;

thence Westerly, along said boundary of the City of Coral Gables, for a distance of 1324.66 feet, more or less, to a U.S.L.O. monument marking the Southwest corner of a 95 acre tract transferred from the War Department to the Department of Agriculture, June 23, 1925, according to said Deed Book 3221, Page 377;

thence continue along the Westerly extension of the previous described line and along said boundary of the City of Coral Gables, for a distance of 130.00 feet, more or less, according to said Deed Book 3221, Page 377;

thence Southwesterly along said boundary of the City Coral Gables for a distance of 222.00 feet, more or less, to the Northwest corner of Tract D-6 as shown on the plat of DEERING BAY as recorded in Plat Book 139 at Page 60 of the Public Records of Miami-Dade County, Florida;

thence Southwesterly, following said boundary of the City of Coral Gables along the Westernmost line of said Tract D-6 of said plat of DEERING BAY to the Southwest corner of said Tract D-6, this point being on the North right-of-way line of Mitchell Drive (S.W. 144th Street);

thence South, at right angles to the North line of the Southwest Quarter (SW 1/4) of said Section 24, Township 55 South, Range 40 East, along said boundary of the City of Coral Gables, for a distance of 15 feet to a point on said North line of the Southwest Quarter (SW 1/4) of said Section 24;

thence East, following said boundary of the City of Coral Gables along the North line of said Southwest Quarter (SW 1/4) of said Section 24, this line being also the centerline of Mitchell Drive (S.W. 144th Street), to the Northeast corner of said Southwest Quarter;

thence South, following said boundary of the City of Coral Gables along the East line of said Southwest 1/4 of said Section 24, this line being also the centerline of S.W. 62 Avenue, to its intersection with the Easterly extension of the South line of Lot 95 of the Plat of KING'S BAY SUBDIVISION, as recorded in Plat Book 57 at Page 45, of the Public Records of Miami-Dade County, Florida;

thence Westerly, following said boundary of the City of Coral Gables along the South line of Lots 95, 94, 93, 92, 91, 90, and 89 inclusive, to the Southwest corner of said Lot 89, this point also being the Northeasterly corner of Lot 88, of said KING'S BAY SUBDIVISION;

thence Southerly, following said boundary of the City of Coral Gables along the East line of Lots 88, 87, 86, 85, 84, and 83 inclusive, to the Southeasterly corner of said Lot 83, this point being also the Northernmost corner of Lot 82, on said KING'S BAY SUBDIVISION;

thence Southeasterly, following said boundary of the City of Coral Gables, along the Northeast line of said Lot 82 to the Northwest corner of Lot 81 of said KING'S BAY SUBDIVISION;

thence Easterly, following said boundary of the City of Coral Gables along the North line of Lots 81, 80, and 79 inclusive, to the Northeast corner of said Lot 79 of said KINGS BAY SUBDIVISION;

thence Southeasterly, following said boundary of the City of Coral Gables along the Northeast line of Lots 78, 77, 76 and 75 inclusive, to the Northeast corner of Lot 75 of said KINGS BAY SUBDIVISION on the East line of the Southwest quarter (SW 1/4) of said Section 24, Township 55 South, Range 40 East;

thence South, following said boundary of the City of Coral Gables along the East line of said Southwest quarter (SW 1/4) of said Section 24 to its intersection with the South line

of said Section 24 which is the also the North line of Section 25, Township 55 South Range 40 East;

thence Easterly, following said boundary of the City of Coral Gables along said North line of said Section 25, for 1267.67 feet, more or less, to a point at the intersection of said North line of Section 25 with the Northerly extension of the West line of Lot 1, in Block 1 of PARADISE POINT FIRST AMMENDMENT as recorded in Plat Book 156 at Page 33 of the Public Records of Miami-Dade County, Florida, said point lying in Paradise Point Inlet, 37.88 feet North of the Northwest corner of said Lot 1;

thence, from said point of intersection, continue Easterly following said boundary of the City of Coral Gables along the North line of Section 25, for a distance of 400 feet to the point of curvature of a 100 foot radius curve, concave Southwesterly as it appears on said plat of PLAT OF PARADISE POINT FIRST AMMENDMENT, (said point of curvature being near the Easternmost end of the dock on the South bank at the mouth of said Paradise Point Inlet);

thence departing from said boundary of the City of Coral Gables, run Southerly, perpendicular to the North line of said Section 25, along a line radial to said curve, to the point of intersection of said radial line with the Mean High Waterline on the Southern bank at the mouth of said Paradise Point Inlet;

thence Southeasterly and Southerly along said Mean High Waterline, around Paradise Point, and continuing Westerly, and Southwesterly, and Southerly following said Mean High Water Line along the Western shore of Biscayne Bay, and across the mouth of any streams or inlets to a point on the North right-of-way line of a 135 foot wide right-of-way for Canal C-100 in fractional Section 35, Township 55 South, Range 40 East;

thence East along said North right of way line of said C-100 Canal for 50.00 feet to a point;

thence Southerly, perpendicular to said North right-of-way line, across the mouth of said 135 foot wide canal right-of-way to a point on the South right-of-way line of said Canal C-100;

thence due South to the northern boundary of Biscayne National Park according to the dedication thereof recorded in Official Record Book 12823 at Page 3043 of the Public Records of Miami-Dade County, Florida, said northern boundary being the eastward extension of the centerline of SW 176th Street which is also the eastward extension of the North line of the fractional Southwest quarter (SW 1/4) of Section 35, Township 55 South, Range 40 East;

thence Westerly following said boundary of Biscayne National Park along said Eastward extension of the North line of said fractional Southwest quarter (SW 1/4) of said Section 35 to the Mean High Water line on the Western shore of Biscayne Bay;

thence Southerly following said boundary of Biscayne National Park along said Mean High Water line to a point on a line 187.5 feet South of the South Boundary of the TOWN OF CUTLER according to the Map thereof recorded in Plat Book B at Page 17 of the Public Records of Miami-Dade County, Florida, said South Boundary of the Town of Cutler being also the North line of said fractional Southwest quarter (SW 1/4) of said Section 35;

thence Westerly following said boundary of Biscayne National Park along the South line of the North 187.5 feet of said fractional Southwest quarter (SW 1/4) of said Section 35 for a distance of 169 feet, more or less, to a point 750 feet East of the Easterly right-of-way line of Old Cutler Road according to Warranty Deed in Official Record Book 19723, Page 2794 of the Public Records of Miami-Dade County, Florida;

thence Southwesterly along said boundary of Biscayne National Park for 152.71 feet, more or less, to a point on the South line of Tract 2 of DAUGHERTY'S SUBDIVISION as recorded in Plat Book 1, at Page 1 of the Public Records of Miami-Dade County, said point being 815 feet distant from the Southwest corner of said Tract 2 according to the description of said Park boundary in Official Record Book 15202, Page 1856;

thence Westerly following said boundary of Biscayne National Park along said South line of Tract 2 of DAUGHERTY'S SUBDIVISION to the Northeast corner of Tract "A" of BURGER KING WORLD HEADQUARTERS according to the Plat thereof recorded in Plat Book 127, at Page 86 of the Public Records of Miami-Dade County, Florida;

thence Southerly following said boundary of Biscayne National Park along the Eastern boundary of said Tract "A" to a corner of Tract "B" of said BURGER KING WORLD HEADQUARTERS;

thence continue Southerly following said boundary of Biscayne National Park along the Eastern boundary of said Tract "B" to a corner of said Tract "A" of said BURGER KING WORLD HEADQUARTERS;

thence continue Southerly, Westerly and Southerly following said boundary of Biscayne National Park along the Eastern boundary of said Tract "A" of said BURGER KING WORLD HEADQUARTERS to the South line of said Section 35 and Southeast corner of said Tract "A";

thence, departing from said boundary of Biscayne National Park, run Westerly along said South line of said fractional Section 35, Township 55 South, Range 40 East, for 1880 feet to the Southwest corner of said Section 35;

thence along the South Section lines of Sections 34 and 33 of Township 55 South, Range 40 East (centerline of Eureka Drive) to the Southwest corner of said Section 33;

thence continue Westerly along the South line of the Southeast quarter (SE 1/4) of Section 32, Township 55 South, Range 40 East (centerline of Eureka Drive) for 2047.42

feet, more or less, to the centerline of the Southbound lane of State Road 5 according to the Florida Department of Transportation Right-of-Way Map thereof recorded in Plat Book 124 at Page 57 of the Public Records of Miami-Dade County, Florida;

thence Northeasterly along said centerline of Southbound State Road 5 as shown on said Right-of-Way Map (P.B. 124, Page 57) to its intersection with the Northwesterly extension of the centerline of SW 164th Street Road;

thence Southeasterly along said Northwesterly extension of said centerline of SW 164th Street Road for 25 feet to the (united) centerline of State Road 5 according to said Right-of-Way Map (P.B. 124, Page 57);

thence Northeasterly, along said centerline of State Road 5 according to Florida State Road Department Right-of-Way Map Section 87020-2512, recorded in Road Plat Book 83 at Page 51 of the Public Records of Miami-Dade County, Florida to the intersection of said centerline with the North line of the Northeast 1/4 of Section 21, Township 55 South Range 40 East;

thence Easterly, along said North line of said Section 21, for 8.60 feet to the Northeast corner of said Section 21, the same being the Northwest corner of Section 22, Township 55 South Range 40 East, and the **POINT OF BEGINNING**.

KINGS BAY ANNEXATIONLegal Description

The North 1/2 of the Southwest 1/4 of Section 24, Township 55 South, Range 40 East, in Miami-Dade County Florida, (encompassing KING'S BAY SUBDIVISION as recorded in Plat Book 57 at Page 45 of the Public Records of Miami-Dade County, Florida together with other lands within said North 1/2 of the Southwest 1/4 of said Section 24);

EXCLUDING therefrom the West 1035.00 feet of the South 200.00 feet of said North 1/2 of the Southwest 1/4 of said Section 24;

ALSO EXCLUDING that portion of said KING'S BAY SUBDIVISION previously annexed to the City of Coral Gables by Coral Gables Ordinance No. 3548, which consists of the following three parts: (1) Tract 'A', (2) the 8.11 Acre "Turning Basin" and (3) that part of SW 62nd Avenue which lies South of the Easterly extension of the South line Tract 95 and North of the Southeasterly extension of the Southernmost line of said Tract "A", all as shown on said plat of KING'S BAY SUBDIVISION.



MEMORANDUM

Substitute
Agenda Item No. 4(DD)

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance amending Section
33-311 to provide additional
criteria for modifying or
eliminating conditions in zoning
resolutions or restrict
covenants

02-115

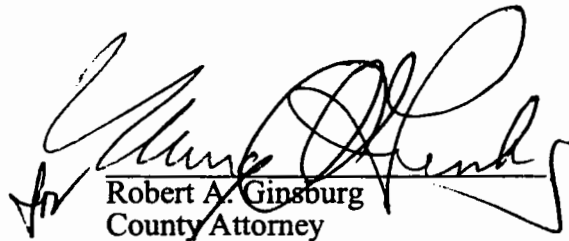
The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Cancio, Sr.

The substitute differs in that it modifies the standard to permit the zoning authority to consider whether the requested modification or elimination would result in development exceeding the standards provided for schools authorized as a matter of right without public hearing.

RECEIVED
LEGAL COUNSEL SEC.

02 JUN 25 AM 11:46

RAG/bw


Robert A. Ginsburg
County Attorney



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance amending
Section 33-311 to provide additional
criteria for modifying or
eliminating conditions in zoning
resolutions or restrictive
covenants

02-115

The proposed ordinance amending Section 33-311 providing additional criteria for modifying or eliminating conditions in zoning resolutions or restrictive covenants will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: *Robert A. Ginsburg*
Robert A. Ginsburg
County Attorney

SUBJECT: Substitute
Agenda Item No.4 (DD)

02-115

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Substitute

Veto _____

Agenda Item No. 4(DD)

Override _____

6-18-02

ORDINANCE NO. **02-115**

ORDINANCE AMENDING SECTION 33-311 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO PROVIDE ADDITIONAL CRITERIA FOR MODIFYING OR ELIMINATING CONDITIONS IN ZONING RESOLUTIONS OR RESTRICTIVE COVENANTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. The criteria for modifying or eliminating conditions in zoning resolutions or restrictive covenants contained in Section 33-311 of the Code of Miami-Dade County are hereby amended to read as follows: ¹

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

(A) Except as otherwise provided by this chapter, the Community Zoning Appeals Boards and Board of County Commissioners shall have the authority and duty to consider and act upon applications, as hereinafter set forth, after first considering the written recommendations thereon of the Director or Developmental Impact Committee. Provided, however, no such action shall be taken until notice of time and place of the hearing at which the Community Zoning Appeals Boards will consider the application has been first published as provided in Section 33-310. The Community Zoning Appeals Boards are advised that the purpose of zoning and regulations is to provide a comprehensive plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers, to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration among other things to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and property and encouraging the most appropriate use of land and water throughout the

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

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.

* * *

(7) Hear applications to modify or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution, and to modify or eliminate any provisions of restrictive covenants, or parts thereof, accepted at public hearing, except as otherwise provided in Section 33-314(C)(3); provided, that the appropriate board finds after public hearing >>(a)<< 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[[[:]]>>, or (b) (i) that the resolution that contains the condition approved a school use that was permitted only as a special exception, (ii) that subsequent law permits that use as of right without the requirement of approval after public hearing, and (iii) that the requested modification or elimination would not result in development exceeding the standards provided for schools authorized as a matter of right without the requirement of approval after public hearing.<<

* * *

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

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may

5

be renumbered or relettered to accomplish such intention. and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUN 18 2002

Approved by County Attorney as
to form and legal sufficiency:

VMCP

Prepared by:

JM

John McInnis

Sponsored by Commissioner Jose "Pepe" Cancio, Sr.

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LEGAL COUNSEL SEC.
02 JUN 26 AM 11:46



MEMORANDUM

CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

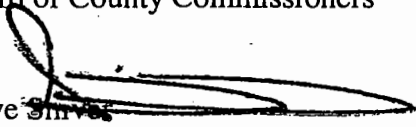
Agenda Item No. 4(U)

107.07-17A

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 4, 2002

(Public Hearing 6-18-02)

FROM: Steve 
County Manager

SUBJECT:

Proposed Ordinance
Pertaining to Zoning
Regulation of
Certificate of Use

02-114

RECOMMENDATION

It is recommended that the attached ordinance pertaining to zoning regulation of Certificate of Use be adopted.

BACKGROUND

Historically, Certificates of Use and Occupancy have been issued for new buildings, and additions to buildings, as well as for the re-occupancy or change in use of existing buildings pursuant to Section 33-8 of the Code of Miami-Dade County (Zoning Code). However, effective March 1, 2002, the Florida Building Code gives the authority of issuing Certificates of Occupancy (CO's) to the Building Official upon approval of the final permit inspection, which indicate that the new building, addition or structure has been completed and that the electrical, gas, mechanical and plumbing systems were installed in accordance with the technical codes, specifications and the approved plans.

The Department of Planning and Zoning (DP&Z) will process Certificate of Use (CU) applications for all proposed business uses, review the proposed use for compliance with zoning regulations, inspect the premises as deemed necessary and issue the CU upon application approval. The proposed changes to Section 33-8 will enable DP&Z to issue CU's for such uses as well as for multi-family uses. Additionally, the proposed ordinance contains language authorizing DP&Z to periodically inspect premises at any reasonable time to ensure the existence of a current and valid CU, and to ensure compliance with the terms and conditions under which a CU was issued. Historical records and files for Certificates of Use and Occupancy issued prior to the enactment of this ordinance will be retained by DP&Z.

The Department of Planning and Zoning, the Building Department and the Office of Management and Budget are developing procedures to implement the ordinance with no interruption of service to our patrons.

FISCAL IMPACT

The proposed ordinance creates no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(U)

02-114

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(U)
6-18-02

ORDINANCE NO. 02-114

ORDINANCE PERTAINING TO ZONING
REGULATION OF CERTIFICATE OF USE;
AMENDING SECTION 33-8 OF THE CODE
OF MIAMI-DADE COUNTY, FLORIDA;
PROVIDING SEVERABILITY, INCLUSION
IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 33-8 of the Code of Miami-Dade County, Florida is hereby
amended as follows:¹

Sec. 33-8. Certificate of use >>(zoning use permit).<<[[and occupaney]]

No structure, >>other than a single family residence or a duplex,<<
shall be used [[~~or occupied~~]] or any existing use enlarged, or any
new use made of any land, body of water, or structure, without first
obtaining a certificate of use >>(C.U.)<< [[~~and occupaney (C.O.)~~]]
therefore from the Department. >>Said certificate of use shall be
required for each individual business and each multi-family
building located within unincorporated Miami-Dade County.<<

In the event there is a question as to the legality of a use, the
Director may require >>inspections,<< affidavits and such other
information as may be deemed appropriate or necessary to
establish the legality of the use, before a certificate of use [[~~and
occupaney~~]] is issued. >>Additionally, the Department shall have
the right to periodically inspect premises at any reasonable time to
ensure the existence of a current and valid C.U., and to ensure
compliance with the terms and conditions under which a C.U. was
issued.<<

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

>>Except for C.U.'s required by code or zoning resolution to be renewed annually, and except for C.U.'s issued on a temporary basis, certificates of use shall remain valid for an unlimited time unless revoked for cause. The C.U. is only valid for the specific address, business name, corporate name and type of business for which it was issued. A new C.U. shall be required for any changes in: use, name, ownership, expansion of square footage occupied, the inclusion of additional uses, or when changes to the structure have been approved by final building inspection.

No certificate of use shall be utilized in a manner contrary to the regulations contained in this chapter.<<

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

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

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUN 18 2002

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

JM

John McInnis



MEMORANDUM

CLERK OF THE BOARD OF COUNTY COMMISSIONERS
Agenda Item No. 4(M)
DADE COUNTY, FLORIDA

(Public Hearing 6-18-02)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 21, 2002

SUBJECT: Ordinance Amending Section 33-133
of the Miami-Dade County Code
Pertaining to Zoned Rights-Of-Way
and Minimum Widths of Roadways

FROM: Steve Shiver
County Manager

02-106

RECOMMENDATION

It is recommended that the Board adopt the attached ordinance amending Section 33-133 of the Code of Miami-Dade County temporarily eliminating the zoned roadway rights-of-way for N.W. 112 Avenue from N.W. 106 Street to N.W. 122 Street, and N.W. 114 Street from N.W. 107 Avenue to N.W. 117 Avenue (Homestead Extension of the Florida Turnpike), designated as half section line roadways in Miami-Dade County, Florida. The ordinance provides for reduction of the minimum width requirements for said roadways to zero (0) for as long as the uses of the lands abutting their zoned rights-of-way continue as they exist on the effective date of the ordinance or remain substantially the same. The Code-required minimum right-of-way width for those roadways will revert to 70 feet after a change in use or a determination by the Director of the Planning and Zoning Department that the current use has been abandoned.

BACKGROUND

NW 112 Avenue from NW 106 Street to NW 122 Street, and NW 114 Street from NW 107 Avenue to NW 117 Avenue (Homestead Extension of the Florida Turnpike), are designated half section line roads requiring a minimum right-of-way width of 70 feet. However, these roads are located wholly within a large manufacturing concrete plant and rock mining operation that has been in existence since 1960. The property is zoned IU-2 (Industrial District) and IU-3 (Industrial District, Unlimited Manufacturing). The property owner plans long-term continuation of the existing and new substantially similar industrial use of the land, and has petitioned the County for temporary relief from the minimum width requirement for the roadways to accommodate expansion and modification of his operation. The Public Works Department reviewed and analyzed the surrounding area, and determined that these roads are not necessary for short-term connectivity due to existing and planned alternative routes and roads. We do not anticipate an impact on current traffic patterns and circulation in the area, and found no inconsistencies with the Comprehensive Development Master Plan (CDMP) Goals, Policies and Objectives.

FISCAL IMPACT

The proposed ordinance creates no fiscal impact on Miami-Dade County.


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LEGAL COUNSEL SEC.
JUN 26 AM 11:45



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners.

DATE: June 18, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(M)

02-106

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- ~~6 weeks required between first reading and public hearing.~~
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(M)
6-18-02

ORDINANCE NO. 02-106

ORDINANCE RELATING TO ZONING; AMENDING SECTION 33-133 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA PERTAINING TO ZONED RIGHTS-OF-WAY AND MINIMUM WIDTH FOR N.W. 112 AVENUE FROM N.W. 106 STREET TO N.W. 122 STREET, AND N.W.114 STREET FROM N.W. 107 AVENUE TO N.W. 117 AVENUE (HOMESTEAD EXTENSION OF THE FLORIDA TURNPIKE); PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, N.W. 112 Avenue and N.W. 114 Street are designated half-section line roadways having a minimum right of way width of seventy (70) feet; and

WHEREAS, ~~these roadways are located within a cement manufacturing and rock mining~~ operation in existence since 1960; and

WHEREAS, dedication of the zoned rights-of-way and construction of these roadways are not necessary or contemplated in connection of the current use of the property,

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

Section 1. Section 33-133 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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

Sec. 33-133. Right-of-way plan and minimum width of streets and ways.

The minimum right-of-way widths for streets, roads and public ways for the unincorporated area of the County shall be as follows:

(A) NORTH AND SOUTH HIGHWAYS (Avenues).

* * *

North-South West Highways (Avenues) Feet

>>(42a)	<u>NW 112 Avenue from NW 106th Street to NW 122 Street, Miami-Dade County, Florida, provided continuation of the existing use, or substantially similar future use, of the lands abutting the right-of-way on the effective date of this ordinance. Right-of-way plan and minimum width requirements for this half-section line roadway shall revert to 70 feet after a change in use or a determination by the Director that the current use has been abandoned.</u>	<u>0<<</u>
---------	--	------------------

(B) EAST AND WEST STREETS

* * *

East-West North Streets.

>>(10a)	<u>NW 114 Street from NW 107th Avenue to NW 117 Avenue (Homestead Extension of the Florida Turnpike), Miami-Dade County, Florida, provided continuation of the existing use, or substantially similar future use, of the lands abutting the right-of-way on the effective date of this ordinance. Right-of-way plan and minimum width requirements for this half-section line roadway shall revert to 70 feet after a change in use or a determination by the Director that the current use has been abandoned.</u>	<u>0<<</u>
---------	--	------------------

Section 2. Section 33-133(C) of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 33-133. Right-of-way plan and minimum width of streets and ways.

The minimum right-of-way widths for streets, roads and public ways for the unincorporated area of the County shall be as follows:

* * *

(C) >>Except as may provided in Sections 33-133(A) and (B) hereof, << [[Ø]]>> on all section lines, eighty (80) feet shall be the minimum right-of-way width, and on all other half-section (also known as quarter-section) lines, seventy (70) feet shall be the minimum official right-of-way width. The provisions of this sub section shall not apply to those properties described in Section 33B-13(a) herein with the exceptions of S.W. 136 Street from S.W. 187 Avenue to S.W. 209 Avenue; S.W. 168 Street from Levee L-31N to S.W. 237 Avenue; S.W. 237 Avenue from SW. 168 Street to S.W. 160 Street; Ingraham Highway (formerly SR. 27); and that portion of N.W. 87 Avenue from N.W. 197 Terrace north to the north County line. Further more the provisions of this subsection shall not apply to that portion of S.W. 122 Avenue which lies within the SE. 1/4 of the S.W. 1/4 of Section 36, Township 54, Range 39; nor shall the provisions of this subsection apply to that portion of the South 40 feet of N.W. 106 Street which lies between N.W. 112 Avenue and N.W. 117 Avenue.

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may

be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

Section 6. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUN 18 2002

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

JM

John McInnis

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LEGAL COUNSEL SEC.
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MEMORANDUM

Agenda Item No. 4(I)

TO: Hon. Chairperson and Members
Board of County Commissioners

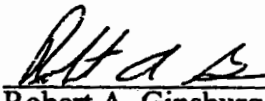
DATE: (Public Hearing 6-18-02)
June 4, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance pertaining to schools in
IU-1 zoning district

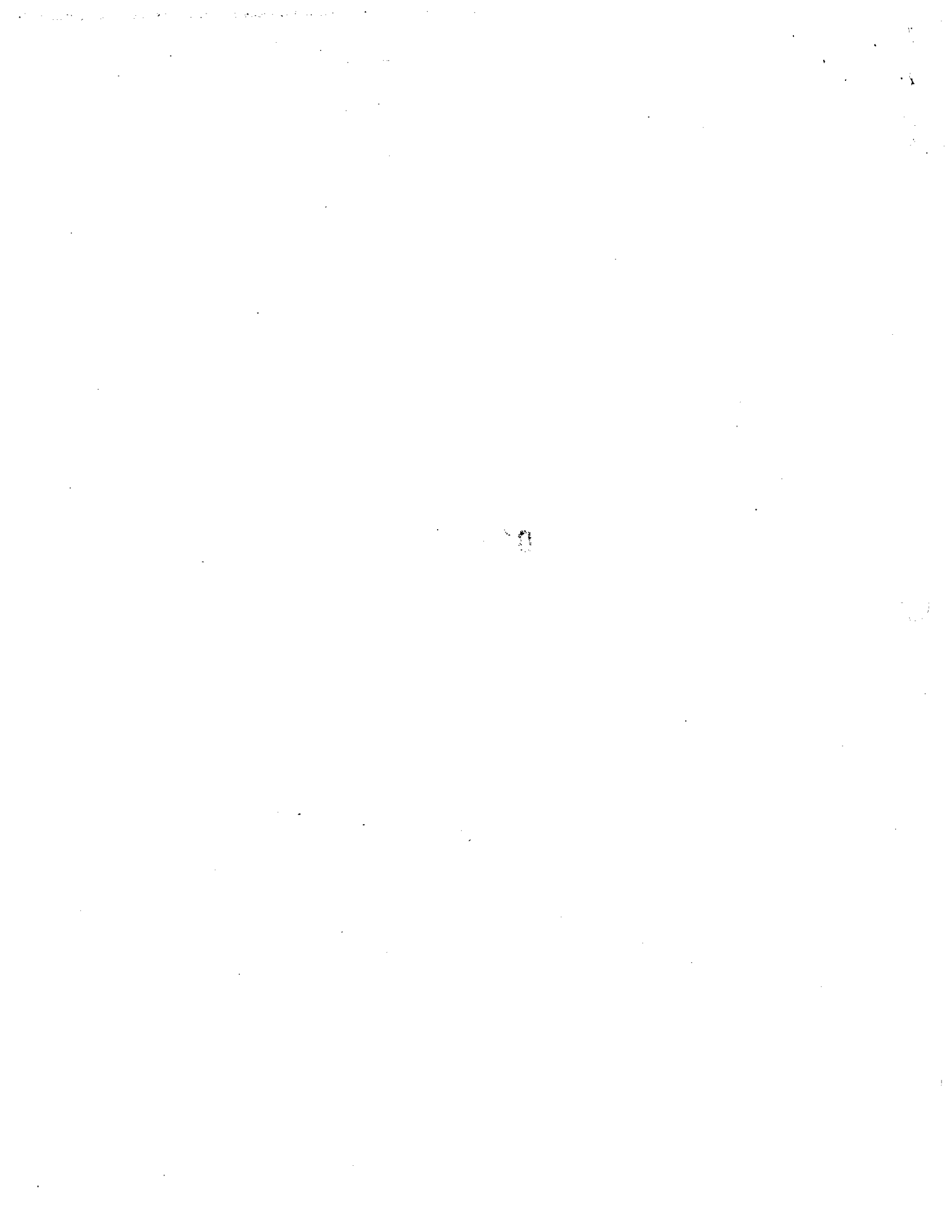
02-103

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Jose "Pepe" Cancio, Sr.


Robert A. Ginsburg
County Attorney

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02 JUN 26 AM 11:45

RAG/bw





MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

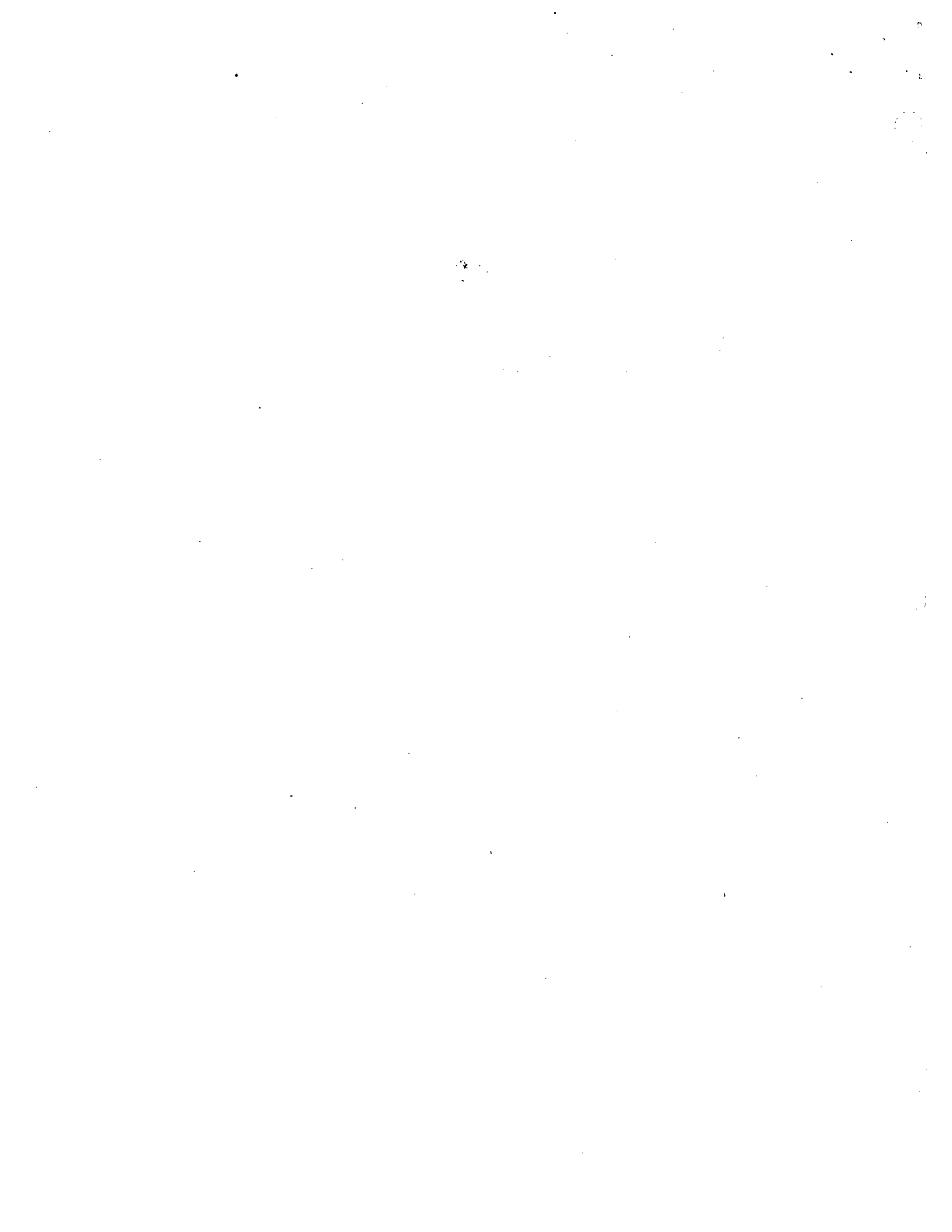
DATE: June 18, 2002

SUBJECT: Ordinance pertaining to schools in
IU-1 zoning district

FROM: Steve Shiver
County Manager

02-103

The proposed ordinance pertaining to schools in zoning district IU-1 will have no fiscal impact on Miami-Dade County.






MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(I)

02-103

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

0.00

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(I)
6-18-02

ORDINANCE NO. **02-103**

ORDINANCE PERTAINING TO SCHOOLS IN IU-1 ZONING DISTRICT; AMENDING SECTION 33-18, SECTION 33-259, SECTION 33-262, SECTION 33-264 AND SECTION 33-268 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. The provisions of Section 33-18 of the Code of Miami-Dade County pertaining to building for public assemblage are hereby amended to read as follows: ¹

Sec. 33-18. Same—Religious facilities and schools in certain districts.

* * *

(c) Churches in RU-1, RU-2, EU-M, EU-1, EU-1C, EU-2, AU AND GU Districts will be permitted only upon approval after public hearing; schools in AU, GU, EU-2, EU-1C, EU-1, EU-S, EU-M, RU-1, RU-2, RU-TH, RU-5, RU-5A, ~~[[RU-1]]~~, IU-2, IU-3 and IU-C will be permitted only upon approval after public hearing.

* * *

Section 2. The provisions for permitted uses in the Manufacturing District contained in Section 33-259 of the Code of Miami-Dade County are hereby amended to read as follows:

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

Sec. 33-259. Uses permitted.

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

* * *

(23.1) Day nursery, kindergarten>>,schools<< and after school care licensed by the State of Florida Department of Health and Rehabilitative Services and established in accordance with the requirements of Article XA>>provided, however, that schools may only be located on a site consisting of at least five (5) acres and adjacent to a major roadway (three (3) or more lanes)<<.

Section 3. Section 33-262 of the Code of Miami-Dade County, is hereby amended as follows:

Sec. 33-262. Uses permitted.

No land, body of water or structure shall be used or permitted to be used and no structure shall be hereafter constructed, reconstructed, or structurally altered, maintained or moved in any IU-2 District, which is designed, arranged or intended to be used for any purpose, unless otherwise provided herein, except for one of the following uses:

- (1) Every use permitted in the IU-1 District, except adult entertainment uses as defined in Section 33-255.1 >>, and private schools and nonpublic educational facilities as defined in Section 33-151.11<<are prohibited in the IU-2 District

* * *

Section 4. Section 33-264 of the Code of Miami-Dade County, is hereby amended as follows:

Sec. 33-264. 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 purposed in an IU-3 District which is designed, arranged or intended to be used or occupied for any purpose, except for any one (1) or more of the uses listed in this section:

- (1) Every use permitted in the IU-1 and IU-2 Districts, except adult entertainment uses as defined in Section 33-255.1 >>, and private schools and nonpublic educational facilities as defined in Section 33-151.11<<are prohibited in the IU-3 District.

* * *

Section 5. Section 33-268 of the Code of Miami-Dade County, is hereby amended as follows:

Sec. 33-268. Permitted uses.

No land, body of water or structure in an IU-C District shall be used or permitted to be used, and no structure shall be erected, constructed, moved or reconstructed, structurally altered, used, occupied, or maintained for any purpose (except as a legal nonconforming building or use), except for one (1) or more of the uses hereinafter enumerated, and then only in accordance with the conditions hereinafter set forth:

- (1) Every use permitted in the IU-1 District, except adult entertainment uses as defined in section 33-255.1 >>and private schools and nonpublic educational facilities as defined in Section 33-151.11<< are prohibited in the IU-C District, and every use permitted in the IU-3 District (uses permitted in the IU-2 District specifically prohibited) and all other industrial uses similar in character shall be permitted in the IU-C District, and shall include utility plants, substations such as, but not limited to, sewage, water, power, communications and gas.

* * *

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

Section 7. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be



made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention. and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

Section 9. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUN 18 2002

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

JM

John McInnis

Sponsored by Commissioner Jose "Pepe" Cancio, Sr.

RECEIVED
LEGAL COUNSEL SEC.

02 JUN 26 AM 11:45

Approved _____ Mayor

Agenda Item No. 4 (E)

Veto _____

6-18-02

Override _____

ORDINANCE NO. 02-102

ORDINANCE AMENDING ORDINANCE NO. 01-192;
PROVIDING NEW BOUNDARIES FOR COUNTY
COMMISSION ELECTION DISTRICTS; INCORPORATING
LEGISLATIVE FINDINGS; PROVIDING SEVERABILITY
AND INCLUSION IN THE CODE; PROVIDING FOR AN
EFFECTIVE DATE AND RETROACTIVE APPLICATION

WHEREAS, the Board of County Commissioners is authorized by Section 1.03(B) of the Home Rule Charter to change the boundaries of County Commission election districts; and

WHEREAS, the Board of County Commissioners hereby finds that the boundary changes reflected on the map attached hereto as Exhibit "A" are made in compliance with all legal and traditional redistricting requirements,

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

Section 1. The foregoing recitations are hereby incorporated as a portion of this ordinance, and they represent legislative findings of the Board of County Commissioners.

Section 2. The boundaries of County Commission election districts 10, 11, 12 and 13 are identified on the map attached hereto as Exhibit "A" and incorporated herein by this reference.

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.


Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(E)

02-102

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance providing new
boundaries for County
Commission election
districts

02-102

The proposed ordinance providing new boundaries for County Commission election districts will have no fiscal impact on Miami-Dade County.

MEMORANDUM

Agenda Item No. 4(E)

TO: Hon. Chairperson and Members
Board of County Commissioners

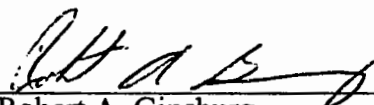
DATE: (Public Hearing 6-18-02)
June 4, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance providing new
boundaries for County
Commission election districts

02-102

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Cancio, Sr.


Robert A. Ginsburg
County Attorney

RAG/bw



02-102

Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

Section 6. Once effective, this ordinance shall be applied retroactively to and including January 1, 2002.

Section 7. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUN 18 2002

Approved by County Attorney as
to form and legal sufficiency:

CMC

Prepared by:

RAD

Robert A. Duvall

Sponsored by Commissioner Jose "Pepe" Cancio, Sr.

GUILLERMO OLMEDILLO

TO: CHAIRPERSON AND MEMBERS OF THE BOARD OF COUNTY COMMISSIONERS
FROM: GUILLERMO OLMEDILLO
SUBJECT: REDISTRICTING
DATE: 06/10/02
CC: RANDY DUVAL, ASISTANT COUNTY ATTORNEY. DAVID LEAHY, SUPERVISOR OF ELECTIONS

The following changes meet all the traditional principles of redistricting.

Precinct	Population	From	To
703	8,557	Dist. 11	Dist. 10
732	3,650	Dist. 11	Dist. 10
772	4,685	Dist. 11	Dist. 10
763	3,662	Dist. 11	Dist. 10
409	1,721	Dist. 10	Dist. 12
410	12,426	Dist. 10	Dist. 12
402	7,708	Dist. 12	Dist. 11
414	6,358	Dist. 12	Dist. 11
451	2,887	Dist. 12	Dist. 11
365	6,468	Dist. 13	Dist. 12
301 West	500	Dist. 13	Dist.12

MEMORANDUM

Substitute
Agenda Item No. 4(D)

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

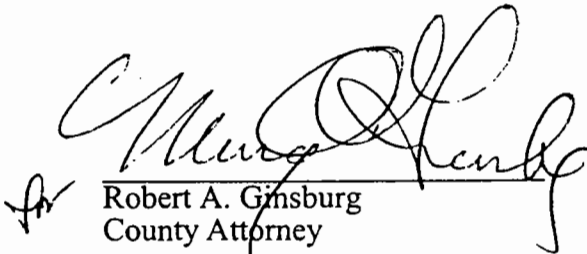
FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to Doral
Municipal Advisory Committee

02-101

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Cancio, Sr.

The substitute differs from the original version by modifying the boundaries of the Municipal Advisory Committee.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to
Doral Municipal Advisory
Committee

02-101

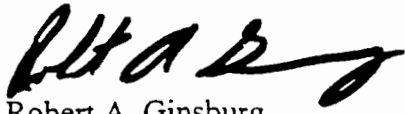
This proposed ordinance eliminates the sunset provision of the ordinance establishing the Doral Municipal Advisory Committee and changes the boundaries of the study area. Since the committee is already staffed, there is no additional cost incurred.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Substitute
Agenda Item No. 4(D)

02-101

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No. 4(D)
6-18-02

ORDINANCE NO. 02-101

ORDINANCE RELATING TO DORAL MUNICIPAL ADVISORY COMMITTEE; MODIFYING BOUNDARIES; DELETING SUNSET PROVISION; AMENDING ORDINANCE 01-123; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 2 of Ordinance 01-123 is hereby amended to read as follows:¹

Sec. 2. Purposes.

(1) To review the possible incorporation of an area >>generally<< described >>as follows:<< ~~[[in Attachment B to this ordinance known as "Revised City of Doral Boundaries.]]~~

>>North: ~~Northwest 90th Street east from 177th Avenue (Krome) to 97th Avenue, South to Northwest 74th Street, East and following the current Medley boundary to Palmetto Expressway R-O-W.~~

East: ~~Palmetto Expressway R-O-W from Southern boundary of Medley, South to Northwest 36th Street, East to 69th Avenue, South to Northwest 16th Street, South following Western and Southern boundary of airport back to 69th Avenue.~~

West: ~~Northwest 177th Avenue (Krome) South from Northwest 90th Street to Northwest 25th Street.~~

South: ~~Northwest 25th Street East from 177th Avenue (Krome) to 107th Avenue, South to Dolphin Expressway (SR 836), East to 69th Avenue.<<~~

* * *

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

Section 2. Section 7 of Ordinance 01-123 is hereby amended as follows:

Section. 7. ~~[[This ordinance shall stand repealed one year from its effective date.]]~~ >>This ordinance shall not contain a sunset provision.<<

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall be excluded from the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

Section 6. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUN 18 2002

Approved by County Attorney as
to form and legal sufficiency:

LMC

Prepared by:

CH

Craig H. Coller

Sponsored by Commissioner Jose "Pepe" Cancio, Sr.

MEMORANDUM

Agenda Item No. 4(C)

TO: Hon. Chairperson and Members
Board of County Commissioners

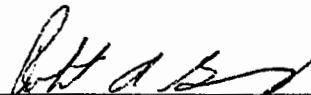
DATE: (Public Hearing 6-18-02)
May 7, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance creating the Northwest
Dade Municipal Advisory
Committee

02-100

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



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance Creating the
Northwest Dade Municipal
Advisory Committee

02-100

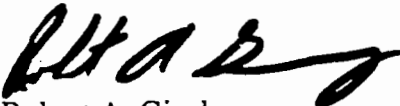
The accompanying ordinance, prepared and placed on the agenda at the request of Commissioner Natacha Seijas, repealing the ordinance establishing the Country Club Lakes Municipal Advisory Committee and creating another municipal advisory committee in its stead, will not create an additional cost for Miami-Dade County since the person assigned to staff the original committee will be reassigned to staff the one created by this ordinance.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(C)

02-100

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4(C)
6-18-02

Veto _____

Override _____

ORDINANCE NO. 02-100

ORDINANCE CREATING AND ESTABLISHING THE NORTHWEST DADE MUNICIPAL ADVISORY COMMITTEE; DIRECTING COUNTY STAFF TO PREPARE A STUDY OF THE POSSIBLE CREATION OF A NEW MUNICIPALITY IN THE AREA OF NORTHWEST DADE; PROVIDING REPEAL OF ORDINANCE 01-122 RELATING TO COUNTRY CLUB LAKES MUNICIPAL ADVISORY COMMITTEE; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

WHEREAS, a group of residents has expressed an interest in creating a new municipality in the Northwest Dade area; and

WHEREAS, such residents recognize the serious implications of creating a new municipality, both for the residents of the proposed municipality areas and for the remaining residents of the unincorporated area, and therefore desire to work with Miami-Dade County Staff to address these implications; and

WHEREAS, this Board desires to determine whether to proceed with the incorporation process,

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

Section 1. **Creation of the Northwest Dade Municipal Advisory Committee; composition.**

There is hereby created a Northwest Dade Municipal Advisory Committee consisting of a minimum of seven (7) and no more than eleven (11) members. Appointments and the filling of any vacancies shall be made in the following manner. Once resumes

and letters requesting an appointment are submitted, the District 13 Commissioner will select nominees and present them to the Board of County Commissioners for final approval. The appointments herein shall become effective immediately upon each approved member filing with the Clerk of the County Commission his or her acceptance of such appointment and oath of office. The members of the committee shall select such other officers from the membership thereof as may be desirable or necessary.

Section 2. Purposes.

- (1) To review the possible incorporation of an area generally described in Attachment A to this ordinance known as "Proposed City of Northwest Dade Boundaries".
- (2) To prepare an advisory report which shall address the results of the study prepared by County staff and the incorporation concerns of both members of the Board of County Commissioners and of the County staff and the manner in which those concerns may be alleviated in the event Northwest Dade is incorporated as a new municipality.

Section 3. Duties and responsibilities.

- (1) The Committee shall conduct not less than two duly advertised public hearings at which citizens residing in the area shall have the opportunity to express their views and concerns regarding the proposed incorporation of Northwest Dade.
- (2) Prior to the first public hearing, the committee shall meet with County staff and review concerns regarding incorporation, shall have reviewed the tape of the County Commission workshop on Incorporation held on January 14, 1999, and shall be familiar with written materials concerning incorporation presented to the Board of County Commissioners at that time and at any subsequent meeting or workshop.
- (3) The Committee's responsibilities shall terminate upon submission of its report.

Section 4. Ordinance No. 01-122 relating to the Country Club Lakes Municipal Advisory Committee is hereby repealed in its entirety.

Section 5. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 6. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall be excluded from the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 7. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

Section 8. This ordinance shall stand repealed two years from its effective date.

PASSED AND ADOPTED: JUN 18 2002

Approved by County Attorney as
to form and legal sufficiency:

RAC

Prepared by:

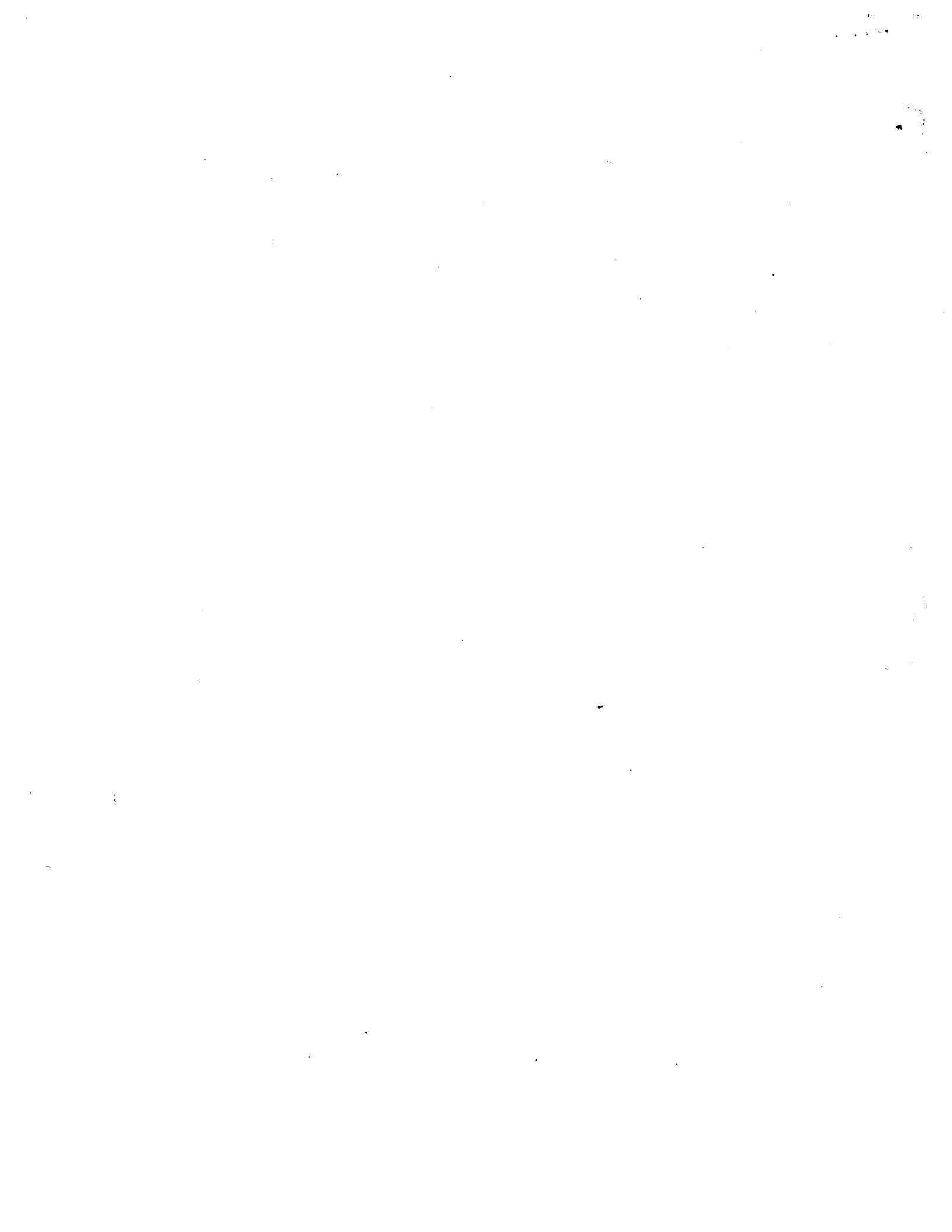
CHC

Craig H. Coller

Sponsored by Commissioner Natacha Seijas

PROPOSED CITY OF NORTHWEST DADE BOUNDARIES

- On the East: N.W. 57th Avenue (Red Road)
- On the West: Interstate-75
- On the South: S.R. 826 (Palmetto Expressway) between N.W. 57 Avenue and N.W. 77 Avenue (inclusive of the area on the North Side of the big curve on S.R. 826) from N.W. 165 Street Northward along the Palmetto/Golden Glades Canal to N.W. 186 Street, then West to N.W. 87 Avenue, then South to N.W. 170 Street then West to Interstate I-75.
- On the North: The Dade-Broward County Line.



MEMORANDUM

Amended
Substitute
Agenda Item No. 4(B)

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

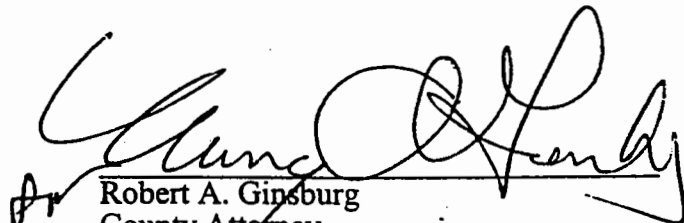
FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to annexation
and incorporation

0#02-99

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

This substitute differs from the original item in that it fully states the proposed expanded guidelines that the Boundaries Commission is to consider in the section of the Code relating to the Boundaries Commission. The original version contained those proposed guidelines in the sections of the Code relating to annexation and incorporation.


Robert A. Ginsburg
County Attorney

RAG/bw

1




MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

SUBJECT: Ordinance relating to
annexation and incorporation

FROM: Steve Shiver
County Manager



This proposed ordinance amendment relating to annexation and incorporation will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 18, 2002

FROM: Robert A. Ginsburg
County Attorney

Substitute
SUBJECT: Agenda Item No. 4(B)

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Amended
Substitute
Agenda Item No. 4(B)
6-18-02

ORDINANCE NO. 02-99

ORDINANCE RELATING TO ANNEXATION AND INCORPORATION; AMENDING SECTIONS 20-7 AND 20-23 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA (THE "CODE") TO MODIFY GUIDELINES TO BE CONSIDERED UPON EVALUATION OF ANNEXATION AND INCORPORATION REQUESTS; AMENDING SECTIONS 20-30 AND 20-31 OF THE CODE RELATING TO THE BOUNDARIES COMMISSION TO DELETE OBSOLETE REFERENCES TO ROLE OF THE BOUNDARIES COMMISSION IN CREATING COMMUNITY COUNCILS; AMENDING MEMBERSHIP REQUIREMENTS FOR BOUNDARIES COMMISSION; ESTABLISHING PROCESS TO BE FOLLOWED IN THE EVENT OF A BOUNDARY CONFLICT BETWEEN PROPOSED INCORPORATION(S) AND ANNEXATION(S); REQUIRING BOUNDARIES COMMISSION TO MAKE A RECOMMENDATION IN THE EVENT OF SUCH CONFLICT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

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

* * *

Sec. 20-7. Public hearing.

The Clerk of the County Commission, upon receipt of the recommendations of the Planning Advisory Board and the Boundaries Commission, shall set the matter of such proposed

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

boundary changes for public hearing at a regular meeting of the County Commission and cause notice of such public hearing to be published in a daily newspaper of general circulation in Miami-Dade County at least once not less than one (1) week prior to the date of such public hearing. Notice of such public hearing shall be furnished to a representative of the petitioner or the municipality initiating the proposed boundary change and to all property owners within the area and within six hundred (600) feet thereof. The cost of such notice shall be paid by the individual, group or municipality initiating the proposed change. At such public hearing, the County Commission shall review and consider the recommendations of the Planning Advisory Board, and shall afford to all interested persons an opportunity to be heard upon the merits and propriety of the proposed boundary changes.

- (A) At the conclusion of the public hearing the Board of County Commissioners, in evaluating the appropriateness of a petition for boundary change shall consider the following guidelines:

* * *

>>(6) Any other factor that arises by virtue of recommendations of the Boundaries Commission, pursuant to Section 20-30 of the Code.<<

[[~~(6)~~]]>>(7)<<Any other factor that arises by virtue of any special or unique circumstances of a given area.

* * *

Sec. 20-23. Board of County Commissioners consideration of proposed incorporation petition.

- (A) The Board of County Commissioners shall only hold a public hearing on the petitions for incorporation during the period between September 1 and September 30 inclusive and during the period between March 1 and March 31 inclusive in each year, which shall be conducted as follows:
- (1) Persons requesting incorporation shall make a presentation outlining the merits of their petition,
 - (2) The County Commission shall consider and review

the recommendations of the Planning Advisory Board and the County Manager, and

- (3) The County Commission shall hear from any other interested persons.
- (B) At the conclusion of the public hearing the Board of County Commissioners, in evaluating the appropriateness of a petition for incorporation, shall consider the following guidelines:

* * *

>>(9) Any other factor that arises by virtue of recommendations of the Boundaries Commission, pursuant to Section 20-30 of the Code.<<

- [[(9)]>>(10)<<Any other factor that arises by virtue of any special or unique circumstances of a given area.

* * *

Sec. 20-30. Boundaries Commission--Established.

There shall be established a Boundaries Commission that will have the following responsibilities:

- ~~[[(A) Identify, analyze and make recommendations on issued related to the division of all of the unincorporated area into municipal incorporation and annexation or into community councils which is the subject of the straw balloting of the unincorporated electorate pursuant to ordinance. The Boundaries Commission shall have the following responsibilities:~~

- ~~(1) Prior to the straw ballot, conduct multiple public meetings at several locations in the unincorporated area to provide information to, and receive responses from, area residents and property owners on the above described issues. In these meetings, the Boundaries Commission will address the following matters concerning community councils:~~

~~(a) The potential responsibilities of community councils including but not limited to the responsibility to:~~

- ~~(1) Act as local zoning appeals boards;~~
- ~~(2) Decide on the expenditure of funds allocated by the county commission; and~~
- ~~(3) Recommend on planning matters, the establishment of special tax districts, area services and facilities needs, incorporations and annexations.~~

~~(b) The possible structure of the community councils including, but not limited to:~~

- ~~(1) Whether the community councils should be appointed or elected;~~
- ~~(2) The number of community council members;~~
- ~~(3) Staffing requirements of community councils with an emphasis on the redeployment of existing county staff.~~

~~(2) No later than two (2) months after the straw balloting and prior to the Board of County Commissioner's further consideration of incorporations, make recommendations to the Board of County Commissioners on the above described issues. If subsequently requested by the County Commissioners, the Boundary Commission shall recommend specific boundaries for the subsequent implementation of the straw ballot alternative(s) utilizing the guidelines pursuant to Sections 20-7 and 20-23.~~

~~(B)]>>(A)~~ The Boundaries Commission shall make<< [[Make]] recommendations to the Planning Advisory Board >>("PAB")<<and >>the<< Board of County

Commissioners on requests for municipal boundary changes and~~[[, after completion of recommendations pursuant to Section 20-30(a)(2),]]~~ on incorporations ~~[[filed]]~~ using the guidelines contained in sections 20-7 and 20-23.

>>(B) In addition to making recommendations based on the guidelines as required by the preceding subsection, the Boundaries Commission shall consider whether the proposed annexation or incorporation:

- (1) Will divide a historically recognized community;
- (2) If annexation is considered, is the annexation area compatible with existing planned land uses and zoning of the municipality to which the area is proposed to be annexed and if incorporation is considered, is the proposed municipality compatible, to the degree possible, with existing planned land uses and zoning of the areas surrounding the proposed municipality;
- (3) Will, if currently qualified, continue to be eligible for any benefits derived from inclusion in federal or state enterprise zones, or targeted area assistance provided by federal, state and local government agencies;
- (4) Will impact public safety response times;
- (5) Will introduce barriers to municipal traffic circulation due to existing security taxing districts, walled communities and/or private roads;
- (6) To the degree possible, will be served by the same public service franchises, such as cable and communication services, as the existing municipality, or will it have full access to all available municipal programming through its franchises provider;

- (7) If the area has been identified by the federal government as a flood zone or by emergency planners as an evacuation zone, has the proposed municipality or existing municipality in the event of annexation indicated its preparedness to address any extraordinary needs that may arise;
- (8) Will be connected to municipal government offices and commercial centers by public transportation, and
- (9) To the degree possible, will be contained in one or more school district boundaries governing admission to elementary, middle and high schools as the adjoining municipal area.
- (C) In the event that there is a pending request for annexation or incorporation with proposed boundaries which conflict with the proposed boundaries change under consideration by the Boundaries Commission, the Boundaries Commission shall make a recommendation to the PAB and the Board of County Commissioners as to the proposed boundary change or incorporation it would recommend prior to the staff negotiating the terms of any incorporation with a municipal advisory committee considering areas for incorporation which would include the disputed areas.
- (D) The Boundaries Commission must review and advise the Board of County Commissioners on any modifications to existing boundaries of Community Councils created by the Board or the boundaries of any new Community Councils created by the Board, prior to the modification of existing Community Council boundaries or the creation of new Community Councils.<<
- ~~[(C) Notwithstanding the foregoing, the Boundaries Commission shall make no recommendations with regard to the proposed municipal boundaries for the incorporation of Pinecrest; provided, however, that the Boundaries Commission may make recommendations with regard to the annexation of unincorporated areas in the vicinity of~~

~~Aventura and Pinecrest.]]~~

* * *

Sec. 20-31. Boundaries Commission--Appointment.

The Boundaries Commission shall be composed of thirteen (13) members with one (1) member appointed by each County Commissioner. ~~[[Three (3) members shall reside in existing municipalities for which municipal boundaries change requests have been filed but not yet approved, three (3) members shall reside in areas for which incorporation requests have been filed but municipalities have not been created, and s]]~~ >>S<<even (7) >>of the thirteen (13)<< members shall reside in the ~~[[remaining]]~~ unincorporated area. No member shall be a sitting member of an existing County board or a County employee. In appointing member, the County Commission shall endeavor to make certain that members of the Boundaries Commission reflect the geographical and ethnic diversity of the County. ~~[[In addition, the membership of the Boundaries Commission shall reflect varying points of view regarding the issues of incorporation and annexation.]]~~ The term of office for Boundaries Commission members shall be four (4) years and the term of each Boundaries Commission member expires when the County Commissioner who nominated that member leaves office. Each member whose term has expired shall hold office until their successor has been duly appointed and certified.>> It is suggested, although not required, that persons appointed to the Boundaries Commission should possess experience in the subject areas of economics, historic preservation, planning, public safety, transportation, public administration, conflict resolution and social services.<<

* * *

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

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may

be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word:

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

Section 5. This ordinance does not contain a sunset provision.

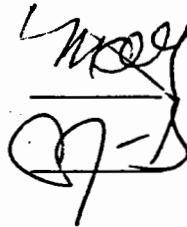
PASSED AND ADOPTED: **JUN 18 2002**

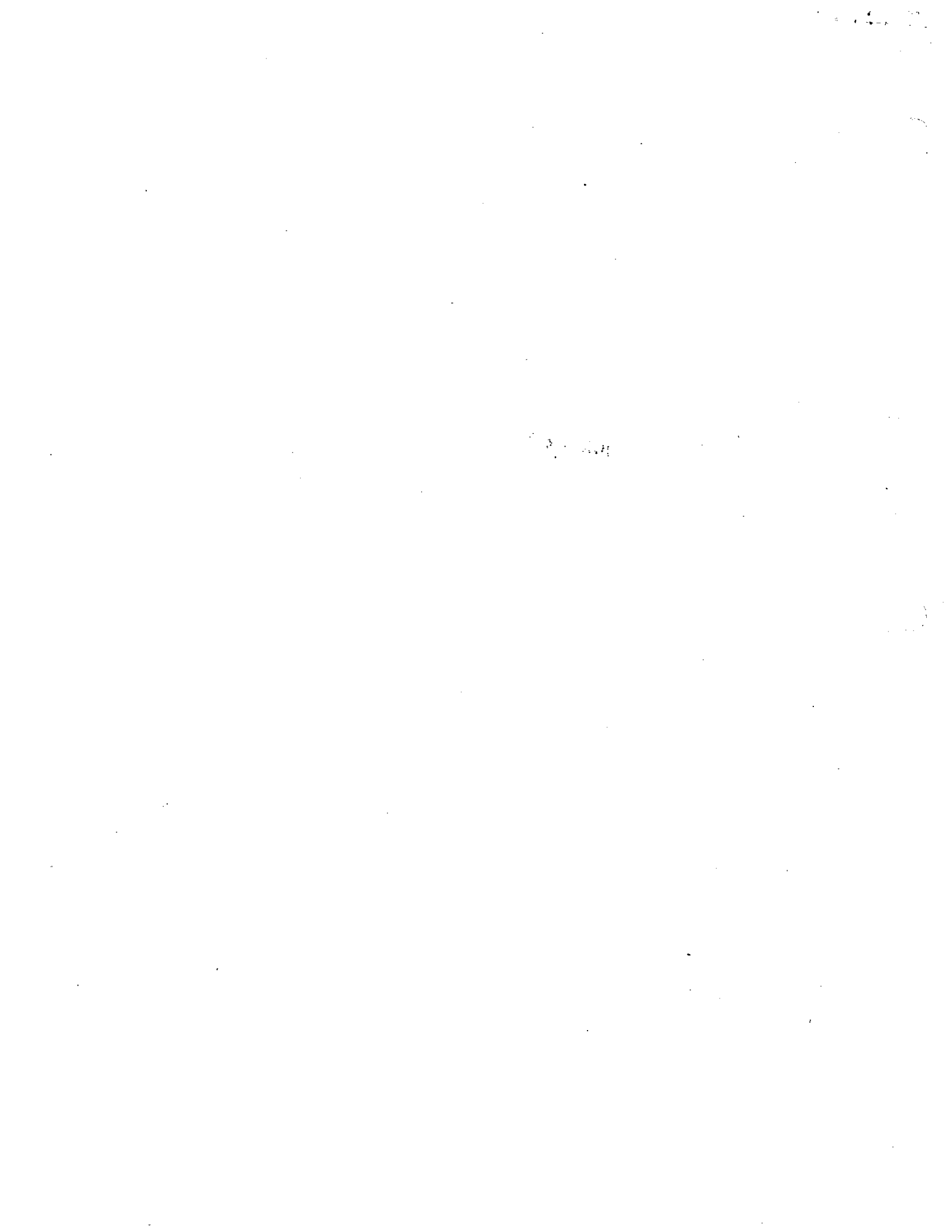
Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Cynthia Johnson-Stacks

Sponsored by Commissioner Natacha Seijas

Handwritten signatures and initials, including a signature that appears to be 'MAY' and another signature below it.



MEMORANDUM

Agenda Item No. 4(F)

TO: Hon. Chairperson and Members
Board of County Commissioners

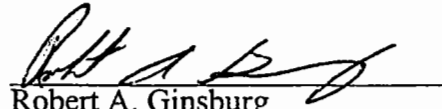
DATE: (Public Hearing 6-4-02)
May 7, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to Community
Councils; providing procedure for
election of multiple positions in a
Community Council Subarea

02-91

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Jimmy L. Morales.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Alex Penelas, Mayor
Honorable Chairperson and Members
Board of County Commissioners

DATE: June 4, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to Community
Councils; providing procedure for
election of multiple positions in
a Community Council Subarea

02-91

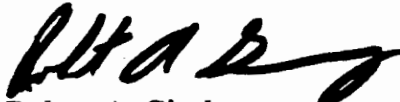
This proposed ordinance relating to procedures for election of multiple positions in a Community Council subarea will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 4, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(F)

02-91

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4 (F)

Veto _____

6-4-02

Override _____

ORDINANCE NO. 02.917

ORDINANCE RELATING TO COMMUNITY COUNCILS; PROVIDING PROCEDURE FOR ELECTION OF MULTIPLE POSITIONS IN A COMMUNITY COUNCIL SUBAREA INCLUDING POSITIONS TO FILL UNEXPIRED TERMS; AMENDING SECTION 20-43 OF THE CODE OF MIAMI-DADE COUNTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 20-43 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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 whom shall be appointed by the Board of County Commissioners as follows:

(A) *Elected Council Members.*

* * *

- (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

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

receiving the greatest number of votes shall be duly elected to that Council Seat. If there is a tie vote among the two (2) 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:

* * *

>>Where there is more than one position available in a subarea for election, the candidates with the largest number of votes shall be elected to those positions. In the event that a subarea election has positions for both expired and unexpired terms, the candidates elected with the least number of votes shall fill the positions for the unexpired terms. It is provided, however, where the number of persons qualifying for a Community Council election is equal to the number of positions both for expired and unexpired terms the candidates filling the unexpired terms shall be determined by lot.<<

* * *

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

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may

be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUN 06 2002

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

CRK

Craig H. Coller

Sponsored by Commissioner Jimmy L. Morales

MEMORANDUM

Amended
Agenda Item No. 4(C)

TO: Hon. Chairperson and Members
Board of County Commissioners

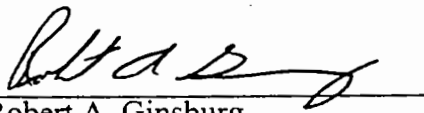
DATE: (Public Hearing 6-4-02
May 7, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance pertaining to zoning;
reducing number of racing or
carrier pigeons allowed

O#02-88

The accompanying ordinance was prepared and placed on the agenda at the request of Senator Javier D. Souto.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 4, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance pertaining to zoning;
reducing number of racing or
carrier pigeons allowed


The proposed ordinance amendment reducing the number of racing or carrier pigeons allowed in certain residential zoning districts will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 4, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Amended
SUBJECT: Agenda Item No. 4(C)

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Amended

Veto _____

Agenda Item No. 4(C)

Override _____

6-4-02

ORDINANCE NO. 02-88

ORDINANCE PERTAINING TO ZONING; REDUCING THE NUMBER OF RACING OR CARRIER PIGEONS ALLOWED AS OF RIGHT IN CERTAIN RESIDENTIAL ZONING DISTRICTS; AMENDING SECTION 33-1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

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

Sec 33-1. Definitions.

For the purpose of this chapter, the following definitions for terms used herein shall apply to all sections of this chapter unless the context clearly indicates otherwise:

* * *

(79) *Pigeon loft, noncommercial.* The maintenance of not more than ~~[[fifty (50)]]~~ >>twenty (20)<< carrier or racing pigeons for the purpose of engaging in the hobby of racing pigeons for sport.

* * *

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.

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

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

Section 4. This ordinance shall become effective on January 1, 2003, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board. After that date, no noncommercial pigeon lofts with more than 20 carrier or racing pigeons shall be permitted to continue.

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: JUN 06 2002

Approved by County Attorney as
to form and legal sufficiency:

RDG

Prepared by:

Jill

Joni Armstrong Coffey

Sponsored by Commissioner Javier D. Souto

5



MEMORANDUM

Special Item No. 1

(Public Hearing 5-30-02)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: April 23, 2002

From: Steve Shiver
County Manager

Subject: Ordinance Acting on October
2001 Cycle Small-Scale
Amendments to the CDMP

O#02-87

RECOMMENDATION

It is recommended that the Board adopt the attached ordinance which provides for the Commission to adopt, adopt with change, not adopt, or deny nine October 2001-cycle applications which request expedited action as small-scale amendments to the Comprehensive Development Master Plan (CDMP). It is recommended that final action be taken on the ordinance at the conclusion of the public hearing which will occur in May 2002 to address all the pending October 2001-cycle Applications requesting amendments to the CDMP.

BACKGROUND

The attached ordinance provides for action on eight privately filed October 2001-cycle applications (Applications No. 1, 3 through 7, 9 and 10), and one filed by the Department of Planning and Zoning (No. 16) which request expedited action as small-scale amendments to the CDMP. The codified procedures for processing applications to amend the CDMP include a procedure for the expedited processing of "Small-Scale" amendments, as defined in Section 163.3187(1)(c), Florida Statutes. This procedure authorizes the Board of County Commissioners to take final action on small-scale amendments after a single public hearing without prior review and comment by the Florida Department of Community Affairs (DCA), as is required of standard CDMP amendment proposals.

The general criteria for eligibility of a proposed amendment to be processed as a small-scale amendment is that it involve 10 or fewer acres and, if residential, it allows a density of 10 dwelling units per acre (10 DU/ac) or less. The annual cumulative limit of small-scale amendments is 120 acres in jurisdictions containing designated redevelopment and downtown revitalization areas, urban infill areas, transportation concurrency exception areas, and regional activity centers. However, a 60-acre annual limitation applies to areas of the jurisdiction outside of these specifically designated development areas, and inside the special

urban areas the residential density cap does not apply. Thus far in 2002, the Board has not adopted any small-scale amendments. The eight privately filed October 2001-cycle applications requesting small-scale amendments to Land Use Plan map-designations of specific properties total approximately 57.85 acres. Therefore, the Board may approve any or all of these proposed small-scale amendments without DCA review. County staff has also proposed that the application to amend the CDMP to allow the four-lane widening Krome Avenue be processed as a small-scale amendment if State law is amended to allow it. It can otherwise be processed as a standard October cycle application.

At the May 2002 public hearing, the Commission could elect to adopt, adopt with change, or not adopt any or all the privately filed small-scale amendments. If it does not adopt a small-scale amendment, the Commission may elect, by separate resolution, to transmit it to DCA for review and comment along with the standard (non-small-scale) amendment requests and take final action in October 2002 after State-agency review. Of course, denial or failure to adopt as a small-scale amendment and failure to transmit an application to DCA for review effectively denies approval of the application for this amendment cycle.

The impact on housing costs associated with approval of the applications proposing to redesignate land from Residential to Business or Office Land Use Plan classifications (Applications No. 1, 3 through 6, 9 and 10) is insignificant, due to the small total acreage involved. Application No. 7 should be nominally beneficial, as it would authorize residential development of an abandoned golf driving range.

ORDINANCE FORMAT

The ordinance follows the same format used in previous CDMP amendment cycles. That is, it contains blank spaces to record your action on each request contained in each application. After the Board adopts individual entries indicating its action on each application, the Board will take action adopting the Ordinance in its entirety, incorporating the foregoing entries. A minimum of seven affirmative votes is required by County Code to amend the CDMP.

ECONOMIC ANALYSIS

1. Economic impact of the ordinance on the County's budget:

There will be no impact on the County's budget in terms of Department of Planning and Zoning budgeting, staffing or operating expenses. This ordinance,

Honorable Chairperson and Members
Board of County Commissioners
Page 3

however, does amend the Comprehensive Development Master Plan (CDMP) which is the County's official guide for managing countywide growth and development. In this regard, the ordinance may indirectly impact the County's budget through amendments that affect the County's land use patterns and associated requirements for the County to provide services and facilities. Capital and operating unit costs for public facilities and services can be lessened through promotion of efficient land use patterns. Higher density contiguous development is relatively more efficiently served than low-density or scattered development. In general, the CDMP strives to achieve this result. Additional information on the fiscal impact of all the requests to amend the Land Use Plan map is presented in Appendix F of the Department of Planning and Zoning's *Initial Recommendations* report, pursuant to Ordinance No. 01-163. This is included in the agenda materials for the May 2002 public hearing addressing all the October 2001 Applications to amend the CDMP, at which final action on this ordinance will be considered.

2. Economic impact of the ordinance on the private sector:

Approval of the ordinance will have an insignificant impact on the private sector. Certain applications to amend the Land Use Element could increase the value of affected land parcels. In a countywide sense, however, the economic outlook will remain essentially unchanged by enactment of these ordinances.

3. Effect of the ordinance on public or private employment:

Adoption of this ordinance will have no significant impact on projected employment for the County as a whole, or in any statistical subdivision.

4. Costs and benefits, both direct and indirect, of establishing and maintaining the program set forth in the ordinance:

See response to item 1 on page 2.

5. Whether the ordinance is necessary to enable the County to obtain State or federal grants or other financing:

No.

Honorable Chairperson and Members
Board of County Commissioners
Page 4

6. Whether another ordinance which is already in existence should be repealed or amended:

No.

7. Whether the creation of a new ordinance is the best method of achieving the benefit derived:

Section 2.116.1, Code of Miami-Dade County, and Section 163.3184(15), Florida Statutes, provide that the CDMP may be amended only by ordinance.

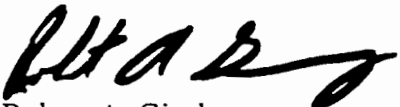


MEMORANDUM

02-87

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 30, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Special Item No. 1

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Veto _____

Override _____

Special Item No. 1

Page No. 1

5-30-02

ORDINANCE NO. 02-87

ORDINANCE RELATING TO MIAMI-DADE COUNTY
COMPREHENSIVE DEVELOPMENT MASTER PLAN
ACTING UPON SMALL-SCALE AMENDMENT
APPLICATIONS FILED IN OCTOBER 2001 CYCLE TO
AMEND, MODIFY, ADD TO OR CHANGE
COMPREHENSIVE DEVELOPMENT MASTER PLAN;
PROVIDING SEVERABILITY, EXCLUSION FROM THE
CODE AND AN EFFECTIVE DATE

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

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

WHEREAS, fourteen CDMP amendment applications were filed on or before October 31, 2001, and are contained in the document titled "October 2001 Applications to Amend the Comprehensive Development Master Plan" dated December 5, 2001; and

WHEREAS, Application No. 15 was filed by the Miami-Dade County Department of Planning and Zoning on February 25, 2002, and is contained in the Department's Initial Recommendations report addressing the October 2001 Applications, published on February 25, 2002; and

WHEREAS, Application No. 16 was filed by the Miami-Dade County Department of Planning and Zoning on February 28, 2002, as directed by the Board of County Commissioners in Resolution No. R-199-02 adopted on February 26, 2002; and

02-87

WHEREAS, Miami-Dade County's procedures provide for the expedited processing of small-scale amendments as defined in Section 163.3187, F.S.; and

WHEREAS, of the sixteen applications filed for processing during the October 2001 CDMP amendment cycle, nine request expedited adoption, if eligible, as small-scale plan amendments; and

WHEREAS, the Community Councils, Planning Advisory Board, and Department of Planning and Zoning have acted in accordance with the referenced State and County procedures and have accepted applications, conducted public hearings and issued recommendations for disposition of the small-scale amendment requests; and

WHEREAS, the Board of County Commissioners can, by ordinance, take final action to Adopt, Adopt With Change, Not Adopt, or Deny requested small-scale amendment applications at the public hearing conducted to address the question of transmittal to the Florida Department of Community Affairs (DCA) of other pending amendment requests; and

WHEREAS, the Board of County Commissioners will consider approving a resolution transmitting to the DCA the CDMP amendment applications which are not eligible for expedited processing as small-scale amendments (standard amendments), and any eligible small-scale amendments that are not adopted but not denied and which this Board desires to further consider after review by DCA; and

WHEREAS, the Board of County Commissioners can, by resolution, transmit to DCA small-scale amendment applications not adopted but not finally denied; and

WHEREAS, all existing lawful uses and zoning in effect prior to a CDMP amendment are deemed to remain consistent with the CDMP as amended unless the Board of County Commissioners, in conjunction with a particular zoning action, finds such preexisting zoning or

uses to be inconsistent with the CDMP based upon a planning study addressing the criteria set forth in the CDMP; and

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

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

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

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

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

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

Section 2. This Board hereby desires to take further action on the pending small-scale amendment applications filed for review during the October 2001 cycle for amendments, modifications, additions, or changes to the Miami-Dade County Comprehensive Development Master Plan as follows:

02-87

Application Number	Applicant/Representative Location (Size) REQUESTED SMALL SCALE AMENDMENTS TO THE CDMP	Action on Small-Scale Amendment
1	<p>GDC Calder Gardens, LLC / Jeffrey Bercow, Esq., and Graham Penn, Esq. NW 27 Avenue to NW 29 Avenue between theoretical NW 213 and NW 215 Streets (9.99 Acres)</p> <p>1. Amendment to the Land Use Plan map FROM: LOW DENSITY RESIDENTIAL (2.5 to 6.0 DU/Ac.) TO: OFFICE/RESIDENTIAL (Subarea 1-- 2.45 Acres)</p> <p>2. Amendment to the existing CDMP Covenant to remove the eastern 50 ft of Subarea 1 from a buffer area. (Subarea 1B-- 0.33 Acres)</p> <p>3. Amendments to the existing CDMP Covenant to modify the list of prohibited uses and to delete a restriction on requesting BU-2 zoning or uses. (Subarea 2-- 7.54 Acres)</p>	<p>ADOPT LUP Map Change, APPROVE Changes to Existing Covenant, and ACCEPT WITH CHANGE New Covenant Limiting Residential Density to 6 Dwelling Units Per Acre</p>
3	<p>Guilford Development Group, LLC / Stanley B. Price, Esq. and Jerry B. Proctor, Esq. East side of SW 101 Avenue, approximately 300 feet north of SW 88 Street N. Kendall Drive (0.69 Acres) FROM: LOW DENSITY RESIDENTIAL (2.5 to 6.0 DU./Ac.) TO: OFFICE/RESIDENTIAL</p>	ADOPT
4	<p>Ferro Development, Inc. / Javier J. Vazquez, Esq. Southwest corner of SW 8 Street (Tamiami Trail) and theoretical SW 152 Avenue (8.682 Acres) FROM: LOW DENSITY RESIDENTIAL (2.5 to 6.0 DU/Ac.) TO: BUSINESS and OFFICE</p>	ADOPT
5	<p>April Realty, LTD., A Florida limited partnership / Juan J. Mayol, Jr., Esq. and Ines Marrero-Prieques, Esq. North frontage of SW 42 Street (Bird Road) and between SW 129 and 130 Avenues (4.176 Acres) FROM: LOW DENSITY RESIDENTIAL (2.5 to 6.0 DU./Ac.) TO: BUSINESS and OFFICE</p>	NOT ADOPTED (Transmit as Standard Amendment)

Application Number	Applicant/Representative Location (Size) REQUESTED SMALL SCALE AMENDMENTS TO THE CDMP	Action on Small-Scale Amendment
6	BGR Development, LLC / W. Chad Willard, Esq. Northeast corner of SW 72 Street (Sunset Drive) and SW 167 Avenue (9.99 Acres) FROM: LOW DENSITY RESIDENTIAL (2.5 to 6.0 DU./Ac.) TO: BUSINESS and OFFICE, and	ADOPT
7	Tract D, Benson Lakes Land Trust, Peter Hodkin, Esq. as Trustee / Jeffrey Bercow, Esq. and Mark Rothenberg, Esq. Between theoretical SW 84 and 86 Streets, between theoretical SW 151 and 152 Avenues (9.99 Acres) FROM: PARKS and RECREATION TO: LOW-MEDIUM DENSITY RESIDENTIAL (5.0 to 13 DU. /Ac.) with a covenant to be proffered limiting the maximum density to 10 DU. /Acre.	ADOPT LUP Map Change and ACCEPT Covenant
9	Pelican Bay Development, Inc. / Jeffrey Bercow, Esq. and Ben Fernandez, Esq. Southeast corner of SW 200 Street and SW 127 Ave. (9.99 Acres) FROM: LOW DENSITY RESIDENTIAL (2.5 to 6.0 DU/Ac.) TO: BUSINESS and OFFICE	NOT ADOPTED (Transmit as Standard Amendment)
10	G. C. Homes, Inc. / Juan J. Mayol, Jr., Esq. and Stephen M. James, Esq. Northeast corner of SW 248 Street and SW 117 Ave. (4.336 Ac.) FROM: LOW DENSITY RESIDENTIAL (2.5 to 6.0 DU/Ac.) TO: BUSINESS and OFFICE	ADOPT

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected thereby.

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

Section 5. This ordinance shall become effective ten (10) days after the date of enactment, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board provided, however, that the effective date of any small-scale plan amendment approved by this ordinance shall be thirty-one (31) days after adoption by this Board (effective date of ordinance). If challenged within thirty (30) days after adoption, the challenged small-scale plan amendment shall not become effective until the Florida Department of Community Affairs or the Administration Commission, respectfully, issues a final order determining the adopted small-scale amendment is in compliance.

Section 6. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: **MAY 30 2002**

Approved by County Attorney as
to form and legal sufficiency. RAG

Prepared by: RZK
Robert L. Krawcheck



MEMORANDUM

(Public Hearing 5-30-02)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: May 9, 2002

From: Steve Shiver
County Manager

Subject: Ordinance Providing Disposition of
April 2001 Applications to Amend
the Comprehensive Development
Master Plan

O#02-86

This substitute differs from the original in that it revises the preamble of the ordinance to reflect the actions taken by the Board at its "transmittal" public hearings on November 15, 2001, and November 26, 2001, and the receipt of comments from the Florida Department of Community Affairs dated March 8, 2002. In Section 2, the references to Applications No. 1, 3, 4, 5, 9 and 10 are deleted as Nos. 1, 3 and 4 were adopted by the Board as "small-scale" amendments, and Applications Nos. 5, 9 and 10 were denied by the Board at the conclusion of the November 15, 2001 public hearing that was continued to November 26, 2001. The legal counsels for Application No. 6 ("Shopyland Enterprises"), Florida State Representative Marco Rubio, and for Application No. 7 (Alberto J Parlade, Trustee), Florida State Senator Ronald A. Silver, have requested pursuant to Section 11.111, Fla. Stats., that the portion of the proceedings pertaining to these applications be continued to May 30, 2002 due to their obligation to serve in the Special Session of the Florida Legislature called by the Governor for the dates April 29, 2002 through May 13, 2002. This request has resulted in the bifurcation of the April 2001 Applications to amend the Comprehensive Development Master Plan. This substitute is limited to the disposition of Applications No. 6 and 7.

RECOMMENDATION

It is recommended that the Board approve the attached ordinance which provides for adoption, adoption with change, or denial of two pending April 2001 cycle applications to amend the Comprehensive Development Master Plan (CDMP). It is recommended that final action be taken on the ordinance at the conclusion of the public hearing scheduled to begin at 9:30 A.M. on Thursday, May 30, 2002.

BACKGROUND

The attached ordinance provides for final action on two pending April 2001 cycle applications requesting amendment to the Comprehensive Development Master Plan (Applications No. 6 and 7). These applications were two of 14 that were the subject of a "transmittal" public hearing conducted by the Board on November 15, 2001 with continuance to November 26, 2001. These applications were transmitted to the Florida Department of Community Affairs (DCA) for review and comment. Application No. 6

was transmitted with a recommendation for approval. At the November 15th public hearing, small-scale Applications No. 1 and 3 were adopted, Application No. 4 was adopted with change (deleting the north 150 feet), and Application No. 5 was denied. At the November 26th continuance of the public hearing, Applications No. 9 and 10 were denied.

The Planning Advisory Board (PAB) acting as the Local Planning Agency conducted its final public hearing on the amendments on April 10, 2002, and issued recommendations that concur with the recommendations of the Department of Planning and Zoning (DP&Z) on all of the applications except for Application No. 13. The PAB and DP&Z recommend that Applications No. 6, 8, 11, 12 and 14 be Approved as transmitted to DCA. The PAB and DP&Z recommend that Applications No. 2 and 7 be Approved With Change. The PAB recommends Approval With Change of Application No. 13, while DP&Z recommends Approval of the application. The "Revised Recommendations, April 2001 Cycle and Beacon Lakes DRI Applications to Amend the Comprehensive Development Master Plan" report dated April 4, 2002, prepared by DP&Z summarizes the pending applications as transmitted to DCA and presents the Department of Planning and Zoning's revised recommendations and principal reasons for the recommendations, and is included in the agenda materials for this hearing. The PAB recommendations and reasons are contained in the PAB resolution and meeting minutes dated April 10, 2002.

The DCA coordinated the State agency review and comment on the transmitted applications at the request of Miami-Dade County, and issued an Objections, Recommendations and Comments (ORC) Report dated March 8, 2002. The DCA did issue objections to Applications 6 and 7. This ORC document is included in the agenda materials for this hearing.

ORDINANCE FORMAT

This ordinance follows the same general format used in previous years. That is, it contains blank space for recording your final action on each application. After the Board adopts individual entries indicating its final action on each application, the Board will take action adopting the Ordinance in its entirety, incorporating the foregoing entries. Section 2-116.1 of the County Code requires a minimum of seven affirmative votes to amend the CDMP and nine votes to extend the Urban Development Boundary (UDB).

HOUSING IMPACT

Applications No. 6 and 7 request redesignation of open space to restricted industrial or office or industrial and office, respectively, on the CDMP Land Use Plan map. These applications will not impact the supply of housing.

02-86

FISCAL IMPACT

Applications No. 6 and 7 would modify the future Land Use Plan map designation of private parcels of land, and extend the UDB to encompass the application sites. An application opening additional area to urban expansion may indirectly impact future County budgets by changing property values, activity patterns, and demands on County services and facilities.

ECONOMIC ANALYSIS

1. Economic impact of the ordinances on the County's budget:

There will be no impact on the County's budget in terms of Department of Planning and Zoning budgeting, staffing or operating expenses. These ordinances, however, do amend the Comprehensive Development Master Plan (CDMP) which is the County's official guide for managing countywide growth and development. In this regard, the ordinance may indirectly impact the County's Budget through amendments which affect the County's land use patterns and its provision of services and facilities. Capital and operating unit costs for public facilities and services can be lessened through promotion of efficient land use patterns. Higher density, contiguous development is relatively more efficiently served than low-density or scattered development. In general, the CDMP is aimed at achieving this result.

2. Economic impact of the ordinance on the private sector:

Approval of the ordinance generally will have an insignificant impact on the private sector. Certain applications to amend the Land Use Element could increase the value of affected land parcels. In a Countywide sense, however, the economic outlook will remain essentially unchanged by enactment of these ordinances.

3. Effect of the ordinance on public or private employment:

Adoption of this ordinance will have no significant impact on projected employment for the County as a whole.

4. Cost and benefits, both direct and indirect, of establishing and maintaining the program set forth in the ordinance:

See response to item 1, above.

5. Whether the ordinance is necessary to enable the County to obtain State or federal grants, or other financing:

No.

6. Whether another ordinance which is already in existence should be repealed or amended:

No.

7. Whether the creation of a new ordinance is the best method of achieving the benefit desired:

Section 2.116.1, Code of Miami-Dade County, and Section 163.3184(15), Florida Statutes, provide that the CDMP may be amended only by ordinance.

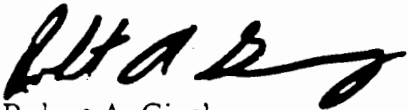


MEMORANDUM

02-86

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 30, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Substitute 3
Special Item No. 1

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required.
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Veto _____

Override _____

ORDINANCE NO. 02-86

ORDINANCE RELATING TO MIAMI-DADE COUNTY
COMPREHENSIVE DEVELOPMENT MASTER PLAN;
PROVIDING DISPOSITION OF APPLICATIONS FILED IN
APRIL 2001 CYCLE TO AMEND, MODIFY, ADD TO OR
CHANGE COMPREHENSIVE DEVELOPMENT MASTER
PLAN; PROVIDING SEVERABILITY, EXCLUSION FROM
THE CODE AND AN EFFECTIVE DATE

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

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

WHEREAS, thirteen CDMP amendment applications were filed by private parties and the Miami-Dade County Department of Planning and Zoning on or before May 7, 2001, and are contained in the document titled "April 2001 Applications to Amend the Comprehensive Development Master Plan" dated August 25, 2001; and

WHEREAS, Application No. 14 was filed by the Department of Planning and Zoning on August 22, 2001; and

WHEREAS, Application No. 2, was partially withdrawn by the applicant by letter dated August 3, 2001, received August 6, 2001; and

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

WHEREAS, on November 26, 2001, this board, by Resolution, instructed the County Manager to transmit certain applications to the Florida Department of Community Affairs (DCA) pursuant to Section 163.3184(3), F.S.; and

WHEREAS, the DCA reviewed certain applications at the request of this Board and has transmitted written comments pursuant to Section 163.3184 (6)(c), F.S.; and

WHEREAS, Florida State Representative Marco Rubio, legal counsel to the applicant for Application No. 6 ("Shopyland Enterprises"), and Florida State Senator Ronald A. Silver, legal counsel to the applicant for Application No. 7 (Alberto J. Parlade, Trustee), have requested pursuant to Section 11.111, Fla. Stats., that the portion of the proceedings pertaining to these applications be continued due to their obligation to serve in the Special Session of the Florida Legislature called by the Governor for the dates April 29, 2002. through May 13, 2002; and

WHEREAS, Section 11.111, Fla. Stats., requires that upon such request, the proceeding shall be continued for a period 15 days prior to the Legislative Session and 15 days subsequent to the conclusion of the Session, and pursuant to that requirement, this Board desires to continue consideration of Applications No. 6 and 7 to May 30, 2002; and

WHEREAS, the Board of County Commissioners must take final action to Adopt, Adopt With Change or Not Adopt amendment applications not later than sixty (60) days after receipt of written comments from DCA addressing the application(s); and

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

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

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

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

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

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

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

Section 2. This Board hereby desires to take further action on all or some of the pending applications filed for review during the April 2001 cycle for amendments, modifications, additions, or changes to the Miami-Dade County Comprehensive Development Master Plan as follows:

Application Number	Applicant/Representative Location (Size) REQUESTED CHANGE TO THE CDMP LAND USE PLAN MAP, POLICIES OR TEXT	FINAL COMMISSION ACTION
6	Shopyland Enterprises N.V. / Alan S. Krischer, Esq. NW 25 to 17 Street between NW 137 Avenue and theoretical NW 132 Court (135.45 Acres) FROM: OPEN LAND TO: RESTRICTED INDUSTRIAL AND OFFICE, and INCLUDE WITHIN THE URBAN DEVELOPMENT BOUNDARY (UDB), and LAND USE ELEMENT: Revise Policy 8 H	Adopted With Changes as recommended by the Dept. of Planning & Zoning in it's Revised Recommendations Report on pages 9 and 10 (attached).
7	Alberto J. Parlade, Trustee / Javier L. Vazquez, Esq. North side of SW 8 Street (Tamiami Trail) to theoretical SW 2 Street, between theoretical SW 138 and 139 Avenues (21.6 Acres) FROM: OPEN LAND TO: INDUSTRIAL AND OFFICE, and INCLUDE WITHIN THE URBAN DEVELOPMENT BOUNDARY (UDB)	Not Adopted

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

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

Section 5. This ordinance shall become effective ten (10) days after the date of enactment, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, however, the effective date of any plan amendment shall be in accordance with the following language which is included at the request of the Florida Department of Community Affairs without any admission by Miami-Dade County of the authority of the Department of Community Affairs or any other governmental entity to request or

Recommendation: ADOPT WITH CHANGE by adding the following roadways to the LUP Map and Transportation Element-Traffic Circulation Element

ADOPT WITH CHANGES by Adding Certain Roadways on the LUP map and Roadway Designations in the Transportation Element--Traffic Circulation Subelement, as follows:

A. On the **Land Use Plan** map, Add the following Roadways:

- 1) NW 25 Street between NW 132 and NW 137 Avenues: Add as a Minor Roadway
- 2) NW 137 Avenue between NW 17 and NW 25 Street: Add as a Minor Roadway

B. In the **Transportation Element**, Traffic Circulation Subelement, Add the following Roadways on Figure 1 (Planned Year 2015 Roadway Network) and Figure 3 (Roadway Functional Classification--2015), respectively:

- 1) NW 25 Street between NW 132 and NW 137 Avenues: Add as 2-lane roadway and as a County Collector; and
- 2) NW 137 Avenue between NW 17 and NW 25 Streets: Add as 2-lane roadway and as a County Collector.

Principal Reasons for Recommendation:

1. A revised analysis of industrial land supply and depletion rates indicates that the County's industrial land supply will be depleted earlier than previously projected. This information is presented and discussed in Appendix A. The vacant industrial land supply in this economically important area of the County (Minor Statistical Area/MSA 3.2) is now projected to be depleted in the year 2012, while it was previously projected to be depleted in the year 2026. Other areas of north Dade do not have large undeveloped land supplies within the UDB to sustain industrial expansion much beyond that year. The updated information indicates that the combined vacant industrial land supplies in the western portions of the North and North-Central Tiers of the County (MSAs 3.1 + 3.2) will be fully built out in the year 2014, and these two full Tiers will be industrially built out in the year 2016. The Countywide industrial land supply is now projected to be built out in the year 2023, where the previous projection was 2035. As noted in Appendix A, the CDMP Land Use Plan is likely to warrant amendment during the next major update in 2003-04, if not now, to provide land for additional expansion. If Beacon Lakes is adopted, the approval of similar development in this site would be a logical extension, as it comprises the northwest corner of the western square-mile section in which Beacon is located.
2. While the approval of urban expansion into this area would necessitate the extension of roadways and other public facilities and services not currently planned for this area, the developer will be required by County regulation to construct and dedicate the necessary water and sewer facilities to serve the property, and an updated traffic analysis indicates that with certain roadway improvements, the area can absorb the additional requested

MEMORANDUM

Agenda Item No. 4(D)

TO: Hon. Chairperson and Members
Board of County Commissioners

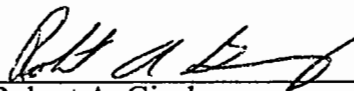
DATE: (Public Hearing 5-21-02)
April 23, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to the
Redland Municipal Advisory
Committee; deleting sunset
provision

02-80

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Katy Sorenson.



Robert A. Ginsburg
County Attorney

RAG/jls



MEMORANDUM


02-801

107.07-17A

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 21, 2002

SUBJECT: Ordinance relating to the
Redland Municipal Advisory
Committee; deleting sunset
provision

FROM: 
County Manager

This ordinance eliminates the sunset provision of the ordinance establishing the Redland Municipal Advisory Committee. Since the committee is already staffed, there is no additional cost.


Fis/06602



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 21, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(D)

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(D)
5-21-02

ORDINANCE NO. 02-80

ORDINANCE RELATING TO REDLAND MUNICIPAL
ADVISORY COMMITTEE; DELETING SUNSET PROVISION;
AMENDING ORDINANCE 01-100; PROVIDING
SEVERABILITY, EXCLUSION FROM THE CODE, AND AN
EFFECTIVE DATE

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

Section 1. Section 7 of Ordinance 01-100 is hereby amended as follows:¹

Section. 7. ~~[[This ordinance shall stand repealed one
year from its effective date.]]~~ >>This ordinance shall not contain a
sunset provision.<<

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

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

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

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: MAY 21 2002

Approved by County Attorney as
to form and legal sufficiency:

SA 6
CHE

Prepared by:

Craig H. Coller

Sponsored by Commissioner Katy Sorenson





MEMORANDUM

DADE COUNTY, FLORIDA

Agenda Item No. 4(A)

(Public Hearing 5-21-02)

May 7, 2002

TO: Hon. Chairperson and Members
Board of County Commissioners

DATE:

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance pertaining to
changing the boundaries of the
Town of Medley and amending
the Charter of such municipality
by providing for the annexation
of certain lands

02-79

The accompanying ordinance was prepared and placed on the agenda at the request of the Board of County Commissioners.

Robert A. Ginsburg
County Attorney

RAG/avj

Approved _____ Mayor

Agenda Item No. 4(A)

5-21-02

Veto _____

Override _____

ORDINANCE NO. _____

102-79

ORDINANCE CHANGING THE BOUNDARIES OF THE TOWN OF MEDLEY, FLORIDA, AND AMENDING THE CHARTER OF SUCH MUNICIPALITY BY PROVIDING FOR THE ANNEXATION OF CERTAIN LANDS, UNDER AND PURSUANT TO PROCEEDINGS PRESCRIBED BY SECTION 5.04(B) OF THE HOME RULE CHARTER; PROVIDING FOR RESERVATION TO THE COUNTY OF ELECTRIC FRANCHISE, UTILITY TAX AND CIGARETTE TAX REVENUES; PROVIDING RETENTION OF GARBAGE AND REFUSE COLLECTION AND DISPOSAL; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Town of Medley requested annexation of an area pursuant to Resolution No. C-750 which resolution is attached hereto and made a part hereof by reference (Attachment I); and

WHEREAS, the Town of Medley, at this time, requests annexation of only a portion of its original proposal as generally depicted on the attached map (Attachment II),

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

Section 1. The municipal boundaries of the Town of Medley are hereby changed, extended and enlarged, and the charter of such municipality is hereby amended by the annexation to the Town of Medley of the following property:

Annexation by the Town of Medley

Legal Description

All that portion of Section 25, Township 52 South, Range 39 East, lying Easterly of the Homestead Extension of the Florida Turnpike



(State Road 821) and excluding therefrom the right-of-way for said Homestead Extension of the Florida Turnpike.

AND

All that portion of Section 19, Township 52 South, Range 40 East, lying and being Southwesterly of the centerline of the Miami Canal (Canal C-6) and lying Southeasterly of said Homestead Extension of the Florida Turnpike (State Road 821) and excluding therefrom the right-of-way for said Homestead Extension of the Florida Turnpike

AND

All of that portion of Section 30, Township 52 South, Range 40 East, lying and being Southwesterly of said centerline of the Miami Canal (Canal C-6) and lying Southeasterly of said Homestead Extension of the Florida Turnpike (State Road 821) and excluding therefrom the right-of-way for said Homestead Extension of the Florida Turnpike,

All lying and being in Miami-Dade County, Florida.

Section 2. Pursuant to Section 20-8.1, 20-8.2 and 20-8.3 of the Code of Miami-Dade County (Ordinance Nos. 61-8 as amended, 70-84 as amended, and 70-85 as amended), this ordinance shall be effective only upon the condition and with the reservation that the County shall continue to collect and reserve all electric franchise revenues accruing within the annexed area during the full term of the County franchise, and the County shall forever continue to collect and receive all utility tax revenues and all cigarette tax revenues accruing within the annexed area in the same manner as though the annexed area remained a part of the unincorporated areas of the County.

Section 3. Pursuant to Section 20-8.4, Code of Miami-Dade County (Ordinance No. 96-30 as amended), this ordinance shall be effective only upon the condition and with the reservation that the County shall forever continue to collect and dispose of all residential waste

within the annexed area in the same manner as though such annexed areas remained part of the unincorporated areas of the County, unless the authority to collect such waste is delegated by the ~~County to the governing body of the municipality through a twenty (20) year interlocal~~ agreement which provides for collection services, and a twenty (20) year interlocal agreement which provides for disposal services in substantially the form approved by Resolution No. R-1198-95.

Section 4. The provisions of this ordinance are interdependent upon one another, and the entire ordinance shall be deemed invalid if any of its provisions are declared invalid or unconstitutional. If any of the sections of this ordinance are found or adjudged to be illegal, void or of no effect, the entire ordinance shall be null and void and of no force or effect.

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

Section 6. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: MAY 21 2002

Approved by County Attorney as
to form and legal sufficiency:

KAG

Prepared by:

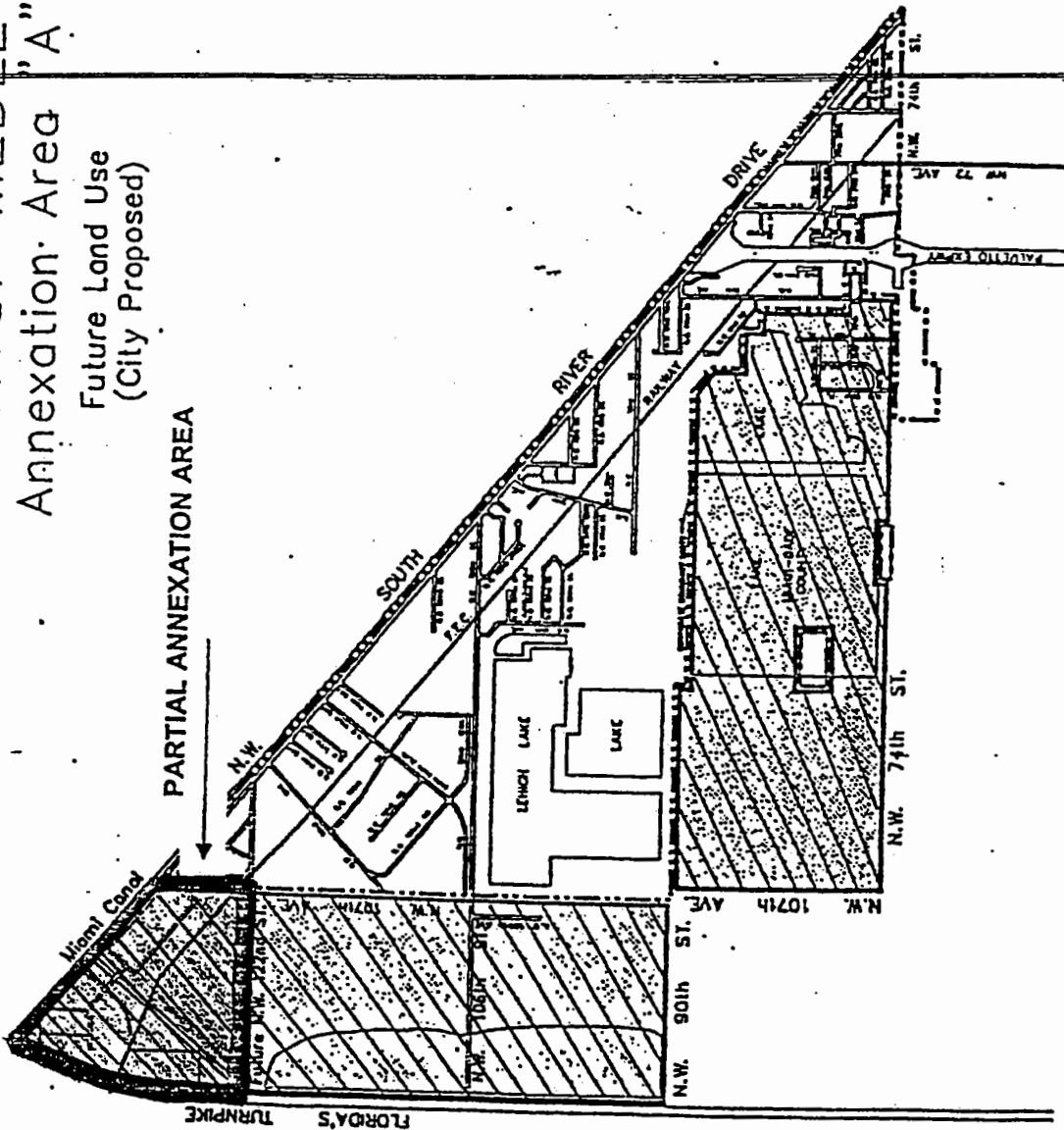
CAC

Craig H. Collier

Sponsored by Board of County Commissioners

TOWN OF MEDLEY Annexation Area "A"

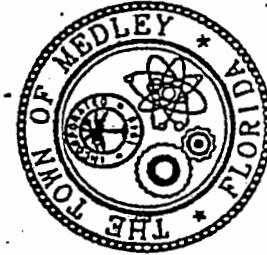
Future Land Use
(City Proposed)



LEGEND

- TOWN LIMITS
- ▨ ANNEXATION AREA "A"
- ▤ INDUSTRIAL
- ▥ RESTRICTED INDUSTRIAL

Prepared by:
BLER PLANNING GROUP &
CORAJO CASTELLA CARBALLO THOMPSON SALAMAN
DATE: 9/18/2020



TOWN COUNCIL

Mayor: Jack Morrow
Vice Mayor: Eugenia Advincula
Council: Margarita De Jesus
Mary Tanner
Carlos Banedello

TOWN ADMINISTRATION

Town Clerk: Herlins Taboada
Town Attorney: Melvin Wolfe
Mayor's Assistant: Ramon Rodriguez

MEMORANDUM

Amended
Agenda Item No. 4(P)

TO: Hon. Chairperson and Members
Board of County Commissioners

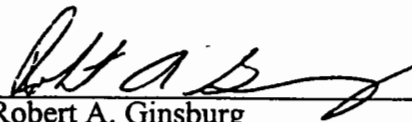
DATE: (Public Hearing 5-7-02)
April 23, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning;
deleting requirement for special
exception for site plan approval

O#02-77

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



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 7, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to zoning;
deleting requirement for special
exception for site plan approval

02-77


The ordinance pertaining to zoning deleting the requirement for special exception for site plan approval for zoning district boundary change will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 7, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Amended
SUBJECT: Agenda Item No. 4(P)
02.77

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

mended

Veto _____

Agenda Item No. 4(P)

Override _____

5-7-02

ORDINANCE NO. 02-77

ORDINANCE PERTAINING TO ZONING; DELETING REQUIREMENT FOR SPECIAL EXCEPTION FOR SITE PLAN APPROVAL FOR ZONING DISTRICT BOUNDARY CHANGE; AMENDING SECTIONS 33-311 AND 33-314 CODE OF MIAMI-DADE COUNTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 33-311 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

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

(A) Except as otherwise provided by this chapter, the Community Zoning Appeals Board and the 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 thereof of the Director or Developmental Impact Committee.

* * *

~~[[C]In granting any application for district boundary change, the Community Zoning Appeals Board shall consider the same subject to a special exception for site plan approval, to be approved simultaneously at the public hearing. 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,~~

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

~~parking areas, exits and entrances, drainage, walls, fence, landscaping and sprinkler systems. It is provided, however, that the requirements of this subsection shall not apply to applications in which: (1) the subject property is three (3) acres or less, and (2) the proposed rezoning is to a residential zoning district. It is further provided that the requirements of this subsection shall not apply to applications of the Director or Zoning Official.]]~~

* * *

Section 2. Section 33-314 of the Code of Miami-Dade County, Florida is

hereby amended as follows:

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

* * *

~~[[(F) In granting any application for district boundary change, the Board shall consider the same subject to a special exception for site plan approval, to be approved simultaneously at the public hearing at which the request for district boundary change and site plan approval are considered. 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. It is provided, however, that the requirements of this subsection shall not apply to applications in which: (2) the subject property is three (3) acres or less and the proposed rezoning is to a residential zoning district or (2) approval of a development of regional impact (DRI), as defined in 38 .06, F.S., is sought; provided however, no building permit shall be issued nor platting of any type approved on the property that is the subject of a DRI, or any portion thereof, unless a site plan has been approved after public hearing by the County Commission after hearing and recommendation by the appropriate Community Zoning Appeals Board. It is further provided that the requirements of this subsection shall not apply to applications of the Director or Zoning Official.]]~~

* * *

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

Section 6. This ordinance shall stand repealed one (1) year from its effective date.

PASSED AND ADOPTED: **MAY 07 2002**

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

JAC

Joni Armstrong Coffey

Sponsored by Commissioner Natacha Seijas



MEMORANDUM

CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

Alternate
Agenda Item No. 4(A)

TO: Hon. Chairperson and Members
Board of County Commissioners

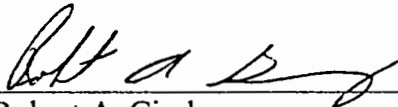
DATE: May 7, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Alternate - Ordinance pertaining
to changing the boundaries of
the City of Coral Gables and
amending the Charter of such
municipality by providing for
the annexation of certain lands

02-69

The accompanying alternate ordinance was prepared and placed on the agenda at the request of Commissioner Jimmy L. Morales. The alternate differs from the original by modifying the boundaries of the area to be annexed to the City of Coral Gables.



Robert A. Ginsburg
County Attorney

RAG/mkd

Honorable Chairperson and Members
Board of County Commissioners
Page 2

Facilities and Services

Police - The City states that immediately upon annexation it will provide police services at a staffing level of 3.95 sworn officers per 1,000 population and an estimated emergency response time of 2-3 minutes. Miami-Dade currently serves the area from its Kendall District Station with an average emergency response time of 4.1 minutes.

Fire/Rescue - Fire/rescue protection will be provided by the Coral Gables Fire Department, with the nearest station being at Riviera Drive and U.S 1.

Water and Sewer - Potable water will continue to be provided by Miami-Dade Water and Sewer Department. Sewage disposal is provided by septic tanks currently and for the foreseeable future.

Solid Waste - The area proposed for annexation is within the County's waste collection service area. Pursuant to Ordinance 96-30, the Department of Solid Waste Management (DSWM) can opt to delegate residential waste collection responsibilities to the City, provided that the cumulative affect of annexations that have taken place since February 16, 1996 do not significantly impact the DSWM's ability to meet debt coverage or to hold down the cost of collection service. The provision of garbage and trash collection service by the City is recommended provided that the City continues to maintain a long-term interlocal agreement for disposal with the County.

Library - The City of Coral Gables is part of the Miami-Dade Library System, therefore no change will occur.

Other - There are no streetlights in the subdivision; however, the City states that if the property owners desire to have them, the City will provide them by special assessment.

Annexation Guidelines

The following addresses the factors required to be considered by Boundaries Commission, Planning Advisory Board, and Board of County Commissioners in evaluating the annexation application:

1. **The suitability of the proposed annexation boundaries, in conjunction with the existing municipality, to provide for a municipal community of interest that is both cohesive and inclusive.**
 - a. The area does not divide a Census Designated Place, (i.e. an officially recognized community.)
 - b. No adjacent unincorporated area have a majority of ethnic minority or lower income residents that have petitioned to be in the annexation area.

3. **The determination that the proposed annexation area is totally contained within the Urban Development Boundary (UDB) of the County's Comprehensive Development Master Plan (CDMP).**

The annexation area is within the Urban Development Boundary.

4. **The impact of the proposal on the revenue base of the unincorporated area and on the ability of the County to efficiently and effectively provide services to adjacent remaining unincorporated area.**

The total taxable value of the annexation area is \$10,188,000. The gross revenue loss to the Unincorporated Municipal Service Area (UMSA) and Fire-Rescue District budgets is \$37,000 and \$26,000, respectively. Pursuant to section 20-8.1 and 20-8.2 of the County Code, the County retains the franchise and utility tax revenues of the area upon annexation. The relative magnitude of the fiscal impact is minimal.

Since the area is a small enclave area, the impact on the County's ability to provide services to the surrounding area will not be affected.

5. **The fiscal impacts of the proposed boundary change on the remaining unincorporated area of Miami-Dade County. Specifically, does the per capita taxable value fall within the range of \$20,000 and \$48,000?**

The estimated population of the area is 80 people and the per-capita taxable value \$127,400, well above the maximum fiscal equity guidelines. However, the enclave character of the area and its very small size supercedes this consideration.

6. **Consistency with the Land Use Plan of the County's Comprehensive Development Master Plan.**

The Intergovernmental Coordination Element of the CDMP calls for consideration of land use plan consistency of City proposal to that of the County.

The City's plan designation for the area is consistent with the County's plan.

Boundaries Commission

On January 22, 1996, at a public hearing, the Boundaries Commission recommended approval of the proposed annexation (Attachment II).

Planning Advisory Board Recommendation

On November 8, 1996, at a public hearing, the Planning Advisory Board recommended approval of the proposed annexation (Attachment III).

RESOLUTION OF THE METROPOLITAN DADE
COUNTY BOUNDARIES COMMISSION
APPROVING THE ANNEXATION OF CORAL
WATERWAYS TO THE CITY OF CORAL
GABLES

WHEREAS, property owners in the area known as Coral Waterways have submitted petitions to the City of Coral Gables seeking annexation; and,

WHEREAS, The City of Coral Gables has approved that annexation; and,

WHEREAS, the Board of County Commissioners referred this application to the Boundaries Commission and the Planning Advisory Board; and,

WHEREAS, on January 22 the Boundaries Commission held an advertised public meeting; and,

WHEREAS, the Boundaries Commission determined that the area is an enclave surrounded on more than 80% of its boundary by the City of Coral Gables that meets the guidelines for annexation contained in Section 20-6 of the Dade County Code;

NOW THEREFOR BE IT RESOLVED that the Metropolitan Dade County Boundaries Commission recommends that the application to annex the area of Coral Waterways be approved.

The foregoing resolution was offered by Ms. Escagedo who moved its adoption. The motion was seconded by Mr. Suarez and upon being put to a vote, passed unanimously.

RESOLUTION OF THE METROPOLITAN DADE COUNTY
PLANNING ADVISORY BOARD APPROVING THE
ANNEXATION OF CORAL WATERWAYS TO THE CITY OF
CORAL GABLES

WHEREAS, property owners in the area known as Coral Waterways have submitted petitions to the City of Coral Gables seeking annexation; and,

WHEREAS, The City of Coral Gables has approved that annexation; and,

WHEREAS, the Board of County Commissioners referred this application to the Boundaries Commission and the Planning Advisory Board; and,

WHEREAS, on November 8, 1995 the Planning Advisory Board held an advertised public hearing; and

WHEREAS, the Planning Advisory Board determined that the area is an enclave surrounded on more than 80% of its area by the City of Coral Gables that meets the guidelines for annexation contained in Section 20-6 of the Dade County Code;

NOW THEREFOR BE IT RESOLVED that the Metropolitan Dade County Planning Advisory Board recommends that the application to annex the area of Coral Waterways be approved.


The foregoing resolution was offered by Mr. Delgado who moved its adoption. The motion was seconded by Mr. Maloof and upon being put to a vote, the vote was as follows:



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 7, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Alternate
SUBJECT: Agenda Item No. 4(A)

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Section 2. Pursuant to Section 20-8.1, 20-8.2 and 20-8.3 of the Code of Miami-Dade County (Ordinance Nos. 61-8 as amended, 70-84 as amended, and 70-85 as amended), this ordinance shall be effective only upon the condition and with the reservation that the County shall continue to collect and reserve all electric franchise revenues accruing within the annexed area during the full term of the County franchise, and the County shall forever continue to collect and receive all utility tax revenues and all cigarette tax revenues accruing within the annexed area in the same manner as though the annexed area remained a part of the unincorporated areas of the County.

Section 3. Pursuant to Section 20-8.4, Code of Miami-Dade County (Ordinance No. 96-30 as amended), this ordinance shall be effective only upon the condition and with the reservation that the County shall forever continue to collect and dispose of all residential waste within the annexed area in the same manner as though such annexed areas remained part of the unincorporated areas of the County, unless the authority to collect such waste is delegated by the County to the governing body of the municipality through a twenty (20) year interlocal agreement which provides for collection services, and a twenty (20) year interlocal agreement which provides for disposal services in substantially the form approved by Resolution No. R-1198-95.

Section 4. The provisions of this ordinance are interdependent upon one another, and the entire ordinance shall be deemed invalid if any of its provisions are declared invalid or unconstitutional. If any of the sections of this ordinance are found or adjudged to be illegal, void or of no effect, the entire ordinance shall be null and void and of no force or effect.

CITY OF CORAL GABLES, FLORIDA

02-69

RESOLUTION NO. 28843

A RESOLUTION APPROVING PROPOSED MUNICIPAL BOUNDARY CHANGE INCORPORATING CORAL WATERWAY SUBDIVISION INTO CITY OF CORAL GABLES.

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

- 1. That a proposed municipal boundary change shall be and it is hereby approved, thereby incorporating the Coral Waterway Subdivision into the City of Coral Gables, Florida.
- 2. That the incorporation of the Coral Waterway Subdivision approved herein is in response to a petition signed by a majority of the property owners of the unincorporated subdivision and pursuant to the requirements of Section 20-4 of the Metro-Dade County Code.
- 3. That this resolution shall become effective upon the date of its adoption herein.
- 4. That certified copies of this resolution shall be provided to representatives of the Coral Waterway Subdivision and the appropriate officials of Metro-Dade County.

PASSED AND ADOPTED THIS EIGHTEENTH DAY OF JULY, A.D., 1995.

RAUL J. VALDES-FAULI
MAYOR

ATTEST:

VIRGINIA L. PAUL
CITY CLERK

STATE OF FLORIDA)
) SS
COUNTY OF DADE)

I, VIRGINIA L. PAUL, Clerk of the City of Coral Gables, Florida, do hereby certify that the foregoing is a true and correct copy of Resolution No. 28843, duly passed and adopted by the Commission of the City of Coral Gables at a regular meeting duly held and convened in the Commission Chambers, City Hall, 405 Biltmore Way, Coral Gables, Florida, on the Eighteenth day of July, A. D., 1995.

IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of Coral Gables this 18th day of July, A. D., 1995.

Virginia L. Paul

Raul J. Valdes-Fauli
City Clerk



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 7, 2002

FROM: Steve Shiver
County Manager

SUBJECT: Fiscal Impact Annexation of
Coral Waterways to Coral
Gables

02-69

The fiscal impact for item 4A Alternate, which changes the boundaries of the area to be annexed by the City of Coral Gables, is the same as for item 4A because the alternate eliminates three properties, two of which are tax-exempt, from the boundaries.

It should be noted that the alternate boundaries were not presented to the Boundaries Commission or the Planning Advisory Board. Furthermore, these boundaries were not considered at the Board of County Commissioners public hearing on January 29, 2002.

Also included in this supplement is a map of the surrounding area illustrating the adjacent municipalities, as requested at the Aides' Briefing.

Attachment



MEMORANDUM

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
Agenda Item No. 10
DADE COUNTY, FLORIDA

(Public Hearing 4-23-02)
April 9, 2002

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE:

SUBJECT:

Proposed Ordinance
Permitting Snack Bar
Use in Certain Office
Development in the
RU-5A District

FROM: Steve Shiver
County Manager

02-57

RECOMMENDATION

It is recommended that this proposed ordinance permitting snack bar use in certain office developments in the RU-5A District be adopted.

BACKGROUND

The attached ordinance was prepared pursuant to Resolution Z-2-02 (copy attached), adopted by the Board of County Commissioners at a zoning hearing on January 31, 2002. Said resolution requested the inclusion of this language within Chapter 33, Zoning Code. Adoption of this ordinance will permit a snack bar in certain developments in the RU-5A District upon compliance with specific conditions. Currently Chapter 33 (Zoning Code) requires such use to be approved via public hearing. The adoption of this ordinance will provide patrons and tenants of an office facility the convenience of a small snack bar.

FISCAL IMPACT

The proposed ordinance creates no fiscal impact on Miami-Dade County.

Attachment

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LEGAL COUNSEL SEC.
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MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 23, 2002

FROM: *Robert A. Ginsburg*
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(H)

02-57

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor

Agenda Item No. 4(H)
4-23-02

Veto _____

Override _____

ORDINANCE NO. 02-57

ORDINANCE PERTAINING TO ZONING;
AMENDING SECTION 33-223.10 OF THE CODE
OF MIAMI-DADE COUNTY, FLORIDA
PERTAINING TO RU-5A, SEMI-PROFESSIONAL
OFFICE DISTRICT; PERMITTING AN
ACCESSORY SNACK BAR SUBJECT TO
RESTRICTIONS; PROVIDING SEVERABILITY,
INCLUSION IN THE CODE AND AN EFFECTIVE
DATE

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

Section 1. Section 33-223.10 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

Sec. 33-223.10. Other specific requirements >>for the RU-5A District<<.

* * *

>> (i) Accessory use. A snack bar for the convenience and use of the occupants and patrons of an office development shall be permitted; said snack bar shall not exceed five hundred (500) square feet in size and shall be permitted within an office facility of at least twenty thousand (20,000) square feet. Said snack bar shall be completely enclosed in the building(s) and have no outside advertising or entrance. The hours of operation for any such snack bar shall be limited to 7:00 a.m. to 3:30 p.m. The snack bar area shall be provided one parking space for each three hundred square feet or fractional part thereof.<<

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

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

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

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

Section 5. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: **APR 23 2002**

Approved by County Attorney as
to form and legal sufficiency:

RA G

Prepared by:

JM

John McInnis

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LEGAL COUNSEL SEC.

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Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-2-02

WHEREAS, CAROL INVESTMENT, INC. applied for the following:

PURSUANT to the provisions in §33-312 & §33-315 of the Code of Miami-Dade County, the applicant requested the following amendment to the Miami-Dade County Code:

The applicant is requesting to include the following provisions to the RU-5A Section of the Miami-Dade County Code, reading as follows:

"Accessory use. A snack bar for convenience and use of the occupants and patrons of an office development shall be permitted; said snack bar shall not exceed five hundred (500) square feet in size and shall be permitted with an office facility of at least twenty thousand (20,000) square feet. Said snack bar shall be completely enclosed in the building(s) and have no outside advertising or entrance."

LOCATION: Unincorporated Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 5 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and

WHEREAS, the Board was advised that the subject application had been reviewed for compliance with concurrency requirements for levels of services and, at that stage of the request, the same was found to comply with the requirements, and

WHEREAS, upon due and proper consideration having been given to the matter it was the opinion of the Board that the requested regulation amendment to the Miami-Dade County Zoning Code to include a provision to the RU-5A Section would be consistent with the Comprehensive Development Master Plan and would conform with the requirements

5

and intent of the Zoning Procedure Ordinance, and said application was recommended for approval to the Board of County Commissioners by Resolution No. CZAB 5-10-01, and

WHEREAS, CAROL INVESTMENT, INC. applied to the Board of County

Commissioners for the following:

PURSUANT to the provisions in §33-312 & §33-315 of the Code of Miami-Dade County, the applicant is requesting the following amendment to the Miami-Dade County Code:

The applicant is requesting to include the following provisions to the RU-5A Section of the Miami-Dade County Code, reading as follows:

"Accessory use. A snack bar for convenience and use of the occupants and patrons of an office development shall be permitted; said snack bar shall not exceed five hundred (500) square feet in size and shall be permitted with an office facility of at least twenty thousand (20,000) square feet. Said snack bar shall be completely enclosed in the building(s) and have no outside advertising or entrance."

WHEREAS, a public hearing of the Board of County Commissioners was advertised and held, as required by the Zoning Procedure Ordinance, and all interested parties concerned in the matter were given an opportunity to be heard, and

WHEREAS, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

WHEREAS, upon due and proper consideration having been given to the matter it is the opinion of this Board that the requested inclusion of the following provisions to the RU-5A Section of the Miami-Dade County Code, reading as follows:

"Accessory use. A snack bar for convenience and use of the occupants and patrons of an office development shall be permitted; said snack bar shall not exceed five hundred (500) square feet in size and shall be permitted with an office facility of at least twenty thousand (20,000) square feet. Said snack bar shall be completely enclosed in the building(s) and have no outside advertising or entrance."

6

should be approved with the proviso that the Comprehensive Development Master Plan permissible uses shall not be expanded by an expansion of the zoning category and provided that such use will be permitted in a RU-5A zoning district where such use is permitted by the applicable Comprehensive Master Plan Land Use Map designation, and

WHEREAS, a motion approve the application was offered by Commissioner Jimmy L. Morales, seconded by Commissioner Rebeca Sosa, and upon a poll of the members present the vote was as follows:

Miriam A. Alonso	aye	Dennis C. Moss	absent
Bruno A. Barreiro	aye	Dorrin D. Rolle	aye
Barbara M. Carey-Shuler	absent	Natacha Seijas	aye
Betty T. Ferguson	absent	Katy Sorenson	aye
Joe A. Martinez	aye	Rebeca Sosa	aye
Jimmy L. Morales	aye	Javier D. Souto	aye

Chairperson Gwen Margolis aye

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Miami-Dade County, Florida, the following provisions to the RU-5A Section of the Miami-Dade County Code, reading as follows:

Accessory use. A snack bar for convenience and use of the occupants and patrons of an office development shall be permitted; said snack bar shall not exceed five hundred (500) square feet in size and shall be permitted with an office facility of at least twenty thousand (20,000) square feet. Said snack bar shall be completely enclosed in the building(s) and have no outside advertising or entrance,

is approved for inclusion to the RU-5A Section of the Miami-Dade County Code, with the proviso that the Comprehensive Development Master Plan permissible uses shall not be expanded by an expansion of the zoning category and provided that such use will be permitted in a RU-5A zoning district where such use is permitted by the applicable Comprehensive Master Plan Land Use Map designation, and

BE IT FURTHER RESOLVED that the application be and the same is hereby approved, subject to the following conditions:

- 02-97
1. That said snack bar shall be completely enclosed in the building and have no outside advertising or entranceway.
 2. The hours of operation shall be between 7:00a.m. and 3:30p.m.

BE IT FURTHER RESOLVED, that other sections of the Code that have not been specifically addressed herein shall remain in full force and effect.

BE IT FURTHER RESOLVED, notice is hereby given to the applicant that the request herein constitutes an initial development order and does not constitute a final development order and that one, or more, concurrency determinations will subsequently be required before development will be permitted.

The Director is hereby authorized to make the necessary changes and notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning and to issue all permits in accordance with the terms and conditions of this resolution.

THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED this 31st day of January, 2002, and shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

No. 01-10-CZ5-1
eo

MIAMI-DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
KAY SULLIVAN

by Harvey Ruvin, Clerk
Deputy Clerk

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 25TH DAY OF FEBRUARY, 2002.

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Harvey Ruvin, Clerk of the Circuit Court in and for Miami-Dade County, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-2-02, adopted by the said Board of County Commissioners at its meeting held on the 31st day of January, 2002.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 25th

day of February, 2002.

KAY SULLIVAN

Harvey Ruvin, Clerk
Board of County Commissioners
Miami-Dade County, Florida

By Edna M. O.
Deputy Clerk

SEAL



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LEGAL COUNSEL SEC.

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MEMORANDUM

ORIGINAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA
Agenda Item No. 4(B)

(Public Hearing 4-23-02)

107.07-17A

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 9, 2002

FROM: 
Steve Shiver
County Manager

SUBJECT: Proposed Ordinance
Pertaining to Zoning
Regulation of
Downtown Kendall
Urban Center Zoning
District

02-56

RECOMMENDATION

It is recommended that the attached ordinance pertaining to zoning regulation for the Downtown Kendall Urban Center be adopted. This item is time sensitive due to the Miami-Dade County vs. Omnipoint court decision. It enables a project which complies with the Downtown Kendall Urban Center zoning district to proceed by allowing the Board to consider removing an inconsistent condition imposed by a previous zoning resolution.

BACKGROUND

The Third District Court of Appeal has recently held in Miami-Dade County v. Omnipoint that the County's ordinances governing zoning applications for modification of conditions of previously adopted zoning resolutions (Chapter 33 of the Code of Miami-Dade County) are unconstitutional. The County Attorney's office is currently seeking judicial review of the Omnipoint decision in the Florida Supreme Court, as well as a stay of the effect of the Third District Court decision. During the time these requests are pending, the decision is in effect. As an immediate impact, zoning applications for modification or elimination of a condition imposed by any final decision adopted by resolution cannot be approved even when eliminating the condition would allow compliance with the underlying Downtown Kendall Urban Center regulations.

Prior to the court's decision, modifications and elimination of conditions could previously be approved after public hearing. The proposed ordinance would allow the consideration and approval of the elimination of a previously imposed condition where development conforms in all respects to the Downtown Kendall Urban Center Zoning District. This will allow the implementation of the plan for downtown Kendall.

FISCAL IMPACT

The proposed ordinance creates no fiscal impact on Miami-Dade County.

Attachment

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MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 23, 2002

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(E)

02-56

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(E)
4-23-02

ORDINANCE NO. 02-56

ORDINANCE RELATING TO ZONING; PERMITTING MODIFICATION OR ELIMINATION OF CONDITIONS OF ZONING RESOLUTIONS WHERE NECESSARY TO ALLOW DEVELOPMENT CONSISTENT WITH THE DOWNTOWN KENDALL URBAN CENTER ZONING DISTRICT REGULATIONS; AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS TO HEAR APPLICATIONS TO MODIFY OR ELIMINATE SUCH CONDITIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 33-311 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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

(A) Except as otherwise provided by this chapter, the Community Zoning Appeals Boards and Board of County Commissioners shall have the authority and duty to consider and act upon applications, as hereinafter set forth, after first considering the written recommendations thereon of the Director or Developmental Impact Committee.

* * *

>> (13) Hear applications to modify or eliminate any condition or part thereof which has been imposed by any final decision

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

adopted by resolution regulating any parcel of land located within the Downtown Kendall Urban Center zoning district, where and to the extent that modification or elimination of the condition or part thereof is necessary to allow development conforming in all respects to the Downtown Kendall Urban Center District, sections 33-284.55—33-284.65 of this code. <<

Section 2. Section 33-314 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

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

* * *

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

* * *

(9) >> Applications to modify or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution regulating any parcel of land located within the Downtown Kendall Urban Center District, where and to the extent that modification or elimination of the condition or part thereof is necessary to allow development conforming in all respects to the Downtown Kendall Urban Center District, sections 33-284.55—33-284.65 of this code. <<

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be

changed to "section," "article," or other appropriate word.

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

Section 6. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: APR 23 2002

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

JAC

Joni Armstrong Coffey

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LEGAL COUNSEL SEC.
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Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 9(A)(5)
9-24-02

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

RESOLUTION NO. R-1084-02

RESOLUTION MODIFYING RESOLUTION NO. 545-02
WHICH CREATED AND ESTABLISHED THE EAST
KENDALL MUNICIPAL ADVISORY COMMITTEE TO
INCREASE THE NUMBER OF MEMBERS AND PROVIDE
FOR APPOINTMENT OF MEMBERS

WHEREAS, on May 21, 2002, the Board of County Commissioners adopted Resolution No. 545-02 creating and establishing the East Kendall Municipal Advisory Committee, copy attached and incorporated herein by reference,

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

Section 1. Resolution No. 545-02 is hereby amended to increase the total membership of the East Kendall Municipal Advisory Committee from its current composition of four members with one alternate member to a minimum of seven (7) members and a maximum of eleven (11) members. The four (4) members appointed pursuant to Resolution No. 545-02 shall remain on the Committee, and the alternate member of the committee shall become a regular member. The remaining two (2) to seven (7) members of the Committee and any vacant position shall be filled by memorandum issued by any County Commissioner whose district boundaries are wholly or partially within the study area.

Section 2. The provisions of County Resolution No. 545-02 which are inconsistent with this resolution are hereby repealed.

The foregoing resolution was sponsored by Commissioner Katy Sorenson and offered by Commissioner Jimmy L. Morales, who moved its adoption. The motion was seconded by Commissioner Gwen Margolis and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro	absent	Jose "Pepe" Cancio, Sr.	aye
Dr. Barbara Carey-Shuler	absent	Betty T. Ferguson	aye
Gwen Margolis	aye	Joe A. Martinez	aye
Jimmy L. Morales	aye	Dennis C. Moss	absent
Dorin D. Rolle	aye	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	aye
	Sen. Javier D. Souto	aye	

The Chairperson thereupon declared the resolution duly passed and adopted this 24th day of September, 2002. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA

BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **KAY SULLIVAN**
Deputy Clerk



Approved by County Attorney as
to form and legal sufficiency.

Cynthia Johnson-Stacks

MEMORANDUM

Amended

Agenda Item No. 9(A)(3)

TO: Hon. Chairperson and Members
Board of County Commissioners

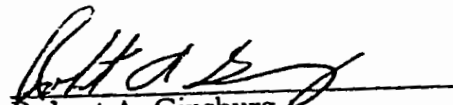
DATE: May 21, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Resolution creating and
establishing the East Kendall
Municipal Advisory Committee

R#545-02

The accompanying resolution was prepared and placed on the agenda at the request of Commissioner Katy Sorenson and Commissioner Jimmy L. Morales.


Robert A. Ginsburg
County Attorney


RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 21, 2002

FROM: 
Robert A. Ginsburg
County Attorney

Amended
SUBJECT: Agenda Item No. 9(A)(3)

Please note any items checked.


- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of private business sector impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary



SENATOR JAVIER SOUTO
COMMISSIONER

Board of County Commissioners
MIAMI-DADE COUNTY - FLORIDA
DISTRICT 10
111 N.W. FIRST STREET, SUITE 320
MIAMI, FLORIDA 33128-1963
(305) 375-4835
FAX (305) 375-4838

MEMORANDUM

TO: BOB GINSBURG, COUNTY ATTORNEY
FROM: COMMISSIONER JAVIER SOUTO 
DATE: MAY 29, 2002
RE: EAST KENDALL MAC

Pursuant to the discussion that took place at the May 21, 2002 commission meeting, I am requesting that all parts of my commission district be excluded from the proposed East Kendall Municipal Advisory Committee study area.

Cc: Commissioner Jimmy Morales
Commissioner Katy Sorenson
Kay Sullivan, Clerk of the Board

Approved _____ Mayor
Veto _____
Override _____

Ar Jed
Agenda Item No. 9(A)(3)
5-21-02

RESOLUTION NO. 545-02

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

RESOLUTION CREATING AND ESTABLISHING THE EAST
KENDALL MUNICIPAL ADVISORY COMMITTEE;
DIRECTING COUNTY STAFF TO PREPARE A STUDY OF
THE POSSIBLE CREATION OF A NEW MUNICIPALITY IN
THE AREA OF EAST KENDALL

WHEREAS, a group of residents in the area of East Kendall has expressed an interest in creating a new municipality; and

WHEREAS, such residents recognize the serious implications of creating a new municipality both for the residents of the proposed municipality and for the remaining residents of the unincorporated area and therefore desire to work with County Staff to address these implications; and

WHEREAS, this Board desires to determine whether to proceed with the incorporation process,

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

Section 1. The proposed incorporation of East Kendall includes the following generally described area:

- North: Miller Road
- East: State Road 826 / U.S. 1
- South: S.W. 152 Street
- West: Florida Turnpike

It is provided, however, that the area set forth above shall not include those areas within Commission District 9. It is further provided that the area within Commission District 10 shall

be excluded at the request of the Commissioner from District 10 if filed with the Clerk of the Board and the County Attorney by June 1, 2002, which if filed will be appended as an Exhibit to this resolution.

Section 2. The East Kendall Municipal Advisory Committee is hereby created and established. The following electors and residents of East Kendall described in Section 1 of this resolution are hereby appointed as members of the committee:

Patrick Rebull
Karen Collins
Albert Harum-Alvarez
Catherine Keller

Alternate: Dr. John Gentile

The members of the Committee shall select such other officers from the membership thereof as may be deemed necessary or desirable. The appointments herein shall become effective immediately upon each member filing with the Clerk of the County Commission his or her acceptance of such appointment and oath of office.

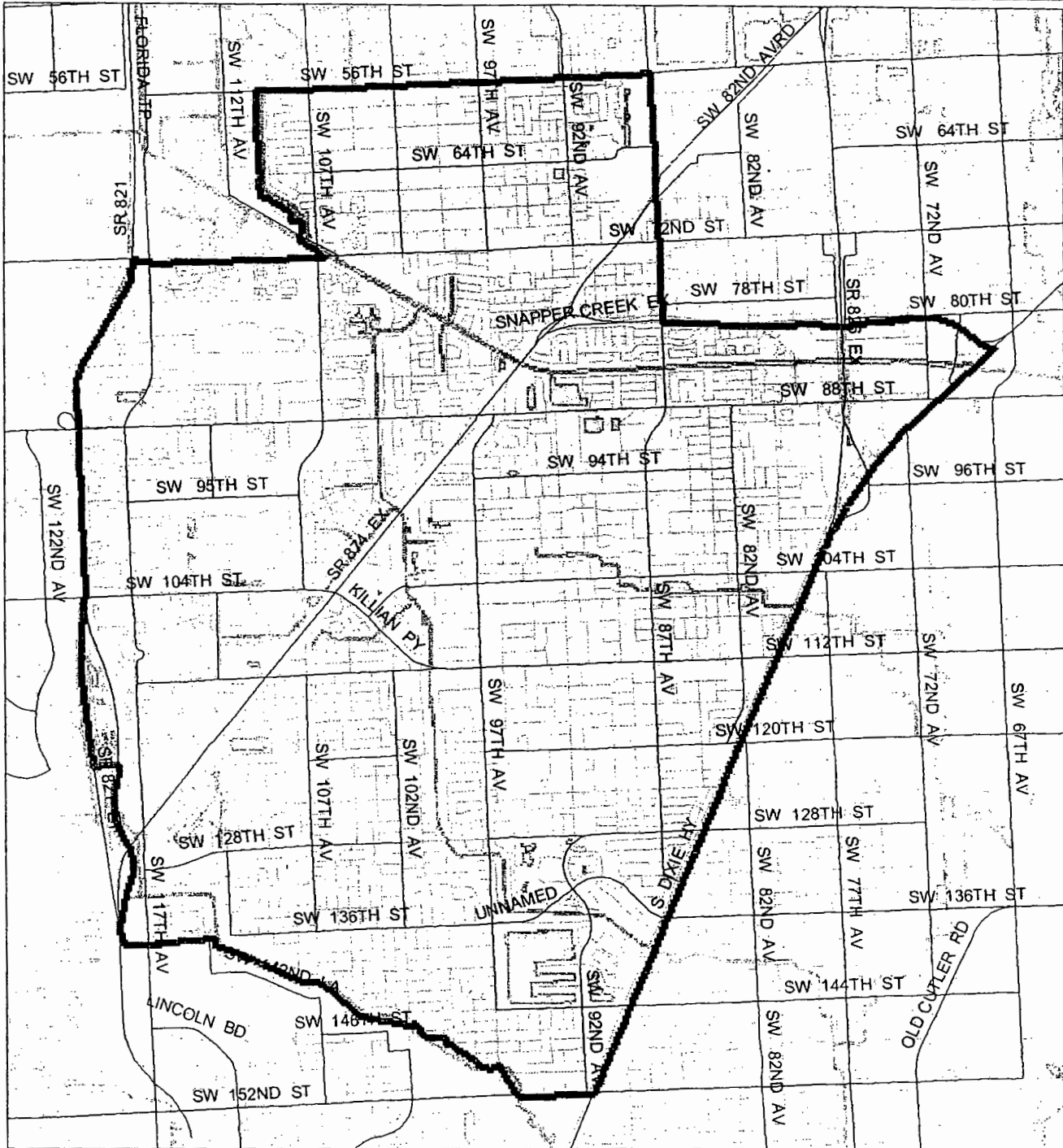
Section 3. The Committee shall conduct no less than two duly advertised public hearings at which citizens residing in the area shall have the opportunity to express their views and concerns regarding the proposed incorporation of East Kendall.

Section 4. Prior to the first public hearing, the Committee shall meet with County staff and review concerns that have been raised by both members of the County Commission and the County staff, shall have reviewed the tape of the County Commission Workshop on Incorporation held on January 14, 1999, and shall be familiar with written materials concerning incorporation presented to the Board of County Commissioners at that time and at any subsequent meeting or workshop.



Miami - Dade County

East Kendall MAC



Legend

	East Kendall MAC		Major Street
	MDPD GRID		Street
	Highway		Water

miamidade.gov

This map was prepared by the Miami - Dade County
 eGov Department
 eGov Services Division
 February, 2003

K:\a_omb\MAC\East kendal\EastKendall_103-19-2003.mxd

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MEMORANDUM

**Supplement to
Agenda Item No. 6 (B)**

To: Honorable Chairperson and Members
Board of County Commissioners

Date: May 6, 2003

From: Steve Shiver
County Manager

Subject: Supplemental Information for
Ordinance Creating and
Establishing the East Kendall
Municipal Advisory Committee

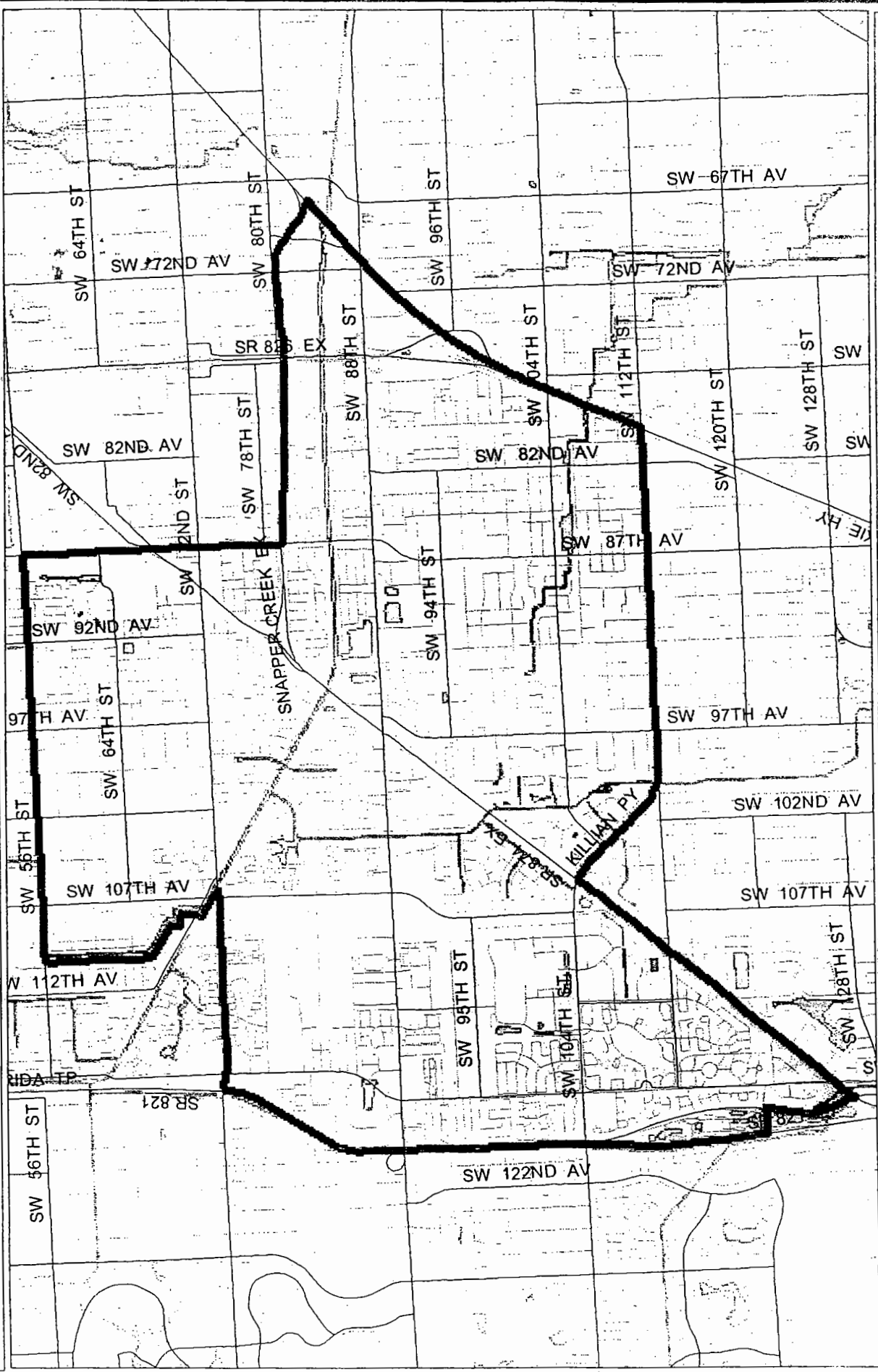
Since the first reading of this ordinance, the boundaries being studied by the East Kendall Municipal Advisory Committee have changed. The area to the south of S.W. 112 Street (Killian Drive) has opted out of the study area by petitioning Commissioner Katy Sorenson.

Attached is a map of the new boundaries being studied by the East Kendall Municipal Advisory Committee.



Miami - Dade County

East Kendall MAC



This map was prepared by the Miami - Dade County
 GIS Department
 GIS Services Division
 April 01 2003
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Legend

- East Kendall MAC
- MDCD GRID
- Highway
- Major Street
- Street
- Water

