




MEMORANDUM

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA
Agenda Item No. 6(A)

To: Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

Date: December 16, 2003

From: George M. Burgess
County Manager 

Subject: Proposed Ordinance
Pertaining to Direct
Applications and
Appeals to the County
Commission

03 272

RECOMMENDATION

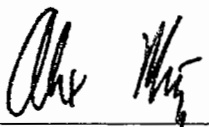
It is recommended that the Board of County Commissioners adopt the attached proposed ordinance pertaining to direct applications and appeals to the County Commission.

BACKGROUND

This proposed ordinance would allow certain public hearing applications for property located in unincorporated Miami-Dade County which would normally be heard by Community Zoning Appeal Boards (CZAB) to be heard directly by the County Commission. This would occur when, as a result of incorporations or annexations, there are an insufficient number of CZAB members in office to act on zoning applications. If prior to the advertised notice of the hearing before the Board of County Commissioners a sufficient number of members of the affected CZAB have been appointed or elected or the absorption of the affected CZAB into a different CZAB has occurred, the application shall be heard by the applicable CZAB, after notice pursuant to Section 33-310.

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

Attachment



Assistant County Manager



MEMORANDUM

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners **DATE:** December 16, 2003

FROM: George M. Burgess, County Manager *GBurgess* **SUBJECT:** Proposed Ordinance Pertaining to Direct Applications and Appeals to the County Commission

This proposed ordinance pertaining to direct applications and appeals to the County Commission will have no fiscal impact on Miami-Dade County.

Fiscal/00204



MEMORANDUM

(Revised)

03 272

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: December 16, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(A)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(A)
12-16-03

ORDINANCE NO. 03-272

ORDINANCE PERTAINING TO ZONING; AMENDING SECTION 33-314 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR APPLICATIONS TO BE HEARD BY THE COUNTY COMMISSION WHERE, AS A RESULT OF ANNEXATION OR INCORPORATION; THE COMMUNITY ZONING APPEALS BOARD LACKS ENOUGH MEMBERS IN OFFICE TO ACT ON 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 33-314 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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

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

* * *

>>(3) When as a result of municipal incorporation or annexation, a Community Zoning Appeals Board (CZAB) does not have enough members in office to hear and decide zoning applications, the Board of County Commissioners shall hear and decide all zoning applications in the remaining jurisdiction of the CZAB. Zoning actions advertised for hearing before the Board of County Commissioners shall be heard and decided by the board, and neither the subsequent appointment or election of additional CZAB members, nor the reconfiguration of 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.

affected CZAB, shall divest the board of jurisdiction to hear such advertised applications. If prior to the mailing of the final notice of hearing pursuant to Section 33-310, new members of the affected CZAB have been appointed or elected, or the affected CZAB has been reconfigured, such that the CZAB has enough members to act, applications within the CZAB's jurisdiction shall be heard and decided by that CZAB upon notice pursuant to Section 33-310.<<

* * *

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 be reviewed by the Board of County Commissioners one year from the date of its adoption.

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.

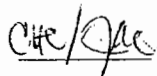
PASSED AND ADOPTED:

DEC 16 2003

Approved by County Attorney as to form and legal sufficiency:



Prepared by:



Craig H. Collier



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12
13

MEMORANDUM

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

Agenda Item No. 6(F)

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE:

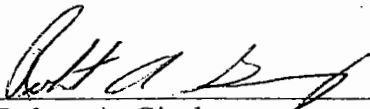
(Second Reading 12-4-03
October 21, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to
community councils

03 267

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



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: December 4, 2003

FROM: George M. Burgess
County Manager

A handwritten signature in black ink, appearing to read "G. Burgess", written over the printed name of George M. Burgess.

SUBJECT: Ordinance Relating
to Community Councils

The proposed ordinance relating to Community Councils will have no fiscal impact on Miami-Dade County. This ordinance modifies the procedures for filling vacancies.



MEMORANDUM

(Revised)

08 267

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: December 4, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(F)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6 (F)
12-4-03

ORDINANCE NO. 03 267

ORDINANCE RELATING TO COMMUNITY COUNCILS;
MODIFYING PROCEDURE FOR FILLING VACANCIES;
AMENDING SECTION 20-43 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 20-43 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.*

* * *

- (7) The County Commissioner or Commissioners
whose district encompasses all or part of a
Community Council shall fill any vacant Council
positions, by the appointment of an individual
meeting the qualifications provided in subsection
(1) above from a list of >>one or more<<names
supplied by the Community Council. A person
appointed shall serve until the earlier of 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.

following: (1) the next state first primary election; or (2) expiration of the term of office for which the appointment is made. This limitation on term length shall apply to any person appointed by either a Community Council or a County Commissioner, whether appointed prior to or after the effective date of this ordinance. A person elected at such county-wide election shall serve for the remainder of the unexpired term. It is provided, however, in the event there is an insufficient number of Community Council Members in office to constitute a quorum, the County Commissioner or Commissioners whose district encompasses all or part of a Community Council, shall appoint a sufficient number of members necessary to constitute a quorum. Further, should any Community Council fail to supply a list of >>one or more <<names for any vacant Council position within ninety (90) days from the date such position becomes vacant>> or that the names supplied within such time period are not acceptable to the appointing County Commissioner or Commissioners<<, the County Commissioner or Commissioners whose district encompasses all or part of a Community Council shall appoint an individual meeting the qualifications set forth in subsection (1) above to fill such vacancy. In the event any Council Member no longer resides in a Council subarea for a subarea position or Council area for an at large position, that person shall be deemed to have tendered their resignation from such Council; provided, however, any Council Member who, as a result of a modification to the configuration of a Council subarea pursuant to Section 20-42, is no longer qualified to be an elected member of such Council, shall be permitted to complete the term of office commenced prior to the subarea boundary modification.

* * *

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

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

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

PASSED AND ADOPTED: DEC 08 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6
CNK

Prepared by:

Craig H. Coller

Sponsored by Commissioner Joe A. Martinez

MEMORANDUM

Agenda Item No. 6(F)

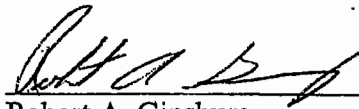
TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: (Second Reading 12-4-03
October 21, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to
community councils

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


Robert A. Ginsburg
County Attorney

RAG/bw

*Mesa
this ord. was
app'd by the
PCC this
just FYI -
w/ Jeanlin + share
this may resolve
the growth problems -
12/9*





MEMORANDUM

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners **DATE:** December 4, 2003

FROM: George M. *Engel* County Manager **SUBJECT:** Ordinance Relating to Community Councils

The proposed ordinance relating to Community Councils will have no fiscal impact on Miami-Dade County. This ordinance modifies the procedures for filling vacancies.



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. **DATE:** December 4, 2003
and Members, Board of County Commissioners

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(F)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6 (F)

12-4-03

ORDINANCE NO. _____

ORDINANCE RELATING TO COMMUNITY COUNCILS;
MODIFYING PROCEDURE FOR FILLING VACANCIES;
AMENDING SECTION 20-43 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 20-43 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.*

* * *

- (7) The County Commissioner or Commissioners
whose district encompasses all or part of a
Community Council shall fill any vacant Council
positions, by the appointment of an individual
meeting the qualifications provided in subsection
(1) above from a list of >>one or more<<names
supplied by the Community Council. A person
appointed shall serve until the earlier of 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.

following: (1) the next state first primary election; or (2) expiration of the term of office for which the appointment is made. This limitation on term length shall apply to any person appointed by either a Community Council or a County Commissioner, whether appointed prior to or after the effective date of this ordinance. A person elected at such county-wide election shall serve for the remainder of the unexpired term. It is provided, however, in the event there is an insufficient number of Community Council Members in office to constitute a quorum, the County Commissioner or Commissioners whose district encompasses all or part of a Community Council, shall appoint a sufficient number of members necessary to constitute a quorum. Further, should any Community Council fail to supply a list of >>one or more <<names for any vacant Council position within ninety (90) days from the date such position becomes vacant>> or that the names supplied within such time period are not acceptable to the appointing County Commissioner or Commissioners<<, the County Commissioner or Commissioners whose district encompasses all or part of a Community Council shall appoint an individual meeting the qualifications set forth in subsection (1) above to fill such vacancy. In the event any Council Member no longer resides in a Council subarea for a subarea position or Council area for an at large position, that person shall be deemed to have tendered their resignation from such Council; provided, however, any Council Member who, as a result of a modification to the configuration of a Council subarea pursuant to Section 20-42, is no longer qualified to be an elected member of such Council, shall be permitted to complete the term of office commenced prior to the subarea boundary modification.

* * *

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.

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

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

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

CHC

Craig H. Coller

Sponsored by Commissioner Joe A. Martinez

MEMORANDUM

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

Amended
Agenda Item No. 6(C)

TO: Hon. Chairperson and Members
Board of County Commissioners

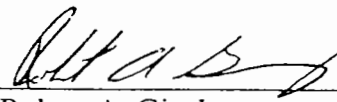
DATE: (Second Reading 11-4-03)
September 9, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance modifying
requirements for new and/or
used auto and truck sales

O#03-238

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Dorrin D. Rolle.



Robert A. Ginsburg
County Attorney

RAG/jls

03-238



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: November 4, 2003

FROM: George M. Burgos
County Manager

SUBJECT: Ordinance modifying
requirements for new and/or
used auto and truck sales

The proposed ordinance modifying requirements for new and/or used auto and truck sales, repairs, services and facilities in the BU-3 business district will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: November 4, 2003

FROM: Robert A. Ginsburg
County Attorney

Amended

SUBJECT: Agenda Item No. 6(C)

Please note any items checked.

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

Approved _____ Mayor

Amended

Veto _____

Agenda Item No. 6 (C)

Override _____

11-4-03

ORDINANCE NO. 03-238

ORDINANCE PERTAINING TO ZONING; MODIFYING REQUIREMENTS FOR ANY NEW AND/OR USED AUTO AND TRUCK SALES, REPAIRS, SERVICES AND FACILITIES IN BU-3 LIBERAL BUSINESS DISTRICT; AMENDING SECTION 33-255 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 33-255 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows¹:

Sec. 33-255. Uses permitted.

No land, body of water and/or structure in the BU-3 District shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, arranged or intended to be used, occupied or maintained for any purpose, unless otherwise provided for, excepting for one (1) or more of the following uses:

* * *

(3) Automobile and truck services and facilities including:

(a) Open lot car ~~>>~~and truck~~<<~~ sales, ~~>>~~new and or used, including as ancillary uses, automobile repairs, body and top work and painting, provided that no more than fifteen (15) percent of the gross building area is devoted to such ancillary uses, and subject to the following conditions:

(1) That a continuous, densely planted greenbelt of not less than fifteen (15) feet in width, penetrated only at points approved by 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.

Directors of the Planning and Zoning and Public Works Departments for ingress and egress to the property, shall be provided along all property lines abutting public rights-of-way or properties zoned residential. Said greenbelt shall have shade trees planted at a maximum spacing of thirty (30) feet on center and a hedge of a minimum of six (6) feet in height abutting residentially zoned property and a minimum of three (3) feet in height abutting public rights-of-way. The shade trees shall have a minimum caliper of two and one-half (2 1/2) inches at time of planting.

- (2) A minimum of twenty (20) percent of the net lot area of the site shall be developed as landscaped open space.
- (3) That such uses be located only on major access roads, including major roadways (three (3) or more lanes) and frontage roadways serving limited access highways and expressways.
- (4) That such uses be conducted on sites consisting of at least one (1) net acre.
- (5) That attention attracting devices, such as blinking or flashing lights, streamer lights, pennants, banners, streamers and all fluttering, spinning advertising devices (either mobile or stationary) are prohibited, except as permitted under point of sale sign regulations.
- (6) That outdoor lighting shall be designed to avoid spilling beyond the site boundaries.
- (7) That no vehicular test drives shall be conducted on residential local traffic streets (fifty-foot right-of-way or less).
- (8) That the applicant obtains a certificate of use, which shall be automatically renewable yearly upon compliance with all terms and conditions.
- (9) All outdoor paging or speaker systems are expressly prohibited. This provision (9) shall also apply to all establishments in existence as of September 10, 1996.<<

- (b) Open lot car rental.
- (c) Automobile parts, secondhand from store building only.
- (d) Automobile body and top work and painting.

*

*

*

- (14) Garage or mechanical service,* >> including automobile repairs, body and top work and painting.<< All outdoor paging or speaker systems are expressly prohibited. This provision shall also apply to all establishments in existence as of ~~[[the effective date of this ordinance]]~~ >>September 10, 1996.<<

* * *

*NOTE: Provided no such establishment is located within five hundred (500) feet of any RU or EU District except after approval after public hearing. Provided, that, this spacing limitation shall be two hundred fifty (250) feet if the use is confined within a building and an exterior wall or walls of the building located on the establishment is not penetrated with any openings directly facing the RU or EU District. It is further provided that, except for exterior uses, such distances shall be measured from the closest point of the subject use in the building to the RU or EU District. In connection with exterior uses, the distance of five hundred (500) feet shall be measured from the closest point of the IU District to the RU or EU District. For purposes of establishing such distances, the applicant for such use shall furnish a certified survey from a registered surveyor, which shall indicate such distances. In case of dispute, the measurement scaled by the Director of the Department of Planning and Zoning shall govern.

* * *

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: NOV 0 4 2003

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

Prepared by: CH

Craig H. Coller

Sponsored by Commissioner Dorrin D. Rolle



MEMORANDUM

To: Honorable Chairperson and Members
Board of County Commissioners

Date: September 9, 2003

From: George M. Burgess
County Manager

Subject: Proposed Ordinance
Establishing Requirement
of Zoning Improvement
Permit

O#03-186

RECOMMENDATION

It is recommended that the proposed ordinance establishing the requirement for obtaining a Zoning Improvement Permit (ZIP) from the Department of Planning and Zoning be adopted.

BACKGROUND

Currently, certain structures, land improvements and installations are exempt from building permit requirements pursuant to the Florida Building Code, and non-habitable farm structures are exempt from building permit requirements by the State of Florida. This ordinance was prepared to ensure that such exempt proposed improvements meet the permitted use, setback, parking, landscaping requirements, etc., of the underlying zoning district, as well as the requirements of the Department of Environmental Resources Management and the Public Works Department.

The ZIP permit procedure will require (i) the applicant's submittal of plans showing the intended improvement(s); (ii) departmental plan review for compliance with all zoning, environmental, right-of-way and platting regulations; and (iii) site inspection(s) to confirm that the improvements comply with the approved plans.

The ordinance also gives the director of the Department of Planning and Zoning the authority to require a permit for zoning improvements and installations that are newly created or come about by changes in the state or local building codes.

FISCAL IMPACT

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



MEMORANDUM
(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 9, 2003

FROM: Robert A. Ginsburg
County Attorney

Amended
SUBJECT: Agenda Item No.6(J)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Amended **03 186**
Agenda Item No. 6(J)
9-9-03

ORDINANCE NO. 03-186

ORDINANCE PERTAINING TO ZONING;
CREATING SECTION 33-8.1 OF THE CODE OF
MIAMI-DADE COUNTY, FLORIDA;
ESTABLISHING ZONING IMPROVEMENT
PERMIT SPECIFICATIONS; 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 33-8.1 of the Code of Miami-Dade County, Florida is hereby created as follows:¹

>>Sec. 33-8.1. Zoning Improvement Permit (ZIP).

Certain buildings, structures, improvements and installations are exempted by the Florida Building Code from building permit issuance, but must otherwise comply with the minimum requirements of this chapter. Therefore, such buildings, structures, improvements and installations shall be subject to review under the Zoning Improvement Permit (ZIP) standards contained in this section, as well as the regulations of the underlying zoning district.

The following buildings, structures, improvements and installations shall require a ZIP from the Department of Planning and Zoning:

Above ground pools that contain water over 24 inches deep;

Agricultural/farm buildings and non-habitable structures on bona fide farms;

Canopy carports, canopy and other fabric covered framework installed on residential properties;

Chickee huts constructed by Miccosukee or Seminole Indians;

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.

Chain link fences, picket fences, ornamental iron fences and other fences installed on residential property that are deemed non-wind resistant; provided, however, any pool safety barrier fence and any fence with concrete columns shall require a building permit;

Decorative reflective pools and fishponds that contain water less than 24 inches deep, that contain less than 250 square feet in area, and contain less than 2,250 gallons in volume;

Decorative garden-type water fountains;

Parking lot refurbishing - resurfacing, re-striping or seal coating, and paving and drainage of existing parking lots;

Signs - balloon type

Signs - painted wall type;

Signs - stick on letter type.

The director of the Department shall have the authority to require ZIP review for other buildings, structures, improvements and installations that are newly created or come about by changes in the state or local building codes.

In the event any portion of the subject property is contiguous to or across the street from a municipal boundary, applicant shall submit a boundary survey performed in accordance with Chapter 61G17-6.0031, Florida Administration Code.

The submittal of plans shall be necessary to fully advise and acquaint the issuing Department with the location and use of the buildings, structures, improvements and installations, and such plans must accompany the application for a ZIP. The respective Directors of the Department of Public Works, Department of Environmental Resources Management, Miami-Dade County Fire Rescue Department and Department of Planning & Zoning shall review the submitted plans only to the extent of their respective jurisdiction under the Code of Miami-Dade County. In the event there is a question as to the legality of a use, the Director may require affidavits and such other information as may be deemed appropriate or necessary to establish the legality of the use, before a ZIP permit is issued.<<

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: SEP 09 2003

Approved by County Attorney as
to form and legal sufficiency:

AAC

Prepared by:

CAC

Craig H. Coller

RECEIVED
OCT 30 2003

ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING

BY _____



MEMORANDUM

Agenda Item No. 6(I)

(Second Reading 9-9-03)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: July 8, 2003

From: George M. Burgess
County Manager

Subject: Proposed Ordinance Pertaining to
Zoning Regulations for Office
Buildings, Laboratories, and
Associated Accessory Uses and
Structures in OPD Zoning District

03 185

RECOMMENDATION

It is recommended that the Board approve the attached ordinance providing alternative regulations for office buildings, laboratories, and associated accessory uses and structures in the OPD zoning district. The proposed ordinance provides additional site development standards to be applied at public zoning hearings to determine lot setbacks, area, frontage and coverage, floor area ratio, common open space, fence and wall height and placement.

BACKGROUND

The proposed ordinance establishes additional new standards for office buildings, laboratories, and associated accessory uses and structures in the OPD zoning district. 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 office buildings, laboratories, and associated accessory uses structure 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

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 9, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(I)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6 (I)
9-9-03

ORDINANCE NO. 03-185

ORDINANCE PERTAINING TO ZONING; MODIFYING CHAPTER 33 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE") TO INCLUDE STANDARDS FOR APPROVAL AFTER PUBLIC HEARING FOR OFFICE BUILDINGS, LABORATORIES, AND ASSOCIATED ACCESSORY USES AND STRUCTURES IN THE OPD (OFFICE PARK) ZONING 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. 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.

* * *

>>(21) Alternative Site Development Option for Office Buildings, Laboratory Buildings and Associated Accessory Buildings and Structures. This subsection provides for the establishment of an alternative site development option, after public hearing, for office buildings, laboratory buildings and associated accessory buildings and structures, when such uses are permitted by the underlying district regulations, in the OPD zoning district, 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

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.

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 office buildings, laboratory buildings, associated accessory use buildings, and structures in the OPD zoning district. The standards provided in this subsection are alternatives to the generalized standards contained in regulations governing the OPD zoning district. 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, guidelines for urban form, 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 term shall have the following meanings:

"Discordant Use" means adjacent land uses which:

- 1) are materially less intense or of a materially lesser density, or
- 2) are materially different in their manner of hours of operation, or
- 3) have a different zoning prefix, or
- 4) contain an existing or approved use, which is otherwise allowable as of right in a different zoning district prefix.

(c) Setbacks for a principal building, or accessory building or structure in the OPD, 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 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 by more than twenty percent (20%) of the landscaped open space percentage required by the applicable district regulations; and

(4) any area of shadow cast by the proposed alternative development upon an adjoining property 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 if located on the roof of such an alternative development shall be screened from ground view and from view at the level in which the installations are located, and shall be designed as an integral part of and harmonious with the building design; 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(s) or addition(s) are aesthetically harmonious with that of other existing or proposed structure(s) or building(s) on the parcel proposed for alternative development; and

(8) the wall(s) of any building within a front, side street or double frontage setback area or within a setback area adjacent to a discordant use, 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, parcel or tract; and

(10) any windows or doors in any building(s) to be located within an interior side or rear 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 building(s) of a discordant use located on an adjoining parcel of land; and

(11) total floor area ratio shall not be increased by more than ten percent (10%) of the floor area ratio permitted by the underlying district regulations; and

(12) the area within an interior side or rear setback required by the underlying district regulations located adjacent to a discordant use 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 of a discordant use 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 eighty percent (80%) (if located adjoining or adjacent to a discordant use) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure(s) at time of planting; or

(B) is screened from adjoining property by an opaque fence or wall at least five (5) feet in height, if located adjoining or adjacent to a discordant use, that meets the standards set forth in paragraph (g) herein; and

(14) any structure in the OPD district 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 10 feet or the minimum distance to comply with fire safety standards, whichever is greater; and

(15) when a principal building, or accessory building in the OPD district, 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

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

(17) the parcel proposed for alternative development shall continue to provide the required number of on-site parking spaces as required by this Code; and

(18) the parcel proposed for alternative development shall satisfy underlying district regulations or, if applicable, prior zoning actions issued prior to the effective date of this ordinance regulating setbacks, lot area and lot frontage, floor area ratio, landscaped open space and structure height; and

(19) the proposed development will meet the following:

(A) interior side setbacks shall not be reduced by more than twenty-five percent (25%) of the side setbacks required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater when the adjoining parcel of land is a RU-5, RU-5A, BU, IU, or OPD district or use provided, however, interior side setbacks shall not be reduced by more than fifteen percent (15%) of the interior side setbacks required by the underlying district regulations when the adjoining parcel of land allows a discordant use.

(B) side street setbacks shall not be reduced by more than twenty-five percent (25%) of the underlying district regulations;

(C) front setbacks (including double-frontage setbacks) shall not be reduced by more than ten percent (10%) of the setbacks required by the underlying district regulations; and

(D) rear setbacks shall not be reduced below twenty-five percent (25%) of the rear setback required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater, when the

adjoining parcel of land is a RU-5, RU-5A, BU, IU, or OPD district or use provided, however, rear setbacks shall not be reduced below fifteen percent (15%) of the rear setback required by the underlying district regulations when the adjoining parcel of land allows a discordant use.

(E) setbacks between building(s) shall not be reduced below 10 feet, or the minimum distance required to comply with fire safety standards, whichever is greater.

(d) An alternative setback for paved parking area(s) shall be approved upon demonstration of the following:

(1) setback for paved parking area(s) shall not be reduced by more than twenty-five percent (25%) of the underlying district regulations; and

(2) the proposed alternative development proposes an increase of twenty percent (20%) of the number of street trees required by the underlying district regulations; and

(3) a prorata additional number of shrubs shall be provided commensurate with the trees in (2) above; said shrubs to be of a number, type and size as required by Chapter 18A.

(e) An alternative floor area ratio for a building(s) shall be approved upon demonstration of the following:

(1) total lot coverage or floor area ratio shall not be increased by more than ten percent (10%) of the lot coverage or floor area 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 or floor area ratio will not result in a principal buildings, or accessory building(s) in the RU-5A district, 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 amount of landscaped open space shall be approved upon demonstration of the following:

(1) landscaped open space shall not be decreased by more than twenty percent (20%) of the landscape open space required by the applicable 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 landscaped open space provided shall be used to shade and cool, direct wind movements, enhance architectural features, relate structure design to site, visually screen non-compatible uses and block noise generated by major roadways and intense use areas; and

(4) the landscaped open space provided shall relate to any natural characteristics in such a way as to preserve and enhance their scenic and functional qualities; and

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

(6) the installation of the required percentage of landscaped open space on a parcel containing a previously approved and existing building, would necessitate a decrease in the number of parking spaces provided, or necessitate a decrease in the square footage of an existing building on the site; and

(7) the total number of lot or street trees shall be increased by twenty percent (20%) greater than the number required by the underlying zoning district regulations, or by an additional twenty percent (20%) of the number of trees previously approved, whichever number is greater, and provided such trees are provided on the site or within the adjacent rights-of-way, respectively; said trees to be of a type and size as required by Chapter 18A; and

(8) a prorata additional number of shrubs shall be provided commensurate with the trees in (7) above, said shrubs to be of a number,

type and size as required by Chapter 18A.

(g) An alternative lot area and frontage shall be approved upon demonstration of at least one of the following:

(1) the proposed lot area and frontage shall permit the development or redevelopment of a structure(s) on a lot, parcel or tract of land where such structure(s) 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 lot, parcel or tract is under lawful separate ownership from any contiguous property; and

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

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

(D) the area of the lot, parcel or tract is not less than: seventy-five percent (75%) of the minimum lot area required by the underlying district regulations; and

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

(F) the frontage dimension of the lot, parcel or tract is not less than: seventy-five percent (75%) of the minimum frontage required by the applicable district regulations; except that the frontage dimension of a flag-lot, parcel or tract shall be permitted to be reduced to the minimum width necessary to allow vehicular access as determined by the County; and

(G) the resultant frontage dimension of the lot, parcel or tract provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment; or

(2) the proposed alternative development results in landscaped 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 applicable district regulations, provided that:

(A) the number of lots of the proposed alternative development does not exceed that normally permitted by the lot area dimensions of the underlying district regulations; and

(B) the size and dimensions of each lot, parcel or tract in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions for similar uses issued prior to the effective date of this ordinance (September 19, 2003); and

(C) the area of each lot, parcel or tract is not less than eighty percent (80%) of the area required by the applicable 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 resultant frontage of the lot, parcel or tract provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment; or

(3) the proposed lot area and frontage is such that:

(A) the proposed alternative development will not result in the creation of more than two (2) lots, parcels or tracts; and

(B) the size and dimensions of each lot, parcel or tract are sufficient to provide all setbacks required by the applicable 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 applicable district regulations; or

(ii) the average area of the developed lots, parcels or tracts 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 resultant frontage provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment.

(h) An alternative reduction in the number of required parking spaces shall be approved after public hearing upon demonstration of the following:

(1) the alternative reduction of the number of required parking spaces does not apply to parking spaces for the disabled, parking spaces for persons transporting small children, nor to bicycle racks or other means of storage; and

(2) the total number of required parking spaces is not reduced below five percent (5%) for medical or dental office uses, and ten percent (10%) for other office, laboratory or associated accessory uses; and

(A) the lot, parcel or tract is located within six hundred and sixty (660) feet of an existing transportation corridor such as a Major Roadway identified on the Land Use Plan (LUP) map, within one-quarter (1/4) mile from existing rail transit stations or existing express busway stops; or

(B) the hours of operation of multiple uses within the development vary and do not overlap and a recordable agreement is provided which restricts the hours of operation.

(3) the alternative development involves a mixed-use project in which the number of off-street parking spaces is calculated by applying the Urban Land Institute (ULI) Shared Parking Methodology to the required number of parking spaces.

(i) 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

(l) 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 economic viability of any enterprises proposed within the approved development and the quality of life of residents and business tenants of 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, landscaped open space over and above that normally required by the code, additional trees or landscaping, convenient pedestrian connection(s) to adjacent residential development(s), 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, cohesive wall signage, and decorative street lighting. In determining which amenities or buffering elements are appropriate for a proposed office park development, the following shall be considered:

(A) the types of needs of the residents or business tenants of the immediate vicinity and the needs of the occupants of the parcel proposed for development 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 the residents, business tenants or occupants of parcel(s) in 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 landscape open space.<<

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 Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

PASSED AND ADOPTED: SEP 09 2003

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

JAC

Joni Armstrong Coffey

MEMORANDUM

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

03 183

Agenda Item No. 6 (C)

(Second Reading 9-9-03)

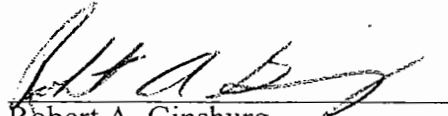
TO: Hon. Chairperson and Members
Board of County Commissioners

DATE: July 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance amending Section
33-20 of the Code pertaining
to boat storage

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

03 183



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 9, 2003

FROM: George M. Burgess
County Manager

SUBJECT: Ordinance amending
Section 33-20 of the Code
pertaining to boat
storage

The proposed ordinance amending section 33-20 of the Code pertaining to boat storage will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 9, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(C)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(C)
9-9-03

ORDINANCE NO. 03-183

ORDINANCE PERTAINING TO ZONING; AMENDING SECTION 33-20 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA PERTAINING TO BOAT STORAGE; 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 33-20 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

Sec. 33-20. Accessory buildings; utility sheds; swimming pools; fallout shelters; boat storage.

* * *

(e) *Boat storage.* Boats of less than twenty-six (26) feet in length, not more than ninety-six (96) inches in width and thirteen (13) feet six (6) inches in height, may be stored >>or temporarily parked<< in the RU, EU, AU and GU Zoning Districts subject to the following conditions:

- (1) The place of storage shall be to the rear of the front building lot and behind the side street building line, in each case the building line referred to being that portion furthest from the street.
- (2) No more than one (1) boat may be stored >>or parked<< on any one (1) premise.
- (3) Boats and place of storage >> or temporary parking<< shall be kept in a clean, neat and presentable condition.
- (4) No major repairs or overhaul work shall be made or performed on the premises.
- (5) The boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.

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.

>>(6) The temporary parking of a boat in front of the front building line or in front of the side street building line for no more than 2 hours in any 24-hour period, while the boat is hitched to an operable motor vehicle with a valid permanent license tag, for the purposes of loading and unloading equipment and supplies shall be permitted, but under no circumstances shall a boat be parked in the public right-of-way, including the swale area of a right-of-way.<<

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

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

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

PASSED AND ADOPTED: SEP 09 2003

Approved by County Attorney as to form and legal sufficiency:

KAG
[Signature]

Prepared by:

Rashmi Airan-Pace

Sponsored by Senator Javier D. Souto





MEMORANDUM Agenda Item No. 6(I)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: July 8, 2003

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

From: George M. Burgess
County Manager

Subject: Proposed Ordinance Pertaining to
Zoning Regulation of
Telecommunications Facilities

08-163

RECOMMENDATION

It is recommended that the attached ordinance pertaining to zoning regulations of telecommunications facilities, including wireless supported services facilities and antennas, 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 establishes the zoning districts in which antenna support structures are permitted as well as new objective, measurable standards for approving wireless supported service facilities and antennas at public hearing. Under the new regulatory scheme, the Community Zoning Appeals Boards and this Board would apply the new objective public hearing standards to determine whether an applicant has met the specific requirements to obtain the requested wireless facility at the particular location requested.

The ordinance provides that all wireless support structures must comply with enumerated general standards. Additional specific requirements must be met for approval in particular zoning districts to ensure adequate protection and compatibility for the particular district. Antenna Support Structures meeting the general public hearing standards shall be approved provided the following specific zoning district requirements are met:

- AU and GU with agricultural trend – structure not to exceed 200' in height and non-camouflaged structures to be located on a minimum 5 acre parcel;
- BU-1, BU-1A, RU-5, RU-5A – structure not to exceed 125' in height or 150' in height if camouflaged;
- RU-3M, RU-4L, RU-4M, RU-4, RU-4A - non-camouflaged structures not to exceed 150' in height or 125' in height if located in proximity to a single family or duplex dwelling;

Hon. Chairperson and Members
Board of County Commissioners
Page 2

BU-3, Industrial - non-camouflaged structures not to exceed 200' in height;
OPD and BU-2 - non-camouflaged structures not to exceed 200' in height;
PAD or TND – location and design criteria controlled as part of conditions of approval of the zoning district.

The proposed ordinance also requires the approval of the facility to the extent necessary to avoid the prohibition or effective prohibition of the provision of personal wireless services or discrimination among service providers as contemplated by the Federal Telecommunications Act, 47 U.S.C. § 332 (1996), as amended. Once all of the standards in each zoning district are met, the applicant shall be granted the approval.

This substitute item deletes the requirement of a restrictive covenant binding an agriculturally zoned parcel with a telecommunications tower to agricultural use, pursuant to the request of the Agricultural Practices Advisory Committee. In its place is a 200' limitation on the height of any tower in the AU district.

FISCAL IMPACT

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



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(I)

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(I)

Veto _____

7-8-03

Override _____

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING
REGULATION OF WIRELESS SUPPORTED
SERVICE FACILITIES; CREATING STANDARDS
BY WHICH WIRELESS SUPPORTED SERVICE
FACILITIES, INCLUDING ANTENNAS, ARE
PERMITTED AFTER PUBLIC HEARING IN
CERTAIN ZONING DISTRICTS; 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. 33-63.2 of the Code of Miami-Dade County, Florida is hereby
amended to read as follows¹:

Sec. 33-63.2. Wireless supported service facilities.

(a) *Permitted Districts and Criteria for Antennas.*

~~[[a]]~~>>(1)<< *Permitted Districts.* Antennas used as part of a Wireless
Supported Service Facility, which 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.

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.

(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.

~~[(b)]~~>>(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.

~~[(2)]~~>>(A)<< Except for Cylinder type Antennas, Antennas shall be screened from view or wall mounted and shall not exceed nine (9) Sectors.

* * *

>>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.

* * *

~~[(b)]~~ (c) *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]]~~>>For<< ~~[[the]]~~ Antenna Support Structure>>s<< ~~[[is]]~~ greater than one hundred (100) feet in height>>in the BU-3 and in the Industrial Districts, and for all Antenna Support Structures, except Antenna Support Structures for broadcast radio and television, in the RU-3M, RU-4L, RU-4M, RU-4, RU4A, RU-5, RU5-A, AU, GU with an agricultural trend determination, BU-1, BU-1A, BU-2, OPD, TND and PAD zoning districts<<, a public hearing is required pursuant to Section ~~[[33.13(e)]]~~>>33-311(A)(18) and this section <<.

(2) Criteria

>>(A)<< Signage.

>>(1.)<< 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]]>>a.<<. Warning, danger or other sign designed to maintain public safety;

[[B]]>>b.<< Any federal, state or municipal flags located on such facilities designed to look like a flagpole; or

[[C]]>>c.<< Permitted signage associated with the principle use on the property where the principle use incorporates a camouflaged antenna support structure.

* * *

>>(B) Zoning District. Antenna Support Structures considered for approval under section 33-311(A)(18) of this code shall meet each of the following requirements, as applicable, except as alternative development options may be approved pursuant to section 33-311(A)(18)(b).

1. In the BU-1, BU-1A, RU-5, and RU-5A zoning districts:

a) A stealth or camouflaged Antenna Support Structure shall be designed to resemble a natural object or a man-made structure (i.e. tree, bell tower, clock tower, church steeple, flag pole, etc.), shall be located on a minimum one (1) gross acre parent tract and

1) shall be a camouflaged artificial tree or flagpole not exceeding 150 feet in height; or

2) shall be designed to serve a purpose other than supporting antennas (i.e., lighting of sports facilities, transmission of electrical and/or telephone lines, flag poles); or

3) shall be designed to be harmonious with the architectural elements of the surrounding structures, such as bulk, massing and scale of surrounding properties; or be designed to blend and be harmonious with the principal structure on the property on which the Antenna Support Structure is proposed to be constructed and installed.

b) A non-camouflaged Antenna Support Structure shall not exceed 125 feet in height and shall be located on a minimum one (1) gross acre parent tract.

2. In the AU zoning district and the GU zoning district with an agricultural trend determination:
 - a. non-camouflaged Antenna Support Structures shall be located on a minimum five (5) gross acre parent tract, and
 - b. no Antenna Support Structures shall exceed 200 feet in height.
3. In all RU-3M, RU-4L, RU-4M, RU-4, and RU-4A zoning districts non-camouflaged Antenna Support Structures shall not exceed 150 feet in height, and shall not exceed 125 feet in height if located on a parcel where the immediate vicinity contains any existing single family or duplex residential dwelling or is zoned for single family or duplex dwellings.
4. In all BU-3, IU-1, IU-2, IU-3, and IU-C zoning districts, a non-camouflaged Antenna Support Structure shall not exceed 200 feet in height.
5. In all OPD and BU-2 zoning districts, a non-camouflaged Antenna Support Structure shall not exceed 200 feet in height.
6. On properties zoned PAD or TND, location and design criteria for Antenna Support Structures and related equipment buildings shall be controlled as part of the conditions of approval of the PAD or TND agreement and any amendments thereto, in accordance with the applicable requirements of section 33-284.24 or section 33-284.46 and section 33-246.47 of this code.<<

Section 2. Sec. 33-311 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

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

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

* * *

>> (18) Wireless Supported Service Facilities, including Antenna Support Structures. This subsection provides for the establishment of criteria, after public hearing, to hear and grant

applications to allow a Wireless Supported Service Facility, including Antenna Support Structures. 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 Wireless Supported Service Facilities, including Antenna Support Structures. Upon demonstration at public hearing that a zoning application for a Wireless Supported Service Facility, including Antenna Support Structures is in compliance with the standards herein and the underlying district regulations in section 33-36.2 and does not contravene the enumerated public interest standards established herein, the Wireless Supported Service Facility, including any Antenna Support Structure, shall be approved.

1. General standards

a. The approval of the Wireless Support Facility shall not cause the subject property to fail to comply with any portion of this code or the Comprehensive Development Master Plan.

b. The proposed Antenna Support Structure and related equipment shall comply with the underlying zoning district standard lot coverage regulations.

c. The proposed Antenna Support Structure shall not involve any outdoor lighting fixture that casts light on the adjoining parcel of land at an intensity greater than that permitted by Section 33-4.1 of this code, unless providing safety lighting as required by FCC or FAA regulations.

d. A non-camouflaged Antenna Support Structure 100 feet in height or less, shall be setback from the property line of any existing residential dwelling and the property line of the nearest residentially zoned property located on a contiguous or adjacent parcel of land under different ownership a distance equal to 110 percent of the height of the Antenna Support Structure.

A non-camouflaged Antenna Support Structure exceeding 100 feet in height shall be setback a minimum of 200 feet from the property line of any existing residential dwelling and the property line of the nearest residentially zoned property located on a contiguous or adjacent parcel of land under different ownership, unless the Antenna Support Structure itself, excluding any Antennas attached thereto

for the purposes of wireless communication, is otherwise substantially visually obscured by an intervening structure or landscaping (i.e., wall, building, trees etc.) in which case setback shall be equal to a minimum of 110 percent of the height of the Antenna Support Structure.

A survey, site plan or line of sight analysis illustrating this condition shall be provided by the applicant.

- e. The proposed Wireless Supported Service Facility shall provide adequate parking and loading and provide ingress and egress so that vehicles servicing the facility will not block vehicular and pedestrian traffic on abutting streets.
- f. The applicant's proposed Antenna Support Structure associated with the proposed Wireless Supported Service Facility shall be designed in such a manner that in the event of a structural failure, the failed portion of the Antenna Support Structure shall be totally contained within the parent tract.
- g. Proposed fences have the "unfinished" side, if any, directed inward toward the center of the leased parcel proposed for installation of the Antenna Support Structure and related equipment.
- h. Proposed fences will be constructed of durable materials and will not be comprised of chain link or other wire mesh, unless located in an AU or GU zoning districts.
- i. In the event a wall is used to screen the base of a non-camouflaged Antenna Support Structure or the equipment building structure, the wall shall be articulated to avoid the appearance of a "blank wall" when viewed from the adjoining property residentially zoned and developed under different ownership. In an effort to prevent graffiti vandalism, the following options shall be utilized for walls abutting zoned or dedicated rights-of-way:
 - 1. Wall with landscaping. The wall shall be setback two and one-half (2 1/2) feet from the right-of-way line and the resulting setback area shall contain a continuous extensively landscaped buffer which must be maintained in a good healthy condition by the property owner, or where applicable, by the condominium, homeowners or similar association. The landscape buffer shall contain one (1) or more of the following planting materials:
 - a. Shrubs. Shrubs shall be a minimum of three (3) feet in height when measured immediately after planting and shall be planted and maintained to form a

continuous, unbroken, solid, visual screen within one (1) year after time of planting.

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

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

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

2. Health and safety standards

a. The proposed Wireless Support Service Facility shall not block vehicular or pedestrian traffic on adjacent uses or properties.

b. The proposed Wireless Supported Service Facility shall be accessible to permit entry onto the property by fire, police and emergency services.

c. The proposed Wireless Supported Service Facility shall comply with any applicable Miami-Dade County aviation requirements.

d. Safe sight distance triangles are maintained pursuant to section 33-11 of this code.

3. Environmental standards

a. The proposed Antenna Support Structure and related equipment shall not result in the destruction of trees that have a diameter at breast height (as defined in Section 18A-3.(J) of this code) of greater than 10 inches, unless the trees are among those listed in Section 24-60(4)(f) of this code.

b. The proposed Wireless Supported Service Facility shall not be located in an officially designated natural forest community.

c. The proposed Wireless Supported Service Facility shall not be located in an officially designated wildlife preserve.

d. The applicant shall submit an environmental impact study prepared by a licensed environmental firm that the proposed Wireless Supported Service Facility will not

affect endangered or threatened species or designated critical habitats as determined by the Endangered Species Act of 1974; and that the facility will not have a substantial deleterious impact on wildlife or protected plant species.

- e. The applicant shall submit a historical analysis prepared by a professional cultural specialist that the proposed Wireless Supported Service Facility shall not affect districts, sites, buildings, structures or objects of American history, architecture, archeology, engineering or culture, that are listed in the National Register of Historic Places or applicable Miami-Dade County or State of Florida historic preservation regulations.
- f. The proposed Wireless Supported Service Facility shall not be located on an Indian Religious site.

4. Necessity standards

- a. The applicant shall establish that there are no available existing Wireless Supported Service Facilities or buildings within the prospective provider's search area suitable for the installation of the provider's proposed Antennas due to one or more of the following circumstances:
 - (i) existing Wireless Supporting Service Facilities or buildings within the search area have insufficient structural capacity to support the proposed antennas and related equipment; or
 - (ii) existing Wireless Supported Service Facilities or buildings within the search area are not of sufficient height to resolve the lack of wireless service coverage or capacity in the area intended to be served by the proposed Wireless Supported Service Facility or to cure the signal interference problem in that area; or
 - (iii) the proposed Antenna would cause radio frequency interference or other signal interference problems with existing Wireless Supported Service Facilities or buildings, or the Antenna on the existing Wireless Supported Service Facilities or buildings may cause signal interference with the provider's proposed Wireless Supported Service Facility; or
 - (iv) the owner of an existing building or Wireless Supported Service Facility located within the provider's search area that has existing height and structural capacity and would otherwise resolve the lack of wireless service coverage, a deficiency in

capacity or signal interference problems, has rejected the provider's reasonable attempts to locate its Wireless Supported Service Facility on its building or facility.

The applicant shall provide evidence of one or more criteria listed in 12(a-d) above with an affidavit from a radio frequency engineer, structural engineer, owner or authorized provider's representative acceptable to the Department, as applicable. For purposes of this section, search area shall mean the geographic area within which the provider can demonstrate that the Wireless Supported Service Facility must be located in order to resolve the lack of wireless service coverage, a deficiency in capacity or signal interference problems.

- b. The applicant shall demonstrate that the proposed Wireless Supported Service Facility will cure:
 - i. signal interference problems; or
 - ii. the lack of wireless service coverage or capacity in the area intended to be served by the proposed Wireless Supported Service Facility; and
 - iii will allow its customers to make and maintain wireless calls on a reliable basis as defined by the provider's quality criteria; and

5. Mitigation standards

- a. A non-camouflaged Antenna Support Structure or equipment building shall be located so that it does not obscure, in whole or in part, an existing view to any historically designated landmark, natural area, or natural water body (i.e., river, lake, ocean) from any residentially zoned property under different ownership.
- b. Existing landscaping, vegetation, trees, intervening buildings or permanent structures shall be utilized to the maximum extent possible to obscure the view of the non-camouflaged Antenna Support Structure from public right-of-way or residentially zoned property.
- c. Any proposed Antenna Support Structure shall be designed to accommodate the collocation of at least two (2) Providers.
- d. All new non-camouflaged Antenna Support Structures approved at public hearing after adoption of this Ordinance, when exceeding 125 feet in height, must be structurally designed to accommodate at least three (3) Providers.

- e. To minimize visual impact in all cases, new or reconstructed Antenna Support Structures shall:
- (i) if non-camouflaged, utilize non-reflective galvanized finish or coloration to blend in with the natural environment unless Federal Aviation Administration painting or markings are otherwise required. The part of the Antenna Support Structure that is viewed against the sky and all Antennas attached thereto shall be a single color, either light gray or similar neutral color; the part of the Antenna Support Structure and all Antennas not viewed against the sky shall also be colored to blend with its surrounding background and harmonize with the color of existing structures or vegetation, as applicable; and
 - (ii). be designed to preserve all vegetation to the maximum extent feasible to mitigate visual impact and create a buffer that harmonizes with the elements and characteristics of the existing parcel on which the Wireless Support Service Facility is located and adjacent properties; and
 - (iii) shall be designed to be harmonious with the architectural elements of the surrounding structures, such as bulk, massing and scale of surrounding properties; or be designed to blend and be harmonious with the principal structure on the property on which the Antenna Support Structure is proposed to be constructed and installed.
- f. A camouflaged Antenna Support Structure shall be designed as an artificial tree or to serve a purpose other than supporting antennas (i.e., lighting of sports facilities, transmission of electrical and/or telephone lines, flag poles).
- g. To reduce the visual impact, an Antenna Support Structure readily observable from residentially zoned districts located within the immediate vicinity of the leased parcel shall be a camouflaged Antenna Support Structure, unless the provider can demonstrate that an Antenna Support Structure of a monopole type would be less visually obtrusive or would reduce proliferation of additional Antenna Support Structures within the immediate vicinity of the search area of the leased parcel and thus reduce the cumulative visual impact caused by future additional Antenna Support Structures in the immediate vicinity. In all cases, Antenna Support Structures of the guyed wire or

self-supporting lattice type for the purposes of providing wireless telecommunications services only, shall be prohibited within the immediate vicinity of all existing residentially zoned districts and residential structures, except that the parent tract of the application property site may contain a residential structure.

h.. If a non-camouflaged Antenna Support Structure cannot be readily observed from residentially zoned property located within the immediate vicinity of the leased parcel, strongest support shall be given in the following order from most preferred to least preferred Antenna Support Structure type: existing Antenna Support Structures, existing buildings or structures, monopole, lattice or self-supporting or, guyed wire.

i. The architectural design, scale, mass, color, texture and building materials of any proposed equipment building structure shall be aesthetically harmonious with that of other existing or proposed structures or buildings on the parent and leased tracts and in the immediate vicinity.

j. The accessory wireless equipment building used in conjunction with the proposed Wireless Supported Service Facility shall be designed to mitigate visual impact and be comparable with the scale and character of the existing structures on the subject property and in the immediate vicinity, or blend into natural surrounding vegetation or buildings through the use of color, building materials, textures, fencing or landscaping to minimize visibility from or otherwise make the appearance of the accessory wireless equipment building the least visually obtrusive to adjacent uses and properties, as well as pedestrian and vehicular traffic.

(b) Alternative Development Option for Any Wireless Supported Facility, Including Antenna Support Structures. Upon appeal or direct application in specific cases to hear and grant approval, approval with conditions or denial of applications for an alternative site development option applicable to Wireless Supported Service Facilities, including Antenna Support Structures, approved pursuant to the standards set forth in Section 33-311(A)(18)(a) above and in section 33-36.2, based on the following:

1. Setbacks. An alternative development option setback for Antenna Support Structures and/or accessory wireless equipment buildings shall be approved after public hearing upon demonstration that the Antenna Support Structure is designed so that if the structure fails the failed portion of

the structure will be contained within the parent tract and upon demonstration of the following:

- (a) the applicant has obtained the recordable consent of the owner(s) of the property abutting the property line from which relief from the setback requirement is requested; and
- (b) the applicant demonstrates that the setback requirement cannot be met on the property; and
 - 1. that any feasible alternative site available is in closer proximity to single family, duplex or agriculturally zoned property; or
 - 2. that the modification to the setback requirement will reduce the visual impact of the Wireless Supported Service Facility; or
 - 3. the location of an Antenna Support Structure on a parcel that satisfies all setback and fall zone requirements will create a greater visual impact on adjacent or surrounding residential uses than the proposed site that requires a reduction of applicable setback requirements.

2. Landscaping. An alternative site development option from the landscape requirements set forth in Sec. 18A-1(B)(2)(d) shall be granted to allow a Wireless Supported Service Facility to be screened in a manner other than as provided in that section upon demonstration by the applicant that the alternate method of landscape screening proposed mitigates the visual impact of the Wireless Supported Service Facility as effectively as screening in accordance with Sec.18A-1(B)(2)(d).

3. Lot Area/ Parent Tract. An alternative development option from the minimum parent tract area required by this subsection for any Wireless Supported Service Facility shall be approved upon demonstration of the following:

- a. the size and dimensions of the lot are sufficient to provide all setbacks required by the underlying zoning district regulations or regulations of this subsection, which ever is greater; and
- b. the lot area is not less than ninety (90) percent of the minimum lot area required by the underlying zoning district regulations; and

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- c. the density of the proposed alternative development does not exceed that permitted by the underlying zoning district regulations.
4. Federal Telecommunications Act. Notwithstanding the foregoing, a Wireless Supported Service Facility including a Antenna Support Structure shall be permitted in any zoning district where necessary to avoid the prohibition or effective prohibition of the provision of personal wireless services or discrimination among wireless service providers as contemplated by the Federal Telecommunications Act, 47 U.S.C. § 332 (1996), as amended.<<

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.

PASSED AND ADOPTED: JUL 0 8 2003

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

JAC

Joni Armstong Coffey



MEMORANDUM

Agenda Item No. 6(H)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: July 8, 2003

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

From: George W. Burge
County Manager

Subject: Proposed Ordinance Pertaining to
Zoning Regulations for Semi-
Professional Office Buildings and
Structures in RU-5 and RU-5A
Zoning Districts

03-162

RECOMMENDATION

It is recommended that the Board approve the attached ordinance providing alternative regulations for semi-professional office buildings and structures in RU-5 and RU-5A zoning districts. The proposed ordinance provides additional site development standards to be applied at public zoning hearings to determine lot setbacks, area, frontage and coverage, floor area ratio, common open space, fence and wall height and placement.

BACKGROUND

The proposed ordinance establishes additional new standards for semi-professional office buildings and structures in RU-5 and RU-5A 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 semi professional office buildings and structure 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

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6 (H)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(H)
7-8-03

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING; MODIFYING CHAPTER 33 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE") TO INCLUDE STANDARDS FOR APPROVAL AFTER PUBLIC HEARING FOR SEMI-PROFESSIONAL OFFICE BUILDINGS AND STRUCTURES IN RU-5 AND RU-5A ZONING DISTRICTS; 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.

* * *

>>(20) Alternative Site Development Option for Semi-Professional Office Buildings and Structures. This subsection provides for the establishment of an alternative site development option, after public hearing, for semi-professional office buildings and structures, when such uses are permitted by the underlying district regulations, in the RU-5 and RU-5A 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

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.

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 semi-professional office buildings and structures 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 term shall have the following meanings:

"Discordant Use" means adjacent land uses which:

- 1) are materially less intense or of a materially lesser density, or
- 2) are materially different in their manner of hours of operation, or
- 3) have a different zoning prefix, or
- 4) contain an existing or approved use, which is otherwise allowable as of right in a different zoning district prefix.

(c) Setbacks for a principal building, or accessory building or structure in the RU-5A, 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 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

by more than twenty percent (20%) of the landscaped open space percentage required by the applicable district regulations; and

(4) any area of shadow cast by the proposed alternative development upon an adjoining property 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 if located on the roof of such an alternative development shall be screened from ground view and from view at the level in which the installations are located, and shall be designed as an integral part of and harmonious with the building design; 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(s) or addition(s) are aesthetically harmonious with that of other existing or proposed structure(s) or building(s) on the parcel proposed for alternative development; and

(8) the wall(s) of any building within a front, side street or double frontage setback area or within a setback area adjacent to a discordant use, 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, parcel or tract; and

(10) any windows or doors in any building(s) to be located within an interior side or rear 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 building(s) of a discordant use located on an adjoining parcel of land; and

(11) total lot coverage shall not be increased by more than ten percent (10%) of the lot coverage permitted by the underlying district regulations; or a total floor area ratio shall not be increased by more than ten percent (10%) of the floor area ratio permitted by the underlying district regulations; and

(12) the area within an interior side or rear setback required by the underlying district regulations located adjacent to a discordant use 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 of a discordant use 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 eighty percent (80%) (if located adjoining or adjacent to a discordant use) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure(s) at time of planting; or

(B) is screened from adjoining property by an opaque fence or wall at least five (5) feet in height, if located adjoining or

adjacent to a discordant use, that meets the standards set forth in paragraph (g) herein; and

(14) any structure in the RU-5A district 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 10 feet or the minimum distance to comply with fire safety standards, whichever is greater; and

(15) when a principal building, or accessory building in the RU-5A district, 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

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

(17) the parcel proposed for alternative development shall continue to provide the required number of on-site parking spaces as required by this Code; and

(18) the parcel proposed for alternative development shall satisfy underlying district regulations or, if applicable, prior zoning actions issued prior to the effective date of this ordinance (July 11, 2003), regulating setbacks, lot area and lot frontage, lot coverage, floor area ratio, landscaped open space and structure height; and

(19) the proposed development will meet the following:

(A) interior side setbacks shall not be reduced by more than fifty percent (50%) of the side setbacks required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater when the adjoining parcel of land is a RU-5, RU-5A, BU, IU, or OPD district or use provided, however, interior side setbacks shall not be reduced by more than twenty-five percent (25%) of the interior side setbacks required by the underlying district regulations when the adjoining parcel of land allows a discordant use.

(B) side street setbacks shall not be reduced by more than twenty-five percent (25%) of the underlying district regulations;

(1) the proposed lot area and frontage shall permit the development or redevelopment of a structure(s) on a lot, parcel or tract of land where such structure(s) 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 lot, parcel or tract is under lawful separate ownership from any contiguous property; and

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

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

(D) the area of the lot, parcel or tract is not less than: seventy-five percent (75%) of the minimum lot area required by the underlying district regulations; or eighty-five percent (85%) of the underlying district regulations for an older subdivision of land caused by a conveyance or device of record prior to August 2, 1938, or a platted unrevoked subdivision recorded prior to August 2, 1938; and

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

(F) the frontage dimension of the lot, parcel or tract is not less than: seventy-five percent (75%) of the minimum frontage required by the applicable district regulations; or eighty-five percent (85%) of the underlying district regulations for older subdivisions of land caused by a conveyance or device of record prior to August 2, 1938, or a platted unrevoked subdivision recorded prior to August 2, 1938, except that the frontage dimension of a flag-lot, parcel or tract shall be permitted to be reduced to the minimum width necessary to allow vehicular access as determined by the County; and

(G) the resultant frontage dimension of the lot, parcel or tract provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment; or

(2) the proposed alternative development results in landscaped 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 applicable district regulations, provided that:

(A) the number of lots of the proposed alternative development does not exceed that normally permitted by the lot area dimensions of the underlying district regulations; and

(B) the size and dimensions of each lot, parcel or tract in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions for similar uses issued prior to the effective date of this ordinance (July 11, 2003); and

(C) the area of each lot, parcel or tract is not less than eighty percent (80%) of the area required by the applicable 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 resultant frontage of the lot, parcel or tract provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment, or

(3) the proposed lot area and frontage is such that:

(A) the proposed alternative development will not result in the creation of more than two (2) lots, parcels or tracts; and

(B) the size and dimensions of each lot, parcel or tract are sufficient to provide all setbacks required by the applicable 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 applicable district regulations; or

(ii) the average area of the developed lots, parcels or tracts 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 resultant frontage provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment.

(g) An alternative maximum height of walls, hedges or fences for a commercial development shall be approved upon demonstration of the following:

(1) no wall, hedge or fence shall exceed eight (8) feet in height when adjoining RU-5, RU-5A, BU, IU or OPD zoned lands; no wall, hedge or fence shall exceed six (6) feet when adjoining a discordant use, and

(2) no wall, hedge or fence located in a front or side street setback required by the applicable 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 of a building on an adjoining discordant use; 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, or

(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 all sides of the fence are "finished" in accordance with the applicable regulations; 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 hedges totally screen the fence; and

(8) safe sight distance triangles are maintained pursuant to this code.

(h) An alternative placement of a required perimeter wall setback from the property line(s) of a parcel where said property line adjoins or lies across the street right-of-way from a residential district, shall be approved after public hearing upon demonstration of the following:

(1) the setback of the wall is the minimum distance necessary so as not to encroach into an existing utility or landscape easement(s); and

(2) that visual screening for the wall by way of landscaping is included in the easement area to prevent graffiti vandalism in a manner provided by this Code; and

(3) that a suitable mechanism for maintenance of the landscaped area by the property owner, tenant association or similar association, or special taxing district, be provided in the form of a recordable covenant running with the land.

(i) An alternative opening in a wall otherwise required by this code to be a solid, unbroken barrier when a parcel adjoins or lies adjacent to a residential district, shall be approved after public hearing upon demonstration of the following:

(1) the width of the wall opening is the minimum width necessary for pedestrians to access the parcel from adjoining or adjacent residential development(s); and

(2) the wall opening is immediately adjoining or adjacent to a residential lot, parcel or tract which is restricted in use as common open

space.

(j) An alternative reduction in the number of required parking spaces shall be approved after public hearing upon demonstration of the following:

(1) the alternative reduction of the number of required parking spaces does not apply to parking spaces for the disabled, parking spaces for persons transporting small children, nor to bicycle racks or other means of storage; and

(2) the total number of required parking spaces is not reduced below five percent (5%) for medical or dental office uses, and ten percent (10%) for other semi-professional office uses; and

(A) the lot, parcel or tract is located within six hundred and sixty (660) feet of an existing transportation corridor such as a Major Roadway identified on the Land Use Plan (LUP) map, within one-quarter (1/4) mile from existing rail transit stations or existing express busway stops; or

(B) the hours of operation of multiple uses within the development vary and do not overlap and a recordable agreement is provided which restricts the hours of operation.

(3) the alternative development involves a mixed-use project in which the number of off-street parking spaces is calculated by applying the Urban Land Institute (ULI) Shared Parking Methodology to the required number of parking spaces.

(k) 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

(I) 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 economic viability of any enterprises proposed within the approved development and the quality of life of residents and business tenants of 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, landscaped open space over and above that normally required by the code, additional trees or landscaping, the inclusion of residential use(s), convenient pedestrian connection(s) to adjacent residential development(s), 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, cohesive wall signage, and decorative street lighting. In determining which amenities or buffering elements are appropriate for a proposed commercial development, the following shall be considered:

(A) the types of needs of the residents or business tenants of the immediate vicinity and the needs of the occupants of the parcel proposed for development 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 the residents, business tenants or occupants of parcel(s) in 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 landscape open space.<<

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 Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

PASSED AND ADOPTED: JUL 0 8 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

JAC

Joni Armstrong-Coffey

MEMORANDUM

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

Amended
Agenda Item No. 6(E)

TO: Hon. Chairperson and Members
Board of County Commissioners

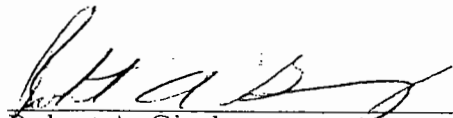
DATE: July 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to
Chapter 19

O#03-160

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: July 8, 2003

FROM: George M. Burgess
County Manager

SUBJECT: Ordinance relating to
Chapter 19

This ordinance is a rewritten version of Chapter 19, a reorganization of code provisions from Chapter 33 and a brand new section that creates maintenance standards for business and commercial premises.

The reorganization of the Code involves the removal from Chapter 33 of sections dealing with items that include the storage of construction materials, flammable materials, rubbish, junk, bike racks, litter bins, informational signs and sign maintenance requirements and incorporates them into the rewritten Chapter 19. Team Metro already enforces these items therefore there is no new cost impact.

The new section on business and commercial premises maintenance standards incorporates some of the above items (bike racks, litter bins, sign maintenance) and creates new regulations for the maintenance of fences and walls, parking lots and the exterior condition of buildings, and the removal of litter from the adjacent swale areas. Team Metro will assess the number of complaints received and the impact of the added cases. The Department can accommodate a 5% increase in cases without a cost impact. If the impact exceeds that amount, the Department would have to determine how many additional compliance officer and case processor positions would be required to maintain existing levels of service.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 8, 2003

FROM: Robert A. Ginsburg
County Attorney

Amended

SUBJECT: Agenda Item No. 6(E)

Please note any items checked.

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

Approved _____ Mayor

Amended

Veto _____

Agenda Item No. 6(E)

Override _____

7-8-03

ORDINANCE NO. 03-160

ORDINANCE REPEALING CHAPTER 19 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, IN ITS ENTIRETY AND ENACTING NEW CHAPTER 19, TITLED "RESPONSIBLE PROPERTY OWNER AND MERCHANT ACT" AND CREATING MINIMUM MAINTENANCE STANDARDS FOR PROPERTY IN THE UNINCORPORATED AREAS OF MIAMI-DADE COUNTY; AMENDING SECTIONS 33-15 AND 33-15.1 AND REPEALING IN THEIR ENTIRETY SECTIONS 33-22, 33-28, 33-29, AND 33-122.4; AMENDING SECTION 8CC-10 TO PROVIDE AUTHORITY FOR ENFORCEMENT BY CIVIL PENALTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Chapter 19 of the Code of Miami-Dade County, Florida, is hereby repealed in its entirety and a new Chapter 19 is enacted as follows:¹

[[Chapter 19

~~LOT JUNK, GARBAGE AND TRASH CLEARING*~~

~~Sec. 19-1. Short title; application of chapter.~~

~~This chapter shall be known as the "Dade County Lot Junk, Garbage and Trash Clearing Ordinance," and shall be applicable in the unincorporated areas of Dade County, Florida.~~

~~Sec. 19-2. Declaration of legislative intent.~~

~~The Board finds and determines that the rapid, continuous growth~~

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.

~~and urban development of the unincorporated areas of this County require the reasonable and effective control and regulation of excessive growth and accumulation of weeds, and other certain plant life to the extent and in such manner as to cause infestation by rodents and feral animals, the breeding of mosquitoes and vermin, or to threaten or endanger the public health, or otherwise adversely affect the welfare of adjacent property or occupants. Further, the Board finds and determines that the accumulation of garbage and trash in violation of Chapter 15, Miami Dade County Code and the accumulation, storage or maintenance of junk or trash in violation of Section 33-15, Miami Dade County Code, requires reasonable and effective controls to protect the public health, safety and welfare of the community.~~

~~That portion of any lot, or parcel is exempt from the vegetative provisions of this chapter where that lot, or parcel is designated as a Natural Forest Community, Environmental Endangered Land, Native Plant Community, Native Habitat, or a wetland as defined and described in Section 24-3(151) of the Code of Miami Dade County.~~

~~That portion of any lot, or parcel that currently has a bona fide agricultural use or has been given a State exemption for Agricultural Classification following generally accepted agricultural and management practices shall be processed in accordance with Section 19-12 of this Chapter.~~

Sec. 19-3. Definitions.

- (A) ~~*Abandoned property.* As used in this section, "abandoned property" means any article of personalty which either lacks evidence of ownership or is wrecked or derelict personal property having no value other than nominal salvage value, if any, which has been left abandoned and unprotected from the elements and shall include wrecked, inoperative, or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture, and any other similar article which has no value other than nominal salvage value.~~

- (B) ~~*Bona fide agricultural use.* The term shall mean a commercial application such as but not limited to: fruit crops; row crops; live stock; horse boarding and breeding; pasture, both improved or semi improved, or native pasture; nursery, either in ground or above ground, or tree~~

~~nursery, or ornamental nursery; and poultry, fish, rabbits, goats, sheep, worms, bees, hay, or tropical groves.~~

(C) ~~Corrective or maintenance action.~~ The term shall mean that an owner is required to maintain, mow, cut, trim or bulldoze his or her lot, and clear, remove and legally dispose of all associated abandoned property, solid waste or junk.

(D) ~~Director.~~ The word "Director" shall mean the Director of Team Metro or his or her designee.

(E) ~~Generally accepted agricultural and management practices.~~ To be determined by the appropriate agricultural agency for the commercial agricultural practice utilizing Florida Statute 823.14 as the basis of its determination.

(F) ~~Government lot.~~ Government lots refer to the irregular lots or tracts established in the original surveys of Florida under the direction of the United States Government and shown on the official original U. S. Government survey maps. The Government lots or tracts were established to define for conveyance purposes those irregular parcels of land which do not fit into the normal Government mandated sectionalized land breakdown system, including such cases as fractional sections abutting water boundaries, oversized sections, undersized sections having hiatus and overlaps.

(G) ~~Improved lot.~~ Any lot with a building or an erected structure or an incomplete or partially demolished structure.

(H) ~~Junk.~~ The accumulation, storage or maintenance of junk or trash or abandoned property including, but not limited to old and dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof, wagons and other kinds of vehicles and parts thereof, scrap, building material, scrap contractor's equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass old iron, machinery, rags, paper, excelsior, mattresses, beds, or bedding or any other kind of scrap or waste material.

(I) ~~Lot.~~ Any tract, or parcel of land shown on a recorded plat or on the official County zoning maps or any piece of land described by a legal recorded deed.

- (J) ~~Owner. Any and all persons with legal and/or equitable title to real property in Miami Dade County as their names and addresses are shown upon the record of the Property Appraiser Department.~~
- (K) ~~Repeat Violator. Any property owner who has failed to comply with any portion of this chapter and has been cited for a violation of this chapter pursuant to Chapter 8CC of this Code within the last twenty four (24) months, and has been either found guilty of said violation by a Hearing Officer at an 8CC Hearing and such finding was not overturned by the Circuit Court, or did not file for an appeal of such violation before an 8CC Hearing Officer within seven (7) calendar days from posting of the citation.~~
- (L) ~~Right of way. The term shall be construed throughout this section to include but not be limited to, all proposed dedications of public rights of way set forth on official grading and drainage plans required to accompany approved and valid tentative plats, as well as all existing or dedicated rights of way.~~
- (M) ~~Solid waste. The term shall mean the accumulation of garbage, trash, yard trash (except for compost piles) litter, cuttings from vegetation, refuse, paper, bottles, rags, hazardous waste, construction and demolition debris, industrial waste or other discarded materials including material or containers from domestic, commercial or agricultural operations as defined in Chapter 15, Dade County Code.~~
- (N) ~~Unimproved lot. Any vacant lot or any lot without a structure.~~
- (O) ~~Violative conditions. The term shall mean one (1) of the following situations exist:~~
- ~~(1) The growth or accumulation of any grass, weeds, non native undergrowth or other dead plant life on an improved lot which exceeds the height of twelve (12) inches from the ground for more than ten (10) percent of the area to be maintained.~~
 - ~~(2) The growth or accumulation of any grass, weeds, non native undergrowth or other dead plant life on~~

~~an unimproved lot which exceeds the height of eighteen (18) inches from the ground for more than fifty (50) percent of the area to be maintained.~~

- (3) ~~Any storage or maintenance of junk, trash, abandoned personal property or any solid waste on an improved or unimproved lot.~~

Sec. 19.4. Prohibited conditions.

- (A) ~~It shall be the responsibility of the owner of an improved or unimproved lot to perform maintenance action on their property within their scheduled calendar month and to regularly maintain their property to prevent any occurrence of violative conditions.~~
- (B) ~~All lots, improved or unimproved, shall be maintained within one hundred (100) feet from the boundary line of any property with a building or structure and within one hundred (100) feet from the boundary line of any improved road. In the event that the remaining area constitutes less than twenty five (25) percent of the total square footage of the lot then the entire lot shall require maintenance action.~~
- (C) ~~Owners of improved or unimproved lots shall legally dispose of all abandoned property, solid waste or junk and shall not deposit, store, maintain or relocate such abandoned property, solid waste or junk to the right of way other than twenty four (24) hours prior to an authorized scheduled pick up conforming to the provisions set forth in Chapter 15 of the Miami Dade County Code. Abandoned property, solid waste or junk shall not be relocated to any lot other than a legal disposal site.~~
- (D) ~~It is the responsibility of the owner of the property adjacent to a County right of way to maintain the swale area which abuts their property.~~

Sec. 19.5. Schedule and failure to comply.

- (A) ~~Each owner of an improved or unimproved lot shall be required to maintain their lot in compliance with Section 19.4 and 19.6 of this chapter and the schedule contained herein.~~

- (B) ~~Each owner of an unimproved lot shall perform maintenance action between the first day and last day of each schedule month.~~

- (C) ~~Schedule.~~
 - (1) ~~Unimproved lot. It shall be the responsibility of each owner of an unimproved lot to perform maintenance action on their lot every three (3) calendar months. An unimproved lot lying in more than one (1) township shall be cleared on the lowest township number schedule in which the property lies.~~
 - (a) ~~Any lot lying within Township 52 or Township 53, in Miami Dade County shall be cleared within the months of January, April, July and October.~~
 - (b) ~~Any lot lying within Township 54 or Township 55, including Government Lots shall be cleared within the months of February, May, August and November.~~
 - (c) ~~Any lot lying within Township 56, 57, 58 or Township 59 shall be cleared within the months of March, June, September and December.~~
 - (d) ~~Any owner of an unimproved lot may make a written request for a schedule change to the Director, two (2) weeks prior to the first day of the month in which the maintenance action is due, so long as the lot does not have a violative condition. The owner will be required to submit proof (photographs, etc.) that the lot does not have a violative condition.~~
 - (e) ~~If the Director denies a schedule change a denial notice shall be given by registered or certified mail, addressed to the owner, and deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid.~~

- (2) ~~Improved lots.~~ It shall be the responsibility of each owner of an improved lot to maintain their lot so that a violative condition does not exist, but not less than once every month.
- (D) ~~Failure to comply.~~
- (1) ~~If an owner fails to comply with any portion of this chapter he shall be cited pursuant to Chapter 8CC of this Code and shall be given fourteen (14) calendar days from receipt or posting of the citation to correct the violation, or the owner has seven (7) calendar days from receipt or posting of the citation to file for an appeal before an 8CC Hearing Officer. Payment of the civil penalty is required within the timeframe listed on the citation where an appeal has not been filed.~~
- (2) ~~A repeat violator shall be given seven (7) calendar days from the posting of the citation to correct the violation, or seven (7) calendar days from the posting of the citation to file for an appeal before an 8CC Hearing Officer. Payment of the civil penalties is required within the timeframe listed on the citation where an appeal has not been filed.~~
- (3) ~~If the owner is found guilty by the Hearing Officer, the owner shall pay the fine in the amount pursuant to Chapter 8CC-10 and will be required to correct the violative condition within fourteen (14) days of the hearing.~~
- (4) ~~If the owner does not appeal or if the owner after being found guilty at the hearing does not correct the violative condition in the time frame specified in this section, the Director shall promptly cause the violative conditions to be remedied by the County as described in Section 19-7.~~

Sec. 19-6. Extraordinary clearing.

~~Any improved or unimproved lot, regardless if it has been maintained in accordance with Section 19-5, that is found to have a violative condition, shall be in violation of this chapter and the~~

~~violative condition shall be processed in accordance with Section 19-5(D) of this chapter.~~

~~Sec. 19-7. Condition may be remedied by County.~~

- ~~(A) The Director shall correct any violating condition at the expense of the owner, on any lot, improved or unimproved, when the owner fails to perform maintenance action or remedy a violative condition on their lot in accordance with Section 19-5 and 19-6 of this chapter.~~
- ~~(B) After causing the condition to be remedied, the Director shall certify the expense incurred in remedying the condition, including advertising, clearing, hauling, disposal and other expenses, together with an administrative fee of one hundred dollars (\$100.00) or ten (10) percent of the total clearing expenses, which ever is greater, whereupon such expenses and administrative fee shall become payable within thirty (30) days, after which the Director shall cause a special assessment lien and charge to be immediately made upon the lot, which shall be payable with interest at the legal rate from the date of such certification until paid. The Director shall keep complete records relating to the amount payable for liens against lots remedied by the County.~~
- ~~(C) Such liens shall be enforceable in the same manner as a tax lien in favor of Miami Dade County and may be satisfied at any time by payment thereof including accrued interest. Upon such payment the Clerk of the Circuit Court shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the record thereof. Notice of such lien may be filed in the Office of the Clerk of the Circuit Court and recorded among the public records of Dade County, Florida.~~

~~Sec. 19-8. County utilization of property as alternative remedy.~~

- ~~(A) Any owner or an improved or unimproved lot may make a written request to the Director for County utilization consideration of any lot as a condition for the reduction or waiver of any cost, lien or fee to which the County would otherwise be entitled pursuant to this chapter.~~

- (B) ~~Notwithstanding any other provision of this chapter, Metropolitan Dade County shall be entitled with the consent of the owner and other interested parties, to utilize any lot subject to a violation under this chapter as a condition for the reduction or waiver of any cost, lien or fee to which the County would otherwise be entitled pursuant to this chapter. The decision of whether to utilize any lot made available to Metropolitan Dade County as a condition of the reduction or waiver of any applicable cost, lien or fee shall be made at the sole discretion of the Director when deemed in the County's best interest. Any use of a lot in the manner set forth in this section shall be subject to the express approval by the Director, which may include a lease or agreement, and which shall describe, at a minimum, the cost, lien or fee reduced or waived. The lot shall not contain a violative condition.~~
- (C) ~~If the Director denies the alternative remedy, a notice of denial shall be given by registered or certified mail, addressed to the owner, and deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid.~~
- (D) ~~The owner, within ten (10) days after receipt of the denial notice may request an administrative review by the County Manager of the denial of alterative remedy.~~

~~Sec. 19-9. Action taken pursuant to chapter declared cumulative.~~

~~Any action taken pursuant to this chapter in regard to the disposal, abatement or removal of any violative condition shall be considered cumulative and in addition to penalties and other remedies provided elsewhere in this Code.~~

~~Sec. 19-10. Code enforcement.~~

~~Failure to comply with any provisions set forth in this chapter shall subject an owner to the civil penalties listed in Chapter 8CC-10 of the Dade County Code.~~

~~Sec. 19-11. Team Metro; Delegation of enforcement power and duties.~~

~~Unless otherwise provided by ordinance, the Director of the Public Works Department shall delegate his enforcement powers and duties to the Director of Team Metro for the expressed purpose of enforcing the regulations of this chapter as specified in Section 2-969 or in an administrative order of the County Manager.~~

~~Sec. 19-12. Agricultural properties.~~

- ~~(A) When concerns or complaints are raised about agricultural properties, a compliance officer will investigate. If the concern is deemed to be valid, a notice of evaluation will be issued to the property owner or lessee. The property owner or lessee will be given thirty (30) days from the date of such notice to correct the use or practice. If clarification of the use or practice is needed, an appropriate agricultural agency will be consulted for information.~~
- ~~(B) If the property owner or lessee fails to correct the condition, the condition shall be processed in accordance with Section 19-5(D) of this Chapter.]]~~

>>Sec. 19-1. Short title; application of chapter.

This chapter shall be known as the Responsible Property Owner and Merchant Act and shall be applicable as the minimum standard in the unincorporated areas of Miami-Dade County, Florida.

Sec. 19-2. Declaration of legislative intent.

The Board finds and determines that the neglect of property by property owners and the rapid, continuous growth and urban development of the unincorporated areas of this County require the reasonable and effective control and regulation of excessive growth and accumulation of weeds, and other certain plant life to the extent and in such manner as to cause infestation by rodents and feral animals, the breeding of mosquitoes and vermin, or to threaten or endanger the public health, or otherwise adversely affect the welfare of adjacent property or occupants. Further, the Board finds and determines that the accumulation of garbage and trash in violation of Chapter 15, Miami-Dade County Code requires reasonable and effective controls to protect the public

health, safety and welfare of the community. Further, the Board finds that the maintenance of exterior premises of all improved property serves a public purpose in keeping property operating in a safe, sanitary and litter-free manner to prevent neighborhood blight and the deterioration of neighborhood character which, if unchecked, would have deleterious effect on the quality of life and the economic vitality of Miami-Dade County.

That portion of any lot or parcel is exempt from the vegetative provisions of this chapter where that lot, or parcel is designated as a Natural Forest Community, Environmental Endangered Land, Native Plant Community, Native Habitat, or a wetland as defined and described in Section 24-3(151) of the Code of Miami-Dade County.

That portion of any lot or parcel that currently has a bona fide agricultural use or has been given a State exemption for Agricultural Classification following generally accepted agricultural and management practices shall be processed in accordance with Sections 19-13 and 19-14 of this Chapter.

Sec. 19-3. Definitions.

(A) *Abandoned property.* This term shall relate to articles of personalty, including without limitation: motor vehicles; trailers; boats or other vessels; refrigerators, washing and drying machines, or other machinery; and plumbing fixtures. The following criteria shall be considered in determining whether property has been abandoned, but no single criterion shall be conclusive:

(1) Whether it has value other than nominal salvage value.

(2) Whether it is in sufficient repair to perform its intended purpose.

(a) Evidence of disrepair shall include missing, removed, or partially or completely dismantled parts; broken glass; or other signs of substantial deterioration.

(b) In making evaluations under this subsection, the compliance officer may require the owner to demonstrate the operability of the article.

- (c) With regard to motor vehicles, trailers, or boats or other vessels, absence of a current license tag, decal, registration or inspection decal shall also be considered evidence under this subsection.
- (3) Evidence that the personalty was involved in a collision or other incident during which it was physically damaged and that it has not been repaired.
- (4) Evidence that the personalty has been left unprotected from the elements, including without limitation: growth of vegetation around the personalty; rust or other corrosion; the positioning of the personalty in other than an upright or operable manner; and vandalism.
- (5) The length of time the personalty has remained in its present location.

Abandoned property shall also be deemed "junk" within the meaning of this chapter.

- (B) *Bona fide agricultural use.* All ongoing conditions or activities by an owner, lessee, agent, independent contractor or supplier which occur on a farm in connection with the production of farm products and includes, but is not limited to, the marketing of produce at legally permitted roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust and fumes; ground or aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor. Examples of uses falling within this definition include, but are not limited to: fruit crops; row crops; live stock; horse boarding and breeding; pasture, both improved or semi-improved, or native pasture; nursery, either in-ground or above ground, or tree nursery, or ornamental nursery; and poultry, fish, rabbits, goats, sheep, worms, bees, hay, or tropical groves.
- (C) *Business or Commercial Premises.* Within any parcel of land approved for non-residential uses, any vacant or

occupied structure and accessory structure thereof and the parcel of land upon which it is located.

- (D) Corrective or maintenance action. An owner is required to maintain, mow, cut, trim or bulldoze his or her lot, and clear, remove and legally dispose of all associated abandoned property, solid waste litter or junk.
- (E) Department. Team Metro.
- (F) Director. The Director of Team Metro or his or her designee.
- (G) Generally accepted agricultural and management practices. Shall be determined by the appropriate agricultural agency for the commercial agricultural practice utilizing Florida Statute 823.14 as the basis of its determination.
- (H) Government lot. The irregular lots or tracts established in the original surveys of Florida under the direction of the United States Government and shown on the official U.S. Government survey maps. The Government lots define, for conveyance purposes, those irregular parcels of land which do not fit into the normal Government-mandated sectionalized land breakdown system, including fractional sections abutting water boundaries, oversized sections, and undersized sections having hiatus and overlaps.
- (I) Improved lot. Any lot with a building or an erected structure or an incomplete or partially demolished structure.
- (J) Junk. Trash or abandoned property.
- (1) Junk shall include, without limitation: old and dilapidated motor vehicles, trailers, boats or other vessels and parts thereof, household appliances, scrap, building material, scrap contractor's equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, excelsior, mattresses, beds, bedding, or any other kind of waste material.
- (2) Personalty in a garage or a carport shall not be construed as junk.

- (K) Lot. Any tract or parcel of land shown on a recorded plat or on the official County zoning maps or any piece of land described by a legal recorded deed. A lot may be improved or unimproved.
- (L) Non-residential Zoned District. Any zoning district that permits, as a matter of right, retail, commercial, industrial or manufacturing uses.
- (M) Owner. Any and all persons with legal and/or equitable title to real property in Miami-Dade County, as their names and addresses are shown upon the record of the Property Appraiser Department.
- (N) Repeat Violator. Any property owner who has failed to comply with any portion of this chapter within the last twenty-four (24) months, or has been either found guilty of said violation by a Hearing Officer at an 8CC Hearing and such finding was not overturned by the Circuit Court, or did not file for an appeal of such violation before an 8CC Hearing Officer within seven (7) calendar days from posting of the citation.
- (O) Residential Premises. Within any parcel of land approved for residential zoned district, any vacant or occupied structure and accessory structure thereof and the parcel of land upon which it is located.
- (P) Right-of-way. Construed throughout this section to include, without limitation, all proposed dedications of public rights-of-way set forth on official grading and drainage plans required to accompany approved and valid tentative plats, as well as all existing or dedicated rights-of-way.
- (Q) Solid waste. Garbage, trash, yard trash (except for compost piles), litter, cuttings from vegetation, refuse, paper, bottles, rags, hazardous waste, construction and demolition debris, industrial waste, or other discarded materials, including material or containers from domestic, commercial or agricultural operations, as defined in Chapter 15, Dade County Code.
- (R) Structure. Anything constructed or erected the use of which requires rigid location on the ground, or attachment to

something having a permanent location on the ground, including buildings, walls, fences, signs, light stands, towers, tanks, etc.

(S) Unimproved lot. Any vacant lot or any lot without a structure.

(T) Vacant Land. Any parcel of land, whether divided or undivided, upon which there are no structures.

Sec. 19-4. Owner Responsibility for Compliance.

It is the responsibility of each owner to maintain their property in accordance with the provisions of this Chapter. Where applicable, tenants or lessees shall receive enforcement notices in connection with enforcement; however, the owner is ultimately responsible for compliance with this chapter.

Sec. 19-4.1. Unimproved subdivided lots; Method of enforcement.

In cases where the compliance officer finds two or more contiguous lots within the same subdivision and under the same ownership, the lots shall be consolidated as one single enforcement action for the purposes of imposing civil penalties. Nothing in this subsection shall exempt the property owner from meeting the compliance standards or from paying the cumulative costs of enforcement and remediation for all of the lots.

Sec. 19-4.2. Failure to Comply; Penalties.

Except as otherwise specifically provided, the County shall issue a warning notice the first time a property owner is cited for a violation of this Chapter, and shall provide the property owner a reasonable time to come into compliance before the County pursues further enforcement procedures. Thereafter, the County shall have the option to enforce this Chapter as follows:

- (A) Issuance of civil penalties under Chapter 8CC;
- (B) Petition for injunctive relief in the Circuit Court;
- (C) Filing of criminal charges; Penalties of this chapter are punishable by 60 days in jail or a fine of \$500 per offense.

Except as otherwise stated in this Chapter, the Director of Team Metro shall have the authority to determine the enforcement procedures for each subsection of this Chapter.

Sec. 19-4.3. Penalties Are Cumulative in Nature.

Each incidence of violation shall constitute a separate offense. Any action taken pursuant to this chapter in regard to the disposal, abatement or removal of any nuisance condition shall be considered cumulative and in addition to penalties and other remedies provided elsewhere in this Code.

Sec. 19-4.4. Appellate Procedures for Civil Penalty—First-Time Violator; Time for correction.

For first-time violators receiving a civil violation notice, the owner shall have fourteen (14) calendar days from service of the notice pursuant to Miami-Dade County Code Sec. 8CC-3(e) to correct the violation, or seven (7) calendar days from service to file for an appeal. The appeal shall be in the manner described within the Uniform Civil Violation Notice.

Sec. 19-4.5. Appellate Procedures for Civil Penalty—Repeat Violator; Time for Correction.

A repeat violator shall be given seven (7) calendar days from service of the civil violation notice pursuant to Miami-Dade County Code Sec. 8CC-3(e) to correct the violation, or to file for an appeal. The appeal shall be in the manner described within the Uniform Civil Violation Notice.

Sec. 19-4.6. Time for Correction Upon Finding of Guilt.

If the owner is found guilty by the Hearing Officer, the Hearing Officer shall set a compliance date that shall not exceed 14 days beyond the date of the finding of guilt.

Sec. 19-4.7. County's Authority to Abate Public Nuisance.

Failure to comply with or appeal the terms of this Chapter shall constitute a continuing public nuisance. The Director shall then have the authority to promptly abate the public nuisance, in whole or in part, at the expense of the owner.

**Sec. 19-4.7.1. County's Authority to Abate Public Nuisance
Emergency.**

The Director shall have the authority to promptly abate a public nuisance that poses an immediate risk to the health, safety, and welfare of pedestrians, young children, and the general public, regardless of whether notice of the violation has been previously provided to the owner. Examples of such nuisances include, without limitation, abandoned property that is within a 1,500 foot radius surrounding schools or parks. The Director shall have the authority to order the immediate removal of the abandoned property.

Sec. 19-4.8. Assistance of Miami-Dade Police Department in enforcement.

If the enforcement officer is unable to successfully remove any property subject to seizure or removal under this Chapter, the enforcement officer or his designated representatives may secure the assistance of the Miami-Dade Police Department to effect the removal of the property.

Sec. 19-4.9. Obstructing enforcement officer in the performance of duties.

Whoever opposes, obstructs or resists the enforcement officer or other person authorized by the enforcement officer in the discharge of his duty as provided in this Chapter, upon conviction, shall be guilty of a misdemeanor of the second degree and shall be subject to punishment as provided by law.

Sec. 19-5. Collection of Enforcement and Remediation Costs.

The Director shall certify the expense incurred in remedying a public nuisance under section 19-4.7 of this Chapter, including advertising, clearing, hauling, disposal and other expenses, together with an administrative fee as authorized in the Department's administrative fee schedule. The owner shall pay the cost within thirty (30) days. If the owner fails to pay the costs, the Director shall place a special assessment lien against the lot for the total amount due. Such a lien shall accrue interest at the legal rate from the date of certification until it is paid. The Director shall keep among his records the documentation relating to the amount payable for liens against lots remedied by the County.

A special assessment lien shall be enforceable in the same manner as a tax lien in favor of Miami-Dade County and may be satisfied at any time by payment thereof, including accrued interest. Upon payment the Clerk of the Circuit Court shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the record thereof. Notice of a special assessment lien may be filed in the Office of the Clerk of the Circuit Court and recorded among the public records of Dade County, Florida.

Sec. 19-6. Team Metro Director; Enforcement Power and Duties.

The Director shall be responsible for the enforcement of this Chapter and shall have the authority to amend and modify the administration of the Department's operating procedures to carry out this Chapter.

Sec. 19-7. Reserved.

Sec. 19-8. Storing junk or trash; depositing junk; characteristics of junk property; application to all zoning districts; prohibition of junk yards in residential districts; prohibition on expansion of existing junkyards in non-residential districts.

- (A) Notwithstanding the maintenance schedules in this chapter, it shall be unlawful to deposit, store, or maintain, or to permit to be deposited, stored, or maintained, junk in or on any lot, parcel or tract of land or body of water in any zoning district, except within a legally established junkyard. The deposit of junk in a location authorized for waste collection is exempted from this section, provided the junk is not or does not become a nuisance, and provided the junk is collected by Miami-Dade County or a County-authorized commercial waste collector.
- (B) Pursuant to Miami-Dade County Code Sec. 33-15, no junkyard shall be permitted in a residential district.
- (C) Junk property which would be visible, at ground level, from a street or other public or private property but for the concealment of such junk property behind a wall, fence, hedge or other plant material or by the use of plastics, fabrics or other materials to form a tent, curtain partition or

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similar makeshift structure or device, shall be subject to this section.

Sec. 19-9. Solid waste disposal.

The depositing, storage, keeping, maintaining or disposal of Solid Waste on any lot shall conform to the provisions set forth in Chapter 15 of the Miami-Dade County Code.

Sec. 19-10. Flammable rubbish.

Waste paper, boxes, shavings, rubbish or other flammable materials, shall not be allowed to accumulate on any lots. Brush, wood, and other flammable material shall not be allowed within fifty (50) feet of containers of gas, gasoline, dynamite or other highly flammable or explosive materials.

Sec. 19-11. Construction materials on premises before permit issued; removal of materials.

Construction materials and equipment shall not be deposited on any lot in any zoning district prior to the obtaining of a building permit. Surplus materials and construction equipment shall be removed from the premises before occupancy of the completed structure is approved and shall be removed even if the job is abandoned.

Sec. 19-12. Abandoned property on public property.

(A) Whenever the enforcement officer ascertains that abandoned property is present on public property, the officer shall place a notice upon the abandoned property in substantially the following form:

NOTICE TO THE OWNER OR THE
AUTHORIZED AGENT OF THE OWNER
OF THE ATTACHED PROPERTY

This property (setting forth brief description) is unlawfully upon public property known as (setting forth brief description of location) and shall be removed within ten (10) days from the date of this notice; otherwise a civil violation shall be issued and it shall be presumed to be abandoned property and shall be removed and destroyed by order of

Miami-Dade County at owner's expense. You may within ten (10) days from the date of this notice, request an opportunity to show cause for your failure to remove this property by writing to the Team Metro Director, 111 N.W. First Street, Miami, Florida 33128.

Dated this: (setting forth the date of posting of notice) Signed: (setting forth name, title, address and telephone number of enforcement officer)

Such notice shall be not less than eight (8) inches by ten (10) inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition, at the time of posting, the enforcement officer shall make a reasonable effort to ascertain the name and address of the last owner of said personalty. If the name and address is obtained by the officer, he shall mail, via certified mail, a copy of such notice to the last owner.

- (B) If, at the end of ten (10) days after posting such notice, or, in the case where notice is mailed, ten (10) days after mailing, the owner or the authorized agent of the owner of the abandoned article or articles described in such notice has not removed the article or articles from public property or requested an opportunity to show reasonable cause for failure to do so, the enforcement officer shall issue a civil citation and may cause the article or articles of abandoned property to be removed and destroyed, and the salvage value, if any, of such articles or articles may be retained by the county to be applied against the cost of removal and destruction thereof.
- (C) Reasonable cause under this subsection shall be determined by the Director at a hearing on the matter if requested in writing by the owner within ten (10) days after notice has been posted on the article or mailed to the last owner, whichever is later. The request shall make reference to the number on the notice which was posted on the personalty. The hearing shall be conducted pursuant to the procedures set forth in Chapter 8CC of the Code of Miami-Dade County, except that written request for the hearing shall be made within the time herein set forth.
- (D) If reasonable cause for failure to remove the article has

been demonstrated, the article shall not be subject to removal and destruction as abandoned property.

Sec. 19-13. Maintenance of Lots in Residential-Zoned Districts.

- (A) It shall be the responsibility of the owner of any lot in a residential-zoned district to regularly maintain their property to prevent the following:
- (1) Storage or maintenance of junk, trash, abandoned property or solid waste on any lot;
 - (2) The growth or accumulation of any grass, weeds, non-native undergrowth or other dead plant life:
 - (a) on *improved lots*, that exceeds the height of twelve (12) inches from the ground for more than ten (10) percent of the area to be maintained;
 - (b) on *unimproved lots*, that exceeds the height of eighteen (18) inches from the ground that occurs within one hundred (100) feet from the boundary line of any property with a building or structure or within one hundred (100) feet from the boundary line of any improved road. In the event that the remaining area constitutes less than twenty-five (25) percent of the total square footage of the lot then the entire lot shall require maintenance action.
- (B) It shall be the responsibility of the owner of property in a residential-zoned district and adjacent to a County right-of-way to maintain the swale area which abuts their property.
- (C) *Agricultural use within residential districts.* When concerns or complaints are raised about agricultural use properties, a compliance officer shall investigate. If the concern or complaint is deemed to be valid, a notice of evaluation shall be issued to the property owner or lessee. The property owner or lessee shall be given thirty (30) days from the date of such notice to correct the use or practice. If clarification of the use or practice is needed, an appropriate

agricultural agency shall be consulted for information. If the property owner or lessee fails to correct the condition, enforcement action shall commence to require compliance with this code.

Sec. 19-14. Maintenance Standards for Lots in Non-Residential Zoned Districts.

(A) It shall be the responsibility of the owner of any lot in a non-residential zoned district to regularly maintain their property to prevent the following:

- (1) The growth or accumulation of any grass, weeds, non-native undergrowth or other dead plant life that exceeds the height of eighteen (18) inches from the ground for more than fifty (50) percent of the area to be maintained;
- (2) Storage or maintenance of junk, trash, abandoned property or solid waste on any lot.

All lots shall be maintained within one hundred (100) feet from the boundary line of any property with a building or structure or within one hundred (100) feet from the boundary line of any improved road. In the event that the remaining area constitutes less than twenty-five (25) percent of the total square footage of the lot, then the entire lot shall require maintenance action.

(B) It shall be the responsibility of the owner of the property adjacent to a County right-of-way and in a non-residential zoned district to maintain the swale area which abuts their property.

(C) Agricultural zoned property. When concerns or complaints are raised about agricultural properties, a compliance officer shall investigate. The Department shall apply the definition in Section 19-3(B) to determine a bonafide agricultural use. If the concern or complaint is deemed to be valid, a notice of evaluation shall be issued to the property owner or lessee. The property owner or lessee shall be given thirty (30) days from the date of such notice to correct the use or practice. If clarification of the use or practice is needed, an appropriate agricultural agency shall be consulted for information. If the property owner or

lessee fails to correct the condition, enforcement action shall commence to require compliance with this code.

Sec. 19-15. Maintenance of Business and Commercial Premises.

All business or commercial premises shall meet the standards set forth in Secs. 19-15.1 through 19-15.12.

Sec. 19-15.1. Owner Responsibility for Compliance.

It is the responsibility of the property owner to maintain their property in accordance with the provisions of this section. Where applicable, tenants or lessees shall receive enforcement notices in connection with enforcement; however, the property owner is ultimately responsible for compliance.

Sec. 19-15.2. Compliance with this Section.

Upon verification of a violation of this section, the enforcement officer shall issue a courtesy warning notice to the property and business lessee where applicable. Failure to comply with this notice shall result in the issuance of a civil citation in accordance with Chapter 8CC. The issuance of citations for repeat offenses shall be in the manner discussed in Chapter 8CC.

Sec. 19-15.3. Parking and paved areas.

Parking and paved areas shall be maintained free of deterioration. Deterioration shall be defined as visible holes exceeding a depth of two inches and more than 5 square inches in area, damaged parking stops or missing striping or lot markings, including striping of parking spaces, required striping and pavement markings for disabled parking spaces, as well as access ramps and access paths for wheelchair traffic, as required under Article II, Section 30-442 of the Code of Miami-Dade County and Section 553.5041(6) of the Florida Statutes. Parking areas and paved areas shall be maintained in accordance with the approved site plan and public works, building or zoning permits.

For all commercial parking lots, the parking spaces shall be marked with double striping on each side of the space to identify and facilitate their use. All striping shall be of a color (typically white) contrasting with the pavement. Dimension requirements shall be as noted in Sec. 33-122 of the Code of Miami-Dade

County.

Sec. 19-15.4. Parking Lot Repairs Require a Permit.

Repairs to parking and paved areas shall require prior permit approval of the Building, Planning and Zoning and Public Works Departments. Repairs shall be defined as: application of seal coating, resurfacing parking or alteration of paved areas, including the application of new striping. All work shall be performed by a licensed contractor.

Sec. 19-15.5. Bicycle Racks and Litter Bins; Anti-littering Signage and Right-of-way and Overall Cleanliness of premises.

- (A) Bicycle racks and litter bins shall be installed and maintained in accordance with the approved site plan and Section 33-122.3 of Miami-Dade County Code. Notwithstanding the approved site plan, the property owner shall be responsible for placing and maintaining bicycle racks and litter bins as required by County Code. It shall be prohibited to maintain litter bins and trash receptacles with overflowing trash and litter.

The bicycle parking spaces shall be located near one of the principal entrances to the building. The bicycle parking spaces should be in a highly visible, well lighted location that provides enough clear space to facilitate easy use and does not impede pedestrian traffic or handicap accessibility and is protected from the weather by being located under roof overhangs and canopies. The parking spaces may not be placed on the County maintained right-of-way. The design of the bicycle rack should permit the locking of the frame and at least one (1) wheel with a standard size "U" lock and accommodate the typical range of bicycle sizes. The bicycle rack shall: resist removal; be constructed to resist rust, corrosion and vandalism; and be properly maintained. All bicycle parking spaces shall be posted with a permanent and properly maintained above-ground sign. The bottom of the sign shall be at least five (5) feet above grade when attached to a building or seven (7) feet above grade for a detached sign, which may not be installed in the County maintained right-of-way. No permit shall be required for such signs.

- (B) The property owner or lessee shall be required to maintain his or her property (parking lot, drive ways, sidewalks, and common areas), as well as abutting right-of-way areas free and clear of litter and articles. Abutting area shall be defined as the public right-of-way immediately abutting the premises. The area to be maintained shall be from the edge of pavement to the property line and shall include sidewalk areas and swales.

- (C) All shopping centers, strip malls, grocery stores, restaurants or commercial establishments that sell takeout beverages or food shall provide a litter container near every entrance and at every 100 feet along any established pedestrian walkway within the footprint of such property as required by Sec. 33-122.4 of the Code of Miami-Dade County. Litter containers shall be well designed and secured in a manner that will cause them to remain stationary where placed. They shall be maintained free of graffiti and overflow trash. Placement of the containers shall not interfere with access to the facilities by pedestrians or by individuals with disabilities, as required by the Americans with Disabilities Act Accessibility Guidelines in the Code of Federal Regulation, Title 36, Pt. 1191, App. A. The civil penalty for a violation of this section is \$100.

- (D) All establishments that sell merchandise or food for take out, shall post an anti-litter sign in a prominently visible location outside the establishment, as well as at all drive through lanes for restaurants and retail sales establishments. All signs required under this section shall be a minimum of 14" by 14" in size and shall state: "Littering is Prohibited by Law - Punishable by a Minimum Fine of \$250 under Section 8CC-10 of the Code of Miami Dade County".

Sec. 19-15.6. Premises lighting.

Premises lighting shall be maintained in a safe and operable condition in accordance with the required site plan and Chapter 8C of this Code. Fixtures that are not emitting light shall be defined as inoperable. Lighting repairs shall be performed by a licensed electrician in accordance with the building code requirements and Chapter 8C. The property owner shall be responsible for ensuring that the scope of repairs or fixture replacement meets zoning standards for light spillage. It shall be illegal to replace or change

the configuration of the exterior premises lighting without first obtaining a permit from the Building Department or Department of Planning and Zoning.

Sec. 19-15.7. Maintenance of Informational or Directional Signs.

Informational or directional signs shall be maintained in a safe and visible manner and free of graffiti. It shall be unlawful to maintain or allow to be maintained missing or damaged signs required to designate disabled, bicycle area, baby stroller or other signage required by County Code, including the required striping and pavement markings for disabled parking spaces, as well as access ramps and access paths for wheelchair traffic, as required under Article II, Section 30-442 of the Code of Miami-Dade County and Section 553.5041(6) of the Florida Statutes.

Sec. 19-15.8. General Maintenance of Signs.

All signs shall be maintained in accordance with Section 33-97 of the Code of Miami-Dade County. In addition:

- (a) It shall be illegal to repair or replace a sign or sign lettering or to move a sign without first obtaining approval from the Department of Planning and Zoning, but excluding signs designed specifically to advertise daily and/or weekly specials, movie showings, religious services, school activities, community events/meetings and the like. Property owners shall be required to remove signs that are associated with a business that has vacated the premises.
- (b) Illuminated marquee signs, stand alone signs and wall signs shall be properly illuminated from sunset to sunrise and shall be maintained in proper repair, including the proper illumination of all letters in signs with illuminated stand alone letters.

Sec. 19-15.9. Premises Entrance and Egress; Exterior Pedestrian Walkways, Parking Lots, Green Areas And Public Rights-Of-Way.

- (a) Premises entrances and egresses, including lighting, signage, and landscaping, shall be maintained so as not to cause visibility hazards to motorists or pedestrians.

Entrances and egresses shall be maintained in accordance with the approved site plan.

- (b) Exterior pedestrian walkways, parking lots, green areas and public rights-of-way shall remain free of obstructions, including but not limited to tables and chairs, merchandise displays, and store merchandise.

Sec. 19-15.10. Exterior Building Surfaces.

Exterior walls, rooftops, and other exterior features of structures shall be maintained free of peeling paint and graffiti.

Sec. 19-15.11. Maintenance of Masonry Walls, Fences, Landscape Buffers and Entrance Features

Masonry walls, fences, landscape buffers, and entrance features shall be maintained in accordance with County Code and zoning site plans. Masonry walls, fences and entrance features shall be maintained in working order and shall be free from structural deterioration, sagging, disrepair, or other deterioration or defects. Walls and fences shall be painted and maintained free from peeling paint and graffiti.

Existing landscaping shall be irrigated, cultivated, and otherwise maintained as required by the site plan or Chapter 18A, whichever controls.

Sec. 19-15.12. Prohibited Display of Vehicles for Sale or as Advertising Devices.

- (A) No vehicle shall be displayed for sale in a business or commercial premise unless the parcel has a zoning certificate of use for the sale of new or used vehicles.
- (B) No vehicle shall be allowed to be used solely as a commercial advertising sign in a parking lot. Any vehicle, trailer or other mobile article that remains in the same parked location for more than 72 hours and that contains commercial advertising or that meets the junk criteria in this Chapter shall be a prima facie violation of this subsection.
- (C) All violations of this section shall be punishable by a civil

violation notice in the amount of one hundred dollars (\$100.00) for the first vehicle on a first offense and five hundred dollars (\$500.00) per vehicle for each additional vehicle and any repeat violation of this section. The County may place a lien on the vehicle and any real property owned by the violator in Miami-Dade County until all fines, enforcement costs, and administrative costs are paid by the violator. Any vehicle in violation of this section shall be towed if not removed by the owner. Vehicle owners shall be responsible for all fines, towing fees, storage fees, and any administrative and enforcement fees that result from the enforcement of this section.<<

Section 2. Section 33-15 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-15. Junkyards; ~~[[depositing junk; characteristics of junk property; and]]~~ repair of automobiles in residential districts.

~~[[a]— It shall be unlawful to deposit, store, keep or maintain or to permit to be deposited, stored, kept or maintained junk or trash in or on any lot, parcel or tract of land or body of water in any zoning district, except within a legally established junkyard; provided it is not the intent hereof to prohibit the deposit of trash or junk in a usual location for waste collection provided it is not or will not become, a nuisance and the same will be collected by Miami Dade County or a County authorized commercial waste collector.]]~~

>>(a)<< ~~[[b]]~~No junkyard shall be permitted in a residential district. No junkyard shall be established or enlarged without a permit from the Department, and the permit shall not be issued unless the same has been approved by the appropriate zoning board, after public hearing.

- (1) Junkyards shall be surrounded by a solid wall eight (8) feet high, and this wall shall be of C.B.S. construction and painted and maintained in order to present a good appearance.

In lieu of a C.B.S. wall, an eight-foot-high cyclone-wire type fence with top rail may be substituted, such wire fence to be interwoven with wooden, metal or plastic strips to create a solid screening site

barrier. If wire fencing is used, a two-foot concrete (on footing) or heavy sheet metal curb (imbedded at least two (2) feet in the ground) shall be placed immediately adjacent to and inside such fence to prevent runoff of oil, transmission fluid and other contaminants onto adjacent properties or into adjacent waterways that may result from junking operations.

Whether a C.B.S. or interwoven cyclone-wire fence is used, all gates shall be of the cyclone-wire type, interwoven with wooden, metal or plastic slats in order to screen the interior of the yard when the gates are closed.

- (2) In addition, whether a fence or wall encloses the junkyard, an appropriate hedge made up of native tree or plant species such as southern red cedar or other species approved by the Department shall be planted outside the walls or fences, such tree or plant species to be not less than four (4) feet in height at time of planting, five (5) feet on the center and two and one-half (2 1/2) feet from the wall or hedge. In no event shall the junk or scrap be piled higher than the wall or fence unless the hedge around the entire site grows above the wall or fence and forms a solid screen; in that event the scrap or junk may be piled up to the height of the hedge.
- (3) All existing junk and scrap yards shall be made to comply to all of the foregoing requirements within a period of two (2) years from the effective date of the ordinance from which this section derives and if not so made to comply, they shall be removed and the use discontinued.

~~[(4) All walls, fences, interwoven material, curbs and hedges shall be continuously maintained in good condition and appearance and in such a manner that the purpose of screening and water runoff prevention is served.~~

- ~~(e) When evaluating property to make a determination as to whether articles deposited in any location other than a legally established junkyard constitute junk or trash, the~~

Department shall consider the following:

- (1) Whether the article has only nominal salvage value;
- (2) Whether the article is not in sufficient repair to perform its intended function; provided, however, that any motor vehicle which is at least twenty (20) years old and is licensed as an antique vehicle by the State of Florida as evidenced by a current license tag, decal or registration shall not be deemed to be included within the definition of junk property;

In making evaluations under (c)(2), the Director or his designated representative may require the owner to demonstrate the operability of this article;

- (3) Whether the article is derelict and has been left unprotected as evidenced by growth of vegetation about the article, direct exposure to the elements, positioning of the article in other than an upright or operable manner, or vandalism. With respect to a motor vehicle, evidence under this subsection shall include removed or flat tires, partial or complete dismantling or removal of parts, broken glass, missing major parts, broken glass, missing major parts such as lights, doors, hoods or motor parts essential for the lawful, safe operation of the vehicle or other signs of deterioration;
 - (4) Whether the article lacks a current license tag, and/or decal and/or registration; and
 - (5) The length of time the article has remained in its present location and position.
- (d) Junk property which would be visible, at ground level, from a street or other public or private property but for the concealment of such junk property behind a wall, fence, hedge or other plant material or by the use of plastics, fabrics or other materials to form a tent, curtain partition or similar makeshift structure or device, shall be subject to the same restriction that is applicable to junk property which is visible.

(e)]>>(b)<< In residential zoning districts, a property owner or tenant on improved property having a principal building may repair or otherwise put into operative condition an automobile of his property, only if all of the following requirements are met:

- (1) The property owner or tenant owns the automobile being repaired;
- (2) The repair activity takes places only during daylight hours;
- (3) While under repair the automobile shall not be parked in front of the principal building on the property unless the side yard and/or the rear yard are not accessible; and
- (4) The work undertaken at the premises to repair or otherwise put the automobile into operative condition shall be limited to minor repairs only. The term "minor repair" includes any work which is completed within seventy-two (72) hours including, but not limited to, change of tires, replacement of batteries, change of oil, replacement of brakes and engine tune-up. Any other work, including work wherein the vehicle engine or transmission is removed or lifted from the vehicle for repair or replacement, >>or the vehicle is placed on blocks with the tires removed,<< is prohibited.

Section 3. Section 33-15.1 of the Code of Miami-Dade County, Florida, is hereby deleted in its entirety.

Section 4. Section 33-22 of the Code of Miami-Dade County, Florida, is hereby deleted in its entirety.

Section 5. Section 33-28 of the Code of Miami-Dade County, Florida, is hereby deleted in its entirety.

Section 6. Section 33-29 of the Code of Miami-Dade County, Florida, is hereby deleted in its entirety.

Section 7. Section 33-122.4 of the Code of Miami-Dade County, Florida, is hereby deleted in its entirety.

Section 8. Section 8CC-10 of the Code of Miami-Dade County, Florida is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

The "descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this Chapter 8CC, regardless of whether all activities proscribed or required within that particular section are described in the "Description of Violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
>>19-8 (A)	<u>Unlawfully depositing, storing or maintaining junk</u>	<u>250.00</u>
19-8 (B)	<u>Unlawfully maintaining a junkyard in a residential district</u>	<u>500.00</u>
19-10	<u>Unlawful accumulation of flammable rubbish or material</u>	<u>250.00</u>
19-11	<u>Unlawful storage of construction materials without having active building permit</u>	<u>250.00</u>
19-12(B)	<u>Failure to remove junk vehicle after notice</u>	<u>\$250.00</u>

<u>19-13 (A)</u>	<u>Failure to perform lot maintenance in residential district</u>	<u>\$250.00</u>
<u>19-13(B)</u>	<u>Failure to maintain right-of-way swale area abutting private property</u>	<u>\$250.00</u>
<u>19-13(C)</u>	<u>Failure to correct agricultural practice or use</u>	<u>\$250.00</u>
<u>19-14(A)</u>	<u>Failure to perform lot maintenance in non-residential zoned district</u>	<u>\$250.00</u>
<u>19-14(B)</u>	<u>Failure to maintain right-of-way swale area abutting private property</u>	<u>\$250.00</u>
<u>19-14(C)</u>	<u>Failure to correct agricultural practice or use</u>	<u>\$250.00</u>
<u>19-15.3</u>	<u>Failure to maintain parking lot surface</u>	<u>\$250.00</u>
<u>19-15.3</u>	<u>Failure to maintain required parking lot striping or pavement markings</u>	<u>\$250.00</u>
<u>19-15.4</u>	<u>Failure to obtain parking lot repair permit prior to commencing work</u>	<u>\$250.00</u>
<u>19-15.5(A)</u>	<u>Failure to maintain or provide litter bins</u>	<u>\$250.00</u>

<u>19-15.5(A)</u>	<u>Failure to provide required bicycle parking signage</u>	<u>\$250.00</u>
<u>19-15.5(A)</u>	<u>Failure to provide bicycle racks of code approved design description</u>	<u>\$250.00</u>
<u>19-15.5(B)</u>	<u>Failure to remove litter from premises or abutting right-of-ways</u>	<u>\$100.00</u>
<u>19-15.5(C)</u>	<u>Failure to provide litter containers in required locations</u>	<u>\$100.00</u>
<u>19-15.5(C)</u>	<u>Failure to secure litter bins</u>	<u>\$100.00</u>
<u>19-15.5(C)</u>	<u>Failure to maintain litter bins free of graffiti or overflow</u>	<u>\$100.00</u>
<u>19-15.5(D)</u>	<u>Failure to post required anti-littering sign</u>	<u>\$100.00</u>
<u>19-15.6</u>	<u>Failure to maintain premises lighting</u>	<u>\$250.00</u>
<u>19-15.6</u>	<u>Altering premises lighting configuration or design without first obtaining a permit</u>	<u>\$250.00</u>
<u>19-15.7</u>	<u>Failure to maintain informational or directional sign in safe or visible manner</u>	<u>\$250.00</u>
<u>19-15.7</u>	<u>Failure to maintain informational or directional sign free of graffiti</u>	<u>\$250.00</u>

<u>19-15.8(a)</u>	<u>Failure to repair or replace a sign without first obtaining a permit</u>	<u>\$250.00</u>
<u>19-15.8(b)</u>	<u>Failure to remove sign of discontinued business or tenant</u>	<u>\$250.00</u>
<u>19-15.8(b)</u>	<u>Failure to maintain illuminated signs or marquee signs in functional state</u>	<u>\$250.00</u>
<u>19-15.9(a)</u>	<u>Allowing an unsafe condition to exist at premises entrance or egress</u>	<u>\$250.00</u>
<u>19-15.9(a)</u>	<u>Failure to maintain entrance or egress areas in accordance with the approved site plan</u>	<u>\$250.00</u>
<u>19-15.9(b)</u>	<u>Unlawfully obstructing walkway, parking lot, green area or right-of-way</u>	<u>\$250.00</u>
<u>19-15.10</u>	<u>Failure to maintain building exterior surfaces free of peeling paint or graffiti</u>	<u>\$250.00</u>
<u>19-15.11</u>	<u>Failure to maintain Masonry walls, fences or landscape buffers in accordance with the approved site plan</u>	<u>\$250.00</u>
<u>19-15.11</u>	<u>Failure to maintain fences or masonry walls free of structural or visual deterioration</u>	<u>\$250.00</u>

<u>19-15.11</u>	<u>Failure to maintain landscape in accordance with approved site plan</u>	<u>\$250.00</u>
<u>19-15.11</u>	<u>Failure to maintain landscape in accordance with Chapter 18A</u>	<u>\$250.00</u>
<u>19-15.12(A)</u>	<u>Unlawful display of vehicle for sale</u>	<u>\$100.00</u>
<u>19-15.12(B)</u>	<u>Unlawful use of vehicle as business advertising display</u>	<u>\$100.00</u>
<u>19-15.12(C)</u>	<u>Second or subsequent offense of illegal display of vehicle for sale</u>	<u>\$500.00</u>
<u>19-15.12(C)</u>	<u>Second or subsequent offense of illegal use of vehicle as business adverting display</u>	<u>\$500.00<<</u>

Section 9. Each section subsection, sentence, clause and phrase of this Ordinance is declared to be independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of the Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section 10. 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 11. This ordinance shall become effective ninety (90) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an

override by this Board.

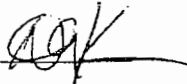
Section 12. This ordinance does not contain a sunset provision.

PASSED AND ADOPTED: 'JUL 0 8 2003

Approved by County Attorney as
to form and legal sufficiency:

not

Prepared by:



Dennis A. Kerbel

Sponsored by Senator Javier D. Souto

MEMORANDUM

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

Agenda Item No. 6(C)

TO: Hon. Chairperson and Members
Board of County Commissioners

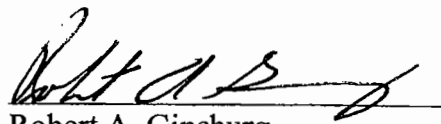
(Second Reading 7-8-03)
DATE: April 22, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: City of South Miami
annexation

03-158

The accompanying ordinance was prepared and placed on the agenda by the Board of County Commissioners.


Robert A. Ginsburg
County Attorney

RAG/jls



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 8, 2003

SUBJECT: City of South Miami Annexation

FROM: George M. Burgess
County Manager

The accompanying ordinance, approving changing the boundaries of the City of South Miami, will have a net fiscal impact of approximately \$89,000.

The County and the City of South Miami have agreed that the City will mitigate 100 percent of the net impact to the Unincorporated Municipal Services Area (UMSA) budget for the portion of the annexation area that lies within the identified Commercial/Business/Industrial (CBI) area and, pay the area's pro-rated share (\$6,700 per year for 22 years) of the Stormwater Utility Revenue Bonds debt service that would otherwise continue as an obligation to the residents of UMSA.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(C)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6 (C)
7-8-03

ORDINANCE NO. _____

ORDINANCE CHANGING THE BOUNDARIES OF THE CITY OF SOUTH MIAMI, 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 FOR RETENTION OF GARBAGE AND REFUSE COLLECTION AND DISPOSAL; PROVIDING THAT THIS ORDINANCE WILL ONLY BECOME EFFECTIVE UPON THE OCCURRENCE OF CERTAIN EVENTS; PROVIDING INTERDEPENDENCY, 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 municipal boundaries of the City of South Miami are hereby changed, extended and enlarged, and the charter of such municipality is hereby amended by the annexation to the City of South Miami of the following property:

Annexation by the City of South Miami-Dade County Attorney's Office

Legal Description

CITY OF SOUTH MIAMI

SNAPPER CREEK ANNEXATION

All that part of the Southwest 1/4 of Section 36, Township 54 South, Range 40 East, Miami-Dade County, Florida, lying North of the existing Northerly municipal boundary of the Village of Pinecrest which is the centerline of the Snapper Creek (C-2) Canal according to Miami-Dade County Ordinance 95-207;

LESS and excepting that portion thereof previously included within boundaries of the City of South Miami more particularly described as: the North 1/2 of the Northeast 1/4 of the Northwest 1/4 of said Southwest 1/4 of Section 36, Township 54 South, Range 40 East, also known and described as "Fuchs Park".

-AND-

A portion of the Southeast 1/4 of Section 35, Township 54 South, Range 40 East in Miami-Dade County, Florida, being more particularly described as follows:

BEGIN at the Northeast corner of said Southeast 1/4 of said Section 35; thence run Westerly along the North line of the Southeast 1/4 of said Section 35 (*centerline of SW 80th Street*) to it's point of intersection with the Northerly extension of the West line of Tract "F" of DADELAND NORTH METRORAIL STATION according to the plat thereof recorded in Plat Book 147 at Page 55 of the Public Records of Miami-Dade County Florida; thence Southerly along said Northerly extension of said West line of said Tract "F", and along said West line of said Tract "F", and along the Southerly extension of said West line of said Tract "F" to the Southerly limited access right-of-way line of State Road 878 (*Snapper Creek Expressway*) according to the Right of Way Map thereof recorded in Plat Book 88 at Page 74 of the Public Records of Miami-Dade County; thence Southeasterly, following said Southerly limited access right-of-way line of State Road 878 to it's point of intersection with the Northwesterly right-of-way line of State Road 5 (*U.S. Highway No. 1*); thence Southwesterly along said Northwesterly right-of-way line of State Road 5 to it's intersection with the centerline of the Snapper Creek (C-2) Canal; thence Southeasterly along said centerline of the Snapper Creek Canal and the Northerly municipal boundary of the Village of Pinecrest according to Miami-Dade County Ordinance 95-207, to the East line of said Southeast 1/4 of said Section 35; thence Northerly along said East line of said Southeast 1/4 of Section 35 (*centerline of SW 67th Avenue*) to the **POINT OF BEGINNING**.

encompassing an area described by Resolution No. 68-02-11417, passed and adopted by the Commission of the City of South Miami, which resolution is made a part hereof by reference.

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. It is provided, however, that if the Board of County Commissioners after the effective date of this ordinance, amends or repeals Sections 20-8.1, 20-8.2 and 20-8.3 of the Code of Miami-Dade County and grants to any municipality having an above average per capita taxable value as compared to all other municipalities within Miami-Dade County, including the Unincorporated Municipal Service Area, the right to be paid electrical franchise revenues, utility tax revenues and cigarette tax revenues accruing within an area that the municipality annexes, this ordinance and any other applicable provisions of the Code of Miami-Dade County shall be deemed modified and amended to require that as of the effective date of that amendment or repeal and grant to another municipality, the City of South Miami shall be entitled to be paid the electric franchise revenues, utility tax revenues and cigarette tax revenues which accrue from the area annexed pursuant to this Ordinance.

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. This Ordinance shall be effective only if the City of South Miami executes a duly authorized interlocal agreement wherein it agrees to (a) make an annual mitigation to the County's Municipal Services Trust Fund (b) pay Miami-Dade County the annexed area's prorated share of the Stormwater Utility Revenue Bonds debt service estimated at \$6,700 per year for approximately 22 years and (c) abide by the Downtown Kendall Urban Center District, pursuant to Sec. 33-284.55, et seq. of the Code of Miami-Dade County, Florida. The interlocal agreement shall be approved by resolution of the Board of County Commissioners.

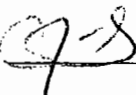
Section 5. The provisions of this Ordinance are interdependent upon one another, and the entire ordinance shall be deemed invalid if any of its provisions are declared invalid or unconstitutional. If any of the sections of this ordinance are found or adjudged to be illegal, void or of no effect, the entire ordinance shall be null and void and of no force or effect.

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

Section 7. The provisions of this ordinance shall take effect only if approved by a majority vote of the electors voting in an election to be called by this Board.

PASSED AND ADOPTED: JUL 0 8 2009

Approved by County Attorney as
to form and legal sufficiency:

RA6


Prepared by:

Cynthia Johnson-Stacks

Sponsored by the Board of County Commissioners

MEMORANDUM

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

Agenda Item No. 6(B)

TO: Hon. Chairperson and Members
Board of County Commissioners

(Second Reading 7-8-03)

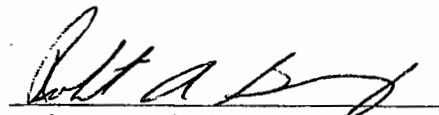
DATE: April 22, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: City of North Miami
annexation

03-157

The accompanying ordinance was prepared and placed on the agenda by the Board of County Commissioners.


Robert A. Ginsburg
County Attorney

RAG/jls



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 8, 2003

SUBJECT: City of North Miami Annexation

FROM: George M. Burgess
County Manager

The accompanying ordinance, approving changing the boundaries of the City of North Miami, will not have fiscal impact on Miami-Dade County.

The City of North Miami has agreed to mitigate 100 percent, equivalent to 2.436 mills (currently approximately \$8,600) for the loss to the Unincorporated Municipal Service Area (UMSA) budget, and, pay the area's pro-rated share (\$26.00 per year for 22 years) of the Stormwater Utility Revenue Bonds debt service that would otherwise continue as an obligation to the residents of UMSA.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 8, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(B)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(B)
7-8-03

ORDINANCE NO. _____

ORDINANCE CHANGING THE BOUNDARIES OF THE CITY OF NORTH MIAMI, 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; RESTRICTING MODIFICATION OF APPLICABLE LAND DEVELOPMENT REGULATIONS; 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 THAT THIS ORDINANCE WILL ONLY BECOME EFFECTIVE UPON THE OCCURRENCE OF CERTAIN EVENTS; PROVIDING INTERDEPENDENCY, 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 municipal boundaries of the City of North Miami are hereby changed, extended and enlarged, and the charter of such municipality is hereby amended by the annexation to the City of North Miami of the following property:

Annexation by the City of North Miami

Legal Description

Tract "A" of "OAKLAWN PARK", according to the plat thereof as recorded in Plat Book 159 at Page 27 of the Public Records of Miami-Dade County, Florida

encompassing an area described by Resolution No. 2002-38 of the Mayor and City Council of the City of North Miami which resolution is attached hereto (Attachment I) and made a part hereof by reference.

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. This ordinance shall be effective only if the City of North Miami executes a duly authorized interlocal agreement wherein it agrees to (a) make an annual mitigation payment to the County's Municipal Services Trust Fund and (b) pay Miami-Dade County the

5

annexed area's prorated share of the Stormwater Utility Revenue Bonds debt service estimated at \$26 per year for approximately 22 years.

Section 5. This ordinance shall be effective only upon the following additional conditions: (a) the annexed area shall be annexed with Miami-Dade County's current BU-2 zoning district boundary regulations remaining in full force and effect; (b) should the City of North Miami adopt new land development regulations that rezone the annexed area, Miami-Dade County's BU-2 zoning district boundary regulations shall nevertheless remain in full force and effect if the City's new zoning restricts Home Depot's rights to operate or continue to operate the store on the annexed area; and (c) in the event of a casualty on the annexed area, the City of North Miami agrees that the annexed area may be redeveloped in accordance with plans substantially complying with the site plan used for construction of the store.

Section 6. 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 7. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: JUL 08 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

CAC

Craig H. Coller

Sponsored by the Board of County Commissioners

RESOLUTION NO. 2002-38

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA SUPPORTING THE SUBMITTAL OF AN APPLICATION TO MIAMI-DADE COUNTY TO ANNEX COMMERCIAL AND RESIDENTIAL AREAS ALONG BISCAZYNE BOULEVARD.

WHEREAS, Miami-Dade County has expressed a desire to reduce the number of enclave areas within the unincorporated area of the County; and

WHEREAS, the City of North Miami has expressed an interest to annex a major portion of the enclave area which is situated between the existing borders of Miami Shores Village and the City of North Miami.

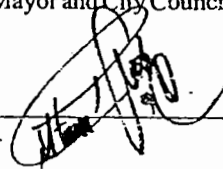
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. That the Administration should submit the appropriate annexation application to Miami-Dade County for its consideration and approval regarding the property having a northern boundary of Northeast 121 Street; the southern boundary north of Sans Souci Boulevard; the western boundary Biscayne Boulevard, and the eastern boundary Northeast 18 Avenue. A map of this area is attached as Exhibit "1."

Section 2. This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED by a 5-0 vote of the Mayor and City Council this 11 day of June, 2002.

MAYOR



ATTEST:


CITY CLERK

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSETH my hand and official seal of the City of North Miami

Filed this the 13 day of

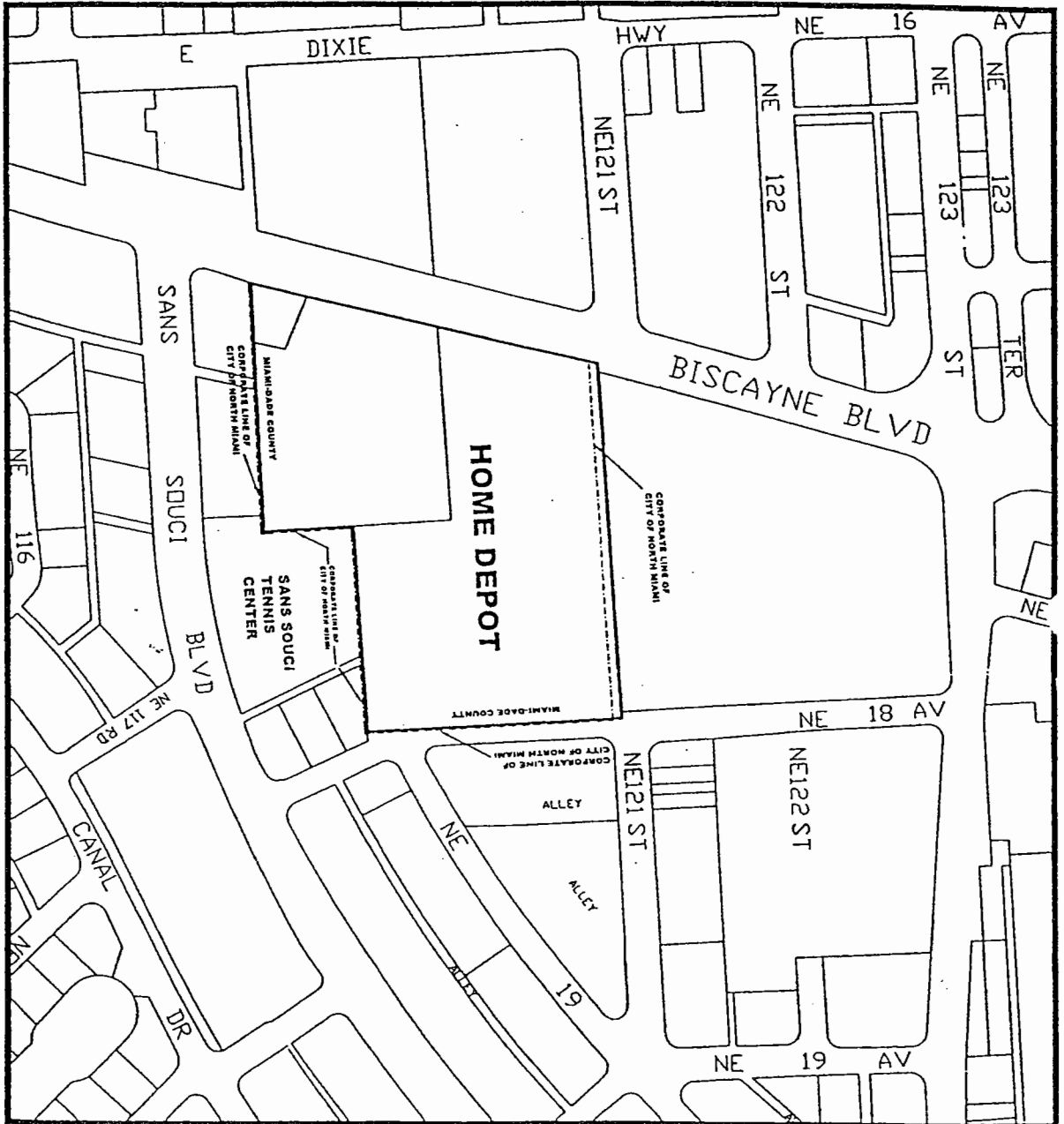
June, 2002
Barbara Johnson, Deputy City Clerk

APPROVED AS TO FORM:

J. C. Dellapina 6-4-02
CITY ATTORNEY



City of North Miami Home Depot Annexation Application



MEMORANDUM

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

Agenda Item No. 6(A)

(Second Reading 7-8-03)

TO: Hon. Chairperson and Members
Board of County Commissioners

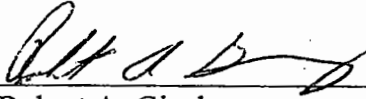
DATE: April 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Town of Medley
annexation

03-156

The accompanying ordinance was prepared and placed on the agenda by the Board of County Commissioners.


Robert A. Ginsburg
County Attorney

RAG/jls



MEMORANDUM

To: Honorable Chairperson and Members
Board of County Commissioners

Date: July 8, 2003

From: George M. Burgess
County Manager

Subject: Background Information and
Fiscal Impact Town of Medley
Annexation

On November 6, 2000, the Town of Medley Town Council approved Resolution No. C-750, which requests Miami-Dade County to effect the annexation of an area into the jurisdiction of Medley pursuant to the County's Charter.

The Boundaries Commission, at a public hearing on May 9, 2001, recommended approval of the proposed annexation.

On September 17, 2002, the Planning Advisory Board recommended approval of the annexation application.

On February 13, 2003, following the required public hearing, the Budget and Finance Committee recommended approval of the subject annexation. On March 11, 2003, the Board of County Commissioners directed the County Attorney to prepare an ordinance to modify the Town of Medley's municipal boundaries.

ANALYSIS

Objectives

The application states that the subject annexation area will provide future land for the long-term growth of Medley, significant job creation, and increase the tax base of the Town and Miami-Dade County for operations and infrastructure improvements in the future. In additions, it states that landowners in the area will have much greater and closer access to local government officials and services provided by Medley, as well as, benefit from future infrastructure improvements sponsored in part by the Town.

Land Use

The proposed future land use in the subject area would be consistent with the Industrial and Office designation shown on the Miami-Dade County adopted 2005-2015 Land Use Plan Map.

Facilities and Services

Police -- The Town states that immediately upon annexation it will provide much faster police response than can currently be provided by the Miami-Dade Police Department. Projected Town Police emergency response to the area is 2 to 5 minutes. The Town Police Department currently has 33 sworn officers and 31 patrol cars. The County's Doral Station (District 3) provides direct police services to the subject area.

Fire and Rescue - According to the application, fire protection and emergency medical services will continue to be provided by Miami-Dade County. Specifically, County's Station 46, located at 10200 NW 116 Way, which currently serves the annexation area.

Water and Sewer - Pursuant to Ordinance No. 89-15, at the time any portion of the proposed annexation property is considered for development, if Medley wishes to provide water and sewer services, a determination would be made by the Miami-Dade County Water and Sewer Department, on a case by case basis, of its ability to provide water and sewer service.

Solid Waste - The area proposed for annexation is within the County's waste unincorporated municipal service area. Per Ordinance #96-30, as the Town does not, at this time, have an interlocal agreement with the County regarding long term waste disposal, the area proposed for annexation will remain a part of the County's unincorporated municipal service area. If the Town were to enter into a twenty-year waste disposal commitment with the County, the Department of Solid Waste Management (DSWM) could opt to delegate waste collection responsibilities to the Town, provided that the cumulative effect 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. In the absence of the standard twenty-year interlocal agreement addressing waste disposal, there would be no impact on the County's disposal system. In the event that the Town was to enter into such an interlocal agreement, the Town is expected to deliver the waste to the County system.

It should be noted, however, that the DSWM provides residential services and the area under consideration for annexation is zoned for industrial use and has no residential properties.

Street Maintenance -- Medley maintains all streets within its jurisdiction with the exception of State and County roadways. Many minor arterials and collector streets are constructed and improved by the private sector as development occurs with maintenance transferring to the Town once improvements are completed. It is expected that roads and streets built in the future in the subject annexation area would be constructed/improved by private development and thereafter maintained by Medley.

Parks and Recreation - The current and proposed land use for the annexation area is Industrial and Office. If annexation is approved, the Town will keep the same land use pattern in place. Thus, the existing and future development of the annexation area is not expected to create park and recreation needs.

Annexation Guidelines

The following analyses address the factors required for consideration by the Boundaries Commission, Planning Advisory Board and Board of County Commission pursuant to Chapter 20 of the County Code.

1. The suitability of the proposed annexation boundaries, in conjunction with the existing municipality, to provide for a municipal community that is both cohesive and inclusive.

- a. The area does not divide a Census Designated Place, (an officially recognized traditional community).

The proposed annexation area is entirely located outside a Census Designated Place (CDP). The area does not divide a historically recognized community and the Doral CDP is located to the south of the annexation area.

- b. In no adjacent unincorporated area have a majority of ethnic minority or lower income residents petitioned to be in the annexation area.

No adjacent unincorporated areas have a majority of ethnic minority or lower income residents.

- c. The area is not, nor does not create, an unincorporated enclave area (surrounded on 80 percent or more of its boundary by municipalities) that cannot be efficiently or effectively served by the County.

The proposed annexation does not create an unincorporated enclave area.

- d. The boundaries are logical, consisting of natural, built or existing features or city limits.

The area is bounded on the north by the Town of Medley, on the east by the Town of Medley, the west Northwest 87th Avenue and on the south by NW 74th Street.

- 2. The existing and projected property tax cost for municipal-level service to average homeowners in the area currently as unincorporated and as included as part of the annexing municipality.**

There are no homeowners within the proposed annexation boundaries.

- 3. Relationship of the proposed annexation area to the Urban Development Boundary (UDB) of the County's Comprehensive Development Master Plan.**

The area is within the Urban Development Boundary of the County's Comprehensive Development Master Plan (CDMP). The County's Land Use Policy 2B states that "priority in the provision of services and facilities and the allocation of financial resources for services and facilities in Miami-Dade County shall be given first to serve the area within the Urban Development Boundary (UDB) of the Land Use Plan Map (LUP)."

- 4. 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 the adjacent remaining unincorporated area.**

The proposed annexation area has a tax roll of approximately \$71.7 million. At the current unincorporated municipal service area (UMSA) millage this area generates \$167,000 per year in property taxes. The County expends approximately \$124,000 per year providing services. Therefore, the proposed annexation area is a donor to the level of \$43,000 per year. The Town of Medley has proposed to mitigate this impact by entering into an interlocal agreement with Miami-Dade County to contribute .63 mills per year to the Municipal Services Trust Fund (MSTF). This contribution will fully mitigate the impact of the annexation.

The MSTF is being created to manage the contributions made by cities to mitigate the impacts of their incorporation/annexation. The MSTF will be used to support services in the remaining UMSA.

Additionally, since the Town of Medley is served by the fire-rescue district and the library system, the proposed annexation area will not impact them.

- 5. Fiscal impacts of the proposed annexation on the remaining unincorporated area. Specifically, does the per capita taxable value of the area fall within the range of \$20,000 to \$48,000?**

The per capita taxable value calculation is not applicable to this analysis since there are not any residents in the area. However, the financial impacts are being mitigated as discussed in Section 4.

6. Consistency with the Land Use Plan of the County's Comprehensive Development Master Plan.

The land use designation proposed by the Town in the annexation area would be consistent with the County's comprehensive plan.

The County's 2005-2015 Land Use Plan Map designates the proposed annexation area for Industrial and Office.

The County's "Industrial and Office" land use designation allows industries, manufacturing operations, warehouses, mini-warehouses, office buildings, wholesale showrooms, distribution centers, merchandise marts and similar uses. The existing industrial zoning and industrial use is consistent with the County's CDMP.

Boundaries Commission Recommendation

On May 9, 2001, at a public hearing, the Boundaries Commission recommended approval of the proposed annexation.

Planning Advisory Board Recommendation

On September 17, 2002, at a public hearing, the Planning Advisory Board recommended approval of the proposed annexation.




MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 8, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(A)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(A)
7-8-03

ORDINANCE NO. _____

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 (Exhibit 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

**TOWN OF MEDLEY
ANNEXATION**

All of Section 10, Township 53 South, Range 40 East in Miami-Dade County, Florida, lying Southwesterly of the Centerline of the Miami Canal as shown on the Florida State Department of Transportation Right-of-Way Map Section 87090-2518 dated June 26, 1970 and recorded in Road Plat Book 88 at Page 12 of the Public Records of Miami-Dade County, Florida,

LESS all those portions of said Section 10 previously incorporated into the Town of Medley, 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.

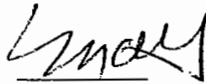
Section 4. The provisions of this ordinance are interdependent upon one another, and the entire ordinance shall be deemed invalid if any of its provisions are declared invalid or unconstitutional. If any of the sections of this ordinance are found or adjudged to be illegal, void or of no effect, the 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.

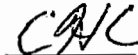
PASSED AND ADOPTED:

JUL 08 2003

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Craig H. Coller

Sponsored by Board of County Commissioners

RESOLUTION NO. C-750

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MEDLEY, FLORIDA APPROVING PROPOSED MUNICIPAL BOUNDARY CHANGES BY ANNEXING ADDITIONAL LANDS INTO THE TOWN OF MEDLEY; ADDRESSING THE CONCERNS OF THE BOARD OF COUNTY COMMISSIONERS REGARDING THE FISCAL IMPACT THAT ANNEXATIONS HAVE ON THE REMAINING UNINCORPORATED AREAS OF MIAMI-DADE COUNTY; REQUESTING THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY TO EFFECT BY ORDINANCE THE PROPOSED BOUNDARY CHANGES; RATIFYING AND AFFIRMING RESOLUTION C-748; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 5.04 of the Charter of Metropolitan Dade County, Florida empowers the Board of County Commissioners of Miami-Dade County, Florida to effect annexation on request of the governing body of a municipality; and,

WHEREAS, the governing body of the Town of Medley consists of the Town Council; and,

WHEREAS, the Town Council of the Town of Medley wishes to change the boundaries of the Town by annexing certain lands as more particularly described in the legal description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and,

WHEREAS, the Supervisor of Elections of Miami-Dade County has certified to the Town of Medley that there are no registered voters residing within the boundaries of the

lands that the Town of Medley desires to annex and accordingly a special referendum will not be required regarding the proposed annexation; and

WHEREAS, the Town Council of the Town of Medley as its governing body is aware of, and intends to address, the concerns of the Board of County Commissioners regarding the fiscal impact of the annexation by the proposed annexation on the remaining unincorporated areas of Miami-Dade County and intends to properly address such issues by negotiating and entering into an agreement with the County to mitigate such fiscal impact; and,

WHEREAS, the Town Council of the Town of Medley as its governing body has previously passed and adopted Resolution C-748 providing for proposed municipal boundary changes by the annexation of additional lands into the Town of Medley legally described in paragraphs 1 through 7 in Exhibit "A" attached hereto and made a part hereof; and,

WHEREAS, the Town Council of the Town of Medley wishes to expand the proposed municipal boundary changes by annexing additional lands into the Town of Medley legally described in paragraphs 8, 9, and 10 in Exhibit "A" attached hereto and made a part hereof so that the entire proposed municipal boundary changes shall now include all lands legally described in paragraphs 1 through 10 in Exhibit "A" attached hereto and made a part hereof and depicted on the map attached hereto as Exhibit "B"

WHEREAS, it is in the best interests of the Town of Medley to accomplish such annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MEDLEY, FLORIDA:

SECTION ONE: The above recitals are true and correct and are incorporated herein

by reference.

SECTION TWO: That the Town of Medley shall address the currently existing concerns of the Board of County Commissioners regarding the fiscal impact that the annexation by the Town of Medley will have on the remaining unincorporated areas of Miami-Dade County, Florida.

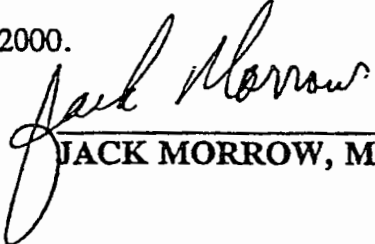
SECTION THREE: That the Town of Medley hereby requests the Board of County Commissioners of Miami-Dade County Florida, pursuant to Section 5.04 of the Charter of Metropolitan Dade County, to effect annexation of the properties legally described in Exhibit "A" attached hereto and depicted on the attached map as Exhibit "B", both of which are made a part hereof.

SECTION FOUR: That Resolution C-748 is hereby ratified and affirmed.

SECTION FIVE: That this Resolution shall become effective immediately upon its adoption by vote of the Medley Town Council.

PASSED AND ADOPTED BY unanimous VOTE of the Town Council of the Town of Medley, Florida this 6th day of November, 2000.


HERLINA TABOADA, TOWN CLERK


JACK MORROW, MAYOR

Approved as to form and sufficiency:


MELVIN WOLFE, TOWN ATTORNEY

SUMMARY OF VOTE

The motion to adopt the foregoing Resolution was made by Tanner and

seconded by Advincula and on roll call, the following vote was had:

Mayor Jack Morrow:

Vice-Mayor Eugenio Advincula:

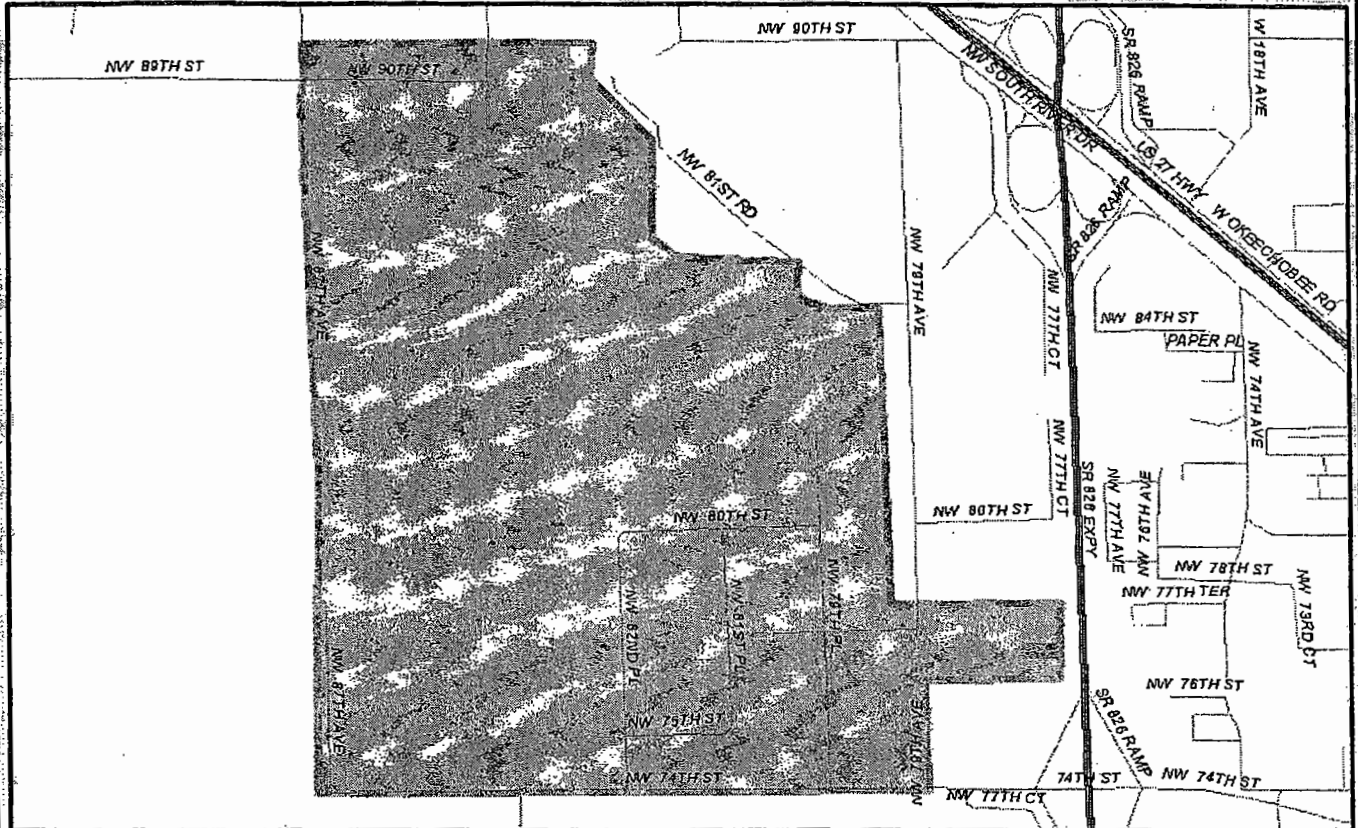
Councilperson Carlos Benedetto:

Councilperson Margarita DeJesus:

Councilperson Mary Tanner:

yes
yes
yes
yes
yes

Miami-Dade County
Medley Section 10



Legend
Highway Street
Medley Section 10

APR 2015 4 40011m

amarcographics

Shaded as per map by the Miami-Dade County
Public Works Department
Map Number 2015
4/1/2015
4/1/2015



15



MEMORANDUM

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

107.07-17A

(Second Reading 6-3-03)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 22, 2003

03-136

SUBJECT: Ordinance Amending
Section 33-133 of the
Miami-Dade County Code
Pertaining to Zoned Rights-
of-Way and Minimum Widths
of Roads

FROM: Steve Shiver
County Manager

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

03-136

RECOMMENDATION

It is recommended that the Board approve the attached ordinance amending Section 33-133 of the Code of Miami-Dade County to adjust the zoned right-of-way alignment for SW 157th Avenue between SW 136th Street and theoretical SW 112th Street due to the existing alignment of the Black Creek Canal (C-1W) not being constructed along the circuit court confirmed Section Line.

BACKGROUND

SW 157 Avenue is a designated 80-foot wide section line right-of-way. Section line rights-of-way typically straddle the section lines with equidistant widths of dedication on either side of the section lines, however, Miami-Dade County, Public Works Department is realigning SW 157th Avenue to run parallel with the Black Creek Canal as constructed which does not run parallel to the circuit court confirmed section line.

The State of Florida constructed the Black Creek Canal (C-1W) at a time when there was confusion about the actual location of the section line. The Circuit Court of the 11th Judicial Circuit Court ultimately confirmed the location of this and other section lines in the final judgment of Case No. 89-15236 (CA 25) DADE COUNTY vs. HENRY WOLFF, where Miami-Dade County prevailed, as recorded in Official Record Book 17179 Page 4377, public records of Miami-Dade County, Florida. As a result of the Court's ruling, the aforementioned canal skews westerly of the confirmed section line. Therefore, Section 33-133 of the Code of Miami-Dade County must be amended to match the Public Works Department's alignment of this portion of SW 157th Avenue.

FISCAL IMPACT

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

Attachment



MEMORANDUM
(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 3, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(J)

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(J)
6-3-03

Veto _____

Override _____

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 33,
ZONING CODE OF MIAMI-DADE COUNTY,
FLORIDA AMENDING SECTION 33-133
PERTAINING TO ZONED RIGHTS OF WAY
AND MINIMUM WIDTH FOR CERTAIN
ROADWAYS; 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 33-133 of the Code of Miami-Dade County, Florida is hereby
amended as follows: ¹

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*

* * *

>>(46.1) SW 157 Avenue from theoretical SW 112 Street to
SW 120 Street 80

Said 80-foot right-of-way shall be measured
westward of the westerly line of the 140 foot wide
Black Creek Canal (C-1W) right-of-way as

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.

constructed in the SE 1/4 of Section 8, Township 55 South, Range 39 East and shall transition Northerly through said SE 1/4 of said Section 8 to meet the existing alignment for SW 157th Avenue at theoretical SW 112th Street, on the north side of said Black Creek Canal (C-1W). Said transition shall meet with the approval of the Directors of the Departments of Planning and Zoning and Public Works.

(46.2) SW 157 Avenue from SW 120 Street to SW 136 Street

80

Said 80-foot right-of-way shall be measured westward of the westerly line of the 150 foot wide Black Creek Canal (C-1W) right-of-way as constructed across Section 17, Township 55 South, Range 39 East. <<

* * *

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 thereby.

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

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

PASSED AND ADOPTED JUN 03 2003

Approved by County Attorney as to form and legal sufficiency.

RAG

Prepared by:

JAC

Joni Armstrong Coffey

RECEIVED
JUN 25 2003

ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING

BY _____

4



MEMORANDUM

Agenda Item No. 6(I)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: June 3, 2003

From: Steve Shyer
County Manager

Subject: Proposed Ordinance Pertaining
to Boat and RV Storage Area.

03-135

RECOMMENDATION

It is recommended that this proposed ordinance permitting accessory boat and recreational vehicle (RV) storage area within certain private residential communities be adopted.

BACKGROUND

This ordinance was prepared in response to constituents' concerns regarding both the shortage of facilities for the storage of boats and the relatively high cost of storing boats and recreational equipment at commercial storage lots. This ordinance, if adopted, will help alleviate the storage facility shortage and will provide planned communities the opportunity to offer an amenity desired by many Miami-Dade County residents. The current zoning regulations necessitate that a parcel dedicated to such use be zoned BU-3 (Liberal Business District). This ordinance would allow boat and RV storage areas to be developed within a private residential community upon certain conditions and with certain controls that assure the non-commercial operation of the storage area.

This ordinance proposes to permit, subject to conditions, an outdoor boat and RV storage area as an accessory use on private residential condominium association, homeowner's association or multi-family tenant community property. It also provides for an administrative review process for both proposed residential communities as well as previously developed communities desiring this amenity, and where said previously developed communities are required by code to provide and maintain common open space.

FISCAL IMPACT

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

Attachment



MEMORANDUM
(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 3, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(I)

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(I)
6-3-03

Veto _____

Override _____

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING;
AMENDING SECTION 33-20 OF THE CODE OF
MIAMI-DADE COUNTY, FLORIDA PERTAINING
TO BOAT AND RV STORAGE AREA;
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 33-20 of the Code of Miami-Dade County, Florida is hereby
amended as follows:¹

**Sec. 33-20. Accessory buildings; utility sheds; swimming
pools; fallout shelters; boat storage.**

* * *

>>(h) Outdoor boat and RV storage area on private residential
condominium association, homeowner's association or multi-family
tenant community property. The term "boat" as used in this subsection
shall include every description of watercraft or airboat used or capable
of being used as a means of transportation on water. The term "RV"
shall mean recreational and camping equipment in the form of travel
and camping trailer, swamp buggy and other off-road vehicles and
motor travel home.

Conditions and limitations. An outdoor storage area designated for
residents' parking of boats and RV's shall be permitted, subject to
compliance with 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.

- (1) The private storage area is an accessory use for a residential condominium, homeowner's association or multi-family tenant association and shall be located on the residential condominium, homeowner's association or multi-family tenant association property.
- (2) Each boat and RV stored in the designated area shall be registered to a resident of the subject condominium, homeowner's or tenant's association community. In no event shall non-residents' recreational vehicles or boats be parked in the storage area. Each boat shall be secured to a transporting trailer in compliance with all applicable regulations.
- (3) The area devoted to storage shall be setback a minimum of 25 feet from all property lines; said 25-foot setback area to be maintained as an open landscaped area and shall be free of walls and/or fences. In no event shall the storage area count toward required landscaped open space; providing, however, the 25-foot landscaped setback area may be computed toward required open landscaped space.
- (4) The storage area shall be enclosed by (1) a five-foot decorative masonry wall or (2) a five-foot high chain link fence with hedges a minimum of three feet in height when measured immediately after planting and maintained to form a visual screen around the site within one year after the time of planting, except that gated openings shall be permitted for ingress and egress.
- (5) The storage area shall not be included in maximum lot coverage.
- (6) The storage area shall either be paved or shall be hard-surfaced and shall comply with the requirements of the Department of Environmental Resources Management as well as the Florida Building Code.
- (7) Boats placed in the storage area shall be restricted to the following dimensions as measured pursuant to Section 33-20(e):
 - (a) thirty (30) feet in overall length

- (b) eight feet six inches (8'6") in width
- (c) thirteen (13) feet six (6) inches in height.
- (8) RV's placed in the storage area shall not exceed thirty (30) feet in length, eight feet six inches (8'6") in width nor exceed ten (10) feet in height.
- (9) The boats, RV's and place of storage shall be kept in a clean, neat condition.
- (10) Where required under Florida Statute, all RV's, boats and trailers for transporting same shall have and display a current Florida registration or license plate.
- (11) No major repairs or overhaul work shall be made or performed on the premises; and no flushing of outdrive or outboard motors shall be permitted from sunset to sunrise.
- (12) Neither the boats nor the RV's shall be used for living or sleeping quarters while parked in the storage area.
- (13) Common open space on residential condominium property may be utilized for such a storage area, all subject to the conditions enumerated herein.
- (14) Maintenance of the storage area shall either be provided through (i) a multi-purpose special taxing district, (ii) through the associations execution of a declaration of restrictions, or (iii) other maintenance provisions acceptable to Miami-Dade County in recordable form approved by the County Attorney, accepting responsibility for the maintenance of the storage area and ensuring continued compliance with the conditions enumerated herein.

Administrative review required. Such storage area(s) shall be shown on plans submitted for site plan approval or plat approval, whichever is required by code to occur first, and the storage area shall be subject to review for compliance with the conditions enumerated in this subsection; or such proposed storage area(s) for previously developed (existing) communities containing required common open space shall be reviewed for substantial compliance, and an application for

substantial compliance determination may be considered in substantial compliance with previously approved plans if the proposed storage area is shown in a location that had previously been indicated as common open space, provided the storage area complies with all the conditions contained in this subsection. Substitution of a storage area for previously approved recreational amenities, such as but not limited to tennis and racketball court(s) and similar recreational amenities may be permitted upon a showing that the majority of the property owners or tenants in the community approve same.<<

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

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

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

PASSED AND ADOPTED: JUN 03 2003

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

Prepared by: JAC

Joni Armstrong Coffey

RECEIVED
JUN 25 2003

ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING

BY _____



MEMORANDUM

Agenda Item No. 6(H)

(Second Reading 6-3-03)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: February 20, 2003

From: Steve Shive
County Manager

A handwritten signature in black ink, appearing to read "Steve Shive", written over a horizontal line.

Subject: Proposed Ordinance pertaining to
Zoning Amending Section 33-311
of the Code to Modify the Amount
of Lot Coverage Permitted Under
the Alternative Site Development
Option for Single Family and
Duplex Developments

03-134

RECOMMENDATION

It is recommended that the Board adopt the attached proposed ordinance amending Section 33-311 of the Code of Miami-Dade County pertaining to the maximum lot coverage permitted under the alternative site development option for single family and duplex dwellings.

BACKGROUND

Pending legislation will increase the maximum permitted lot coverage in the RU-1M(a) and RU-1M(b) to 45%. Presently, the alternative site development option for single family and duplex dwellings provides that the total lot coverage shall not be increased by more than 20% of the lot coverage permitted by the underlying district regulations. The proposed ordinance will restrict the total amount of permitted lot coverage under the alternative site development option to no more than 50%.

FISCAL IMPACT

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

Attachment



MEMORANDUM
(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 3, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(H)

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(H)

Veto _____

6-3-03

Override _____

ORDINANCE NO. _____

ORDINANCE PERTAINING TO ZONING; MODIFYING SECTION 33-311 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA PERTAINING TO MAXIMUM LOT COVERAGE STANDARDS FOR ALTERNATIVE SITE DEVELOPMENT OPTION FOR SINGLE FAMILY AND DUPLEX DEVELOPMENT; 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 created 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 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.

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

- * * *
- (e) 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 20% of the lot coverage permitted by the underlying district regulations; >>provided, however, that the proposed alternative development shall not result in total lot coverage exceeding 50% of the net lot area;<< and
- * * *

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 03 2003

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

Prepared by: JAC
Joni Armstrong Coffey

RECEIVED
JUN 25 2003

ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING

BY _____

MEMORANDUM

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

Agenda Item No. 6(F)

TO: Hon. Chairperson and Members
Board of County Commissioners

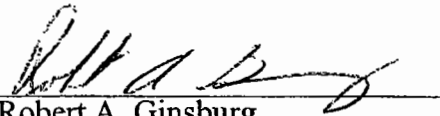
DATE: (Second Reading 6-3-03)
January 23, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning;
modifying lot coverage and
setback requirements in RU-1,
RU-1M(a) and RU-1M(b) zoning
districts

03-132

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: June 3, 2003

FROM: Steve Shiver
County Manager



SUBJECT: Ordinance relating to zoning;
modifying lot coverage and setback
requirements in RU-1, RU-1M(a)
and RU-1M(b) zoning districts

The proposed ordinance modifying lot coverage and setback requirements in RU-1, RU-1M(a) and RU-1M(b) zoning districts will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 3, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6 (F)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(F)
6-3-03

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; MODIFYING LOT COVERAGE AND SETBACK REQUIREMENTS IN RU-1, RU-1M(a) AND RU-1M(b) ZONING DISTRICTS; AMENDING SECTIONS 33-49 AND 33-50 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; MODIFYING APPLICABILITY OF ORDINANCE 02-32; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, it is the intent of the Board of County Commissioners to direct the Department of Planning and Zoning to liberally encourage the application of the new lot coverage and setback requirements to new and pending zoning requests, as well as to previously approved zoning requests whenever the application of the new requirements is within substantial compliance of approved plans, where such requests are platted after March 8, 2002,

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

Section 1. The aforementioned recitation is incorporated herein by reference.

Section 2. Sections 33-49 and 33-50 of the Code of Miami-Dade County, Florida, are hereby amended to read as follows:¹

Sec. 33-49. Table of minimum widths, area of lots; maximum lot coverage, and minimum building sizes.

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.

The minimum width and area of lots, the maximum lot coverage, and minimum building sizes shall be in effect for the districts enumerated in the following table:

<i>District</i>	<i>Families</i>	<i>Min. Width</i>	<i>Min. Lot Area (Sq. Ft.)</i>	<i>Max. Lot Coverage (% of Lot Area)</i>	<i>Min. Bldg. Size (Cu. Ft.)</i>
RU-1	1	New sub. – 75'	7,500 5,000	>>35% for subdivisions <u>platted on or before March 8, 2002;</u> << 40% >>for subdivisions <u>platted after March 8, 2002;</u> <<	8,500
		Old sub. – 50'		35%	
RU-1M(a)	1	50'	5,000	40% >>for subdivisions <u>platted on or before March 8, 2002;</u> 45% for subdivisions <u>platted after March 8, 2002</u> <<	8,500
RU-1M(b)	1	60'	6,000	40% >>for subdivisions <u>platted on or before March 8, 2002;</u> 45% for subdivisions <u>platted after March 8, 2002</u> <<	8,500
		*	*	*	

Sec. 33-50. Table of setback lines in residential and estate districts.

The minimum setback distances and spacing requirements in residential and estate district shall be as follows:

<i>District/ Families</i>	<i>Front (Ft.)</i>	<i>Rear (Ft.)</i>	<i>Between Buildings (Ft.)</i>	<i>Interior Side (Ft.)</i>	<i>Side Street (Ft.)</i>
RU-1: One	>>25 for <u>subdivisions platted on or</u>	>>25 for <u>subdivisions platted on or</u>		10% lot width Min. --5'	15

<i>District/ Families</i>	<i>Front (Ft.)</i>	<i>Rear (Ft.)</i>	<i>Between Buildings (Ft.)</i>	<i>Interior Side (Ft.)</i>	<i>Side Street (Ft.)</i>
	<u>before March 8, 2002;</u> <u>for subdivisions platted after March 8, 2002,</u> <<15 for 50% of the lineal footage of the width of the house and 25 for balance; except 20 for attached garages	<u>before March 8, 2002;</u> <u>for subdivisions platted after March 8, 2002,</u> << 15 for 50% of the lineal footage of the width of the house and 25 for balance		Max.--7 ½	
Acc. bldg.	75	5	10	Same as RU-1 res.	equal to front set back requirements for principal structure on key lot, plus 5'; 20' where there is no key lot.
Canopy carport	5	5	--	2	5
RU-1M(a)	>> <u>25 for subdivisions platted on or before March 8, 2002;</u> <u>for subdivisions platted after March 8, 2002,</u> << 15 for 50% of	>> <u>25 for subdivisions platted on or before March 8, 2002;</u> <u>for subdivisions platted after March 8, 2002,</u> << 15 for 50% of the lineal footage of	--	5	10

<i>District/ Families</i>	<i>Front (Ft.)</i>	<i>Rear (Ft.)</i>	<i>Between Buildings (Ft.)</i>	<i>Interior Side (Ft.)</i>	<i>Side Street (Ft.)</i>
	the lineal footage for the width of the house and 25 for balance; except 20 for attached garages	the width of the house and 25 for balance			
Acc. bldg.	75	55	10	5	15
Canopy carport	5	5	--	2	5
RU- 1M(b)	>>25 for <u>subdivisions platted on or before March 8, 2002;</u> for <u>subdivisions platted after March 8, 2002,</u> << 15 for 50% of the lineal footage for the width of the house and 25 for balance; except 20 for attached garages	>>25 for <u>subdivisions platted on or before March 8, 2002;</u> for subdivisions <u>platted after March 8, 2002,</u> << 15 for 50% of the lineal footage of the width of the house and 25 for balance	--	6	10
Acc. bldg.	75	5	10	6	15

<i>District/ Families</i>	<i>Front (Ft.)</i>	<i>Rear (Ft.)</i>	<i>Between Buildings (Ft.)</i>	<i>Interior Side (Ft.)</i>	<i>Side Street (Ft.)</i>
Canopy carport	5	5	--	2	5

* * *

Section 3. Section 3 of Ordinance No. 02-32 is hereby deleted as follows:

~~[[Section 3. This ordinance shall apply to all zoning actions rezoning property to RU-1, RU-1M(a) or RU-1M(b) after the effective date of this ordinance.]]~~

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.

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

PASSED AND ADOPTED: JUN 03 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6
CAK

Prepared by:

Craig H. Coller

Sponsored by Commissioner Bruno A. Barreiro

RECEIVED
JUN 25 2003

ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING

BY _____

MEMORANDUM

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

Agenda Item No. 6(E)

TO: Hon. Chairperson and Members
Board of County Commissioners

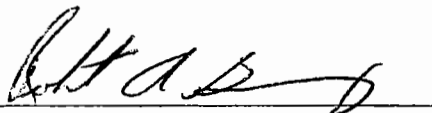
(Second Reading 6-3-03)
DATE April 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning
applications; modifying
requirement for boundary survey

03-131

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Sally A. Heyman.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 3, 2003

FROM: Steve Shiver
County Manager

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

SUBJECT: Ordinance relating to zoning applications; modifying requirement for boundary survey

This proposed ordinance relating to zoning applications will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 3, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(E)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6 (E)
6-3-03

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING APPLICATIONS;
MODIFYING REQUIREMENT FOR BOUNDARY SURVEY;
AMENDING ORDINANCE NO. 02-150 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 1 of Ordinance No. 02-150 of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-304. Applications.

(a) All requests for a district boundary change, changes in the zoning regulations, appeals of administrative decisions, special exceptions or unusual uses, new uses, variances, approvals of or modifications to developments of regional impact ("DRI"), including substantial deviation determinations, and determinations that a DRI is essentially built out, shall be made by filing an application therefor with the Director on application forms prescribed by the Director or by rule and regulation of the Developmental Impact Committee. Forms shall include, but not be limited to, disclosure forms for corporations, trusts and partnerships, and disclosure of information regarding contract purchasers and their percentage(s) of interest.

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.

Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or ii) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or iii) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, and where no one (1) person or entity holds more than a total of five (5) percent of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation, or trust. Disclosure forms shall be established by administrative order to be approved by the Board of County Commissioners. Such disclosure forms shall be included in the agendas distributed in connection with the public hearing on the application. Where applicable, requests shall specify whether, and the extent to which, the requested change in land use or proposed development conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida.

All requests which authorizes or permits development filed pursuant to this section shall include a boundary survey of the property which is the subject of the application performed in accordance with Chapter 61G17-6.0031, Florida Administrative Code as may be amended from time to time >>in the event any portion of the property is contiguous to or across the street from a municipal boundary.<< It is further provided that such survey shall depict the location of any municipal boundary on or across the property being surveyed. The boundary survey submitted shall have been updated within one year proceeding the date of an application filed pursuant to this section.

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

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

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

PASSED AND ADOPTED: **JUN 03 2003**

Approved by County Attorney as
to form and legal sufficiency:

RAE
CAC

Prepared by:

Craig H. Collier

Sponsored by Commissioner Sally A. Heyman

RECEIVED
JUN 25 2003

ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING

BY _____

MEMORANDUM

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

Agenda Item No. 6(D)

(Second Reading 6-3-03)

DATE: April 8, 2003


TO: Hon. Chairperson and Members
Board of County Commissioners

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to Office
Park District (OPD) zoning
district

03-130

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Jose "Pepe" Diaz.



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 3, 2003

FROM: Steve Shiver
County Manager

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

SUBJECT: Ordinance pertaining to Office
Park District (OPD) zoning
district

This proposed ordinance pertaining to the Office Park District (OPD) zoning district will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 3, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(D)

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(D)

Veto _____

6-3-03

Override _____

ORDINANCE NO. _____

ORDINANCE PERTAINING TO OFFICE PARK DISTRICT (OPD) ZONING DISTRICT, MODIFYING LANDSCAPED OPEN SPACE REQUIREMENTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 33-284.35 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

Sec. 33-284.5 Landscaped open space in the OPD District

(A) (*Landscaped open space*). Landscaped open space >> unencumbered with any structure or off-street parking, ingress or egress drives or private drives, << shall be provided in accordance with the requirements herein established. Areas to be credited toward the landscaped open space requirements are categorized as follows:

- (1) ~~[[Landscape areas]]~~ >> Not less than eighty (80) percent of the required landscaped open space shall be provided << at ground level, >> outside of any structure and such area shall be << well maintained with grass, trees and shrubbery, >> and may include water bodies which are completely enclosed within the office park development, provided, however, that such water areas shall not exceed fifty (50) percent of the required landscaped open space. Entrance features, passive recreational uses, pedestrian walks, permanent outdoor art displays, sitting areas and putting greens may also be included in the required landscaped open space. << ~~[[unencumbered with any structure or off-street parking, or private drives and water bodies which are completely enclosed within the office park development.]]~~

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

~~[[(2) All of the following uses when located at ground levels:~~

- ~~(a) Entrance features;~~
- ~~(b) Passive recreational uses;~~
- ~~(c) Pedestrian walks;~~
- ~~(d) Permanent outdoor art displays;~~
- ~~(e) Sitting areas;~~
- ~~(f) Putting greens.]]~~

~~[[(3)]>>(2)<< Specific areas within the enclosed or non enclosed malls which are landscaped with grass, trees and/or shrubbery, water areas therein, and areas therein with permanent art displays.~~

~~[[(4)]>>(3)<< [[Category (1) and (2) areas on roof decks and other above grade surfaces. These areas shall be provided and maintained for the common benefit of all occupants of the building.]] >>Roof decks and other above-grade surfaces.<<~~

~~[[The minimum landscaped open space for a one story building shall be 40 percent of the total lot area. The minimum landscaped open space shall be increased by three percent for each additional story or any part thereof, based on the tallest structure on the property. Each parking level within the structure shall be calculated as one story. The following are the minimum and maximum amounts for each of the above categories of landscaped open space:~~

Subparagraph	Minimum (percent)	Maximum (percent)
(A)(1)	80	None
(A)(2)	None	20
(A)(3)	None	10
(A)(4)	None	10]]

~~>>The minimum landscaped open space shall be in accordance with the following:~~

<u>Net Acreage</u>	<u>Minimum Percentage</u>
<u>Up to 10.0</u>	<u>25%</u>
<u>10.1 to 20.0</u>	<u>30%</u>
<u>20.1 to 30.0</u>	<u>35%</u>
<u>Above 30</u>	<u>40%</u>

The minimum landscaped open space shall be increased by three (3) percent for each additional story or part thereof above two (2) stories, based on the tallest structure on the property. Each parking level within the structure shall be calculated as one story.<<

* * *

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

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

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

PASSED AND ADOPTED: JUN 03 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6
JM

Prepared by:

John McInnis

Sponsored by Commissioner Jose "Pepe" Diaz

RECEIVED
JUN 25 2003
ZONING SERVICES DIVISION, DADE COUNTY
DEPT. OF PLANNING & ZONING
BY _____

MEMORANDUM

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

Agenda Item No. 6(C)

TO: Hon. Chairperson and Members
Board of County Commissioners

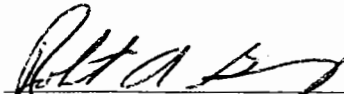
(Second Reading 6-3-03)
DATE: March 11, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning
regulation of special business
districts

03-129

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 3, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to zoning;
regulation of special business
districts

The proposed ordinance relating to regulating special business districts will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: June 3, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(C)

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(C)
6-3-03

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING REGULATION OF SPECIAL BUSINESS DISTRICTS; AMENDING SECTION 33-253 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO EXPAND PERMISSIBLE USES WITHIN BU-2 ZONE TO INCLUDE HOSPITALS UNDER CERTAIN CONDITIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 33-253 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Article XXVI. BU-2, Special Business District.

* * *

Sec. 33-253. Uses Permitted.

* * *

>>2.1 Hospitals (other than animal hospitals), subject to the following conditions:

- (a) That such uses shall be on sites of at least ten (10) net acres;
- (b) That the facility shall have capacity for a minimum of one hundred (100) beds.

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.

- (c) The certificate of use for the hospital shall be annually renewed.
- (d) That the hospital operates a 24 hour emergency room.
- (e) Notwithstanding the provisions of Section 33-253.3 of this Code, the net lot coverage permitted for all buildings on the site shall not exceed 50% of the total lot area; the floor area ratio shall be fifty one-hundredths (0.50) at one (1) story and shall be increased by fourteen-one hundredths (0.14) for each additional story up to eight (8) stories, and thereafter the floor area ratio shall be increased by six-one-hundredths (0.06) for each additional story. Structured parking shall not count as part of the floor area, but shall be counted in computing building height and number of stories. Enclosed or nonenclosed mall areas shall not count as part of the floor area, for floor area ratio computation purposes, nor as part of the lot coverage.
- (f) Notwithstanding the provisions of Section 33-253.4 of this Code, the minimum landscaped open space at one (1) story shall be fourteen percent (14%).

The minimum landscaped open space shall be increased by one (1) percent for each additional story or part thereof, up to eight (8) stories, thereafter the landscaped open space shall increase by two (2) percent for each additional story or part thereof. For the purpose of computing the amount of required landscaped space where the building height varies, the number of stories shall be equal to the sum of the products of the number of stories of each part of the building(s) of a different height times its floor area divided by the sum of the floor area of all parts of the building(s). Said open space shall be extensively landscaped with grass, trees and shrubbery. Water areas may be used as part of the required landscaped open space provided such water areas do not exceed twenty (20) percent of the required landscaped open space. The specific areas within enclosed or nonenclosed malls which are landscaped with grass, trees and/or shrubbery, water

areas therein, and areas therein with permanent art display may be used as part of the required landscaped open space provided such areas do not exceed ten (10) percent of the required landscaped open space. Landscaping and trees shall be provided in accordance with Chapter 18A of this Code.

- (g) That such uses shall be located within sites having frontage on a major access road, including major roadways (three (3) or more lanes), section or half section line roads and/or frontage roadways serving limited access highways and expressways.

- (h) The site shall meet and comply with the provisions of Section 33-253.7 of this Code, except that the wall may be penetrated at points approved by the Directors of the Planning and Zoning Department and the Public Works Department for ingress and egress to afford pedestrian or vehicular access between the sites, and if the property where the facility is located is separated from the AU, GU, RU or EU zoned property by a canal or a previously existing, dedicated and improved roadway, then a wall shall not be required on that portion of the property which is separated by the canal or roadway.<<

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

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

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

PASSED AND ADOPTED: JUN 03 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

JAC

Joni Armstrong Coffey

Sponsored by Sen. Javier D. Souto

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MEMORANDUM

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

Agenda Item No. 6(N)

(Second Reading 5-6-03)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: March 11, 2003

From: Steve Shiver
County Manager

Subject: Proposed Ordinance Eliminating
Sunset Provision of Ordinance
02-77


03-120

RECOMMENDATION

It is recommended that the proposed ordinance deleting the sunset provision of Ordinance 02-77 be adopted.

BACKGROUND

Ordinance 02-77 was approved on May 7, 2002 as an Omnipoint cure to eliminate the requirement for special exception for site plan approval for a zoning district boundary change. It contained a one year sunset provision. The ordinance is about to sunset therefore the proposed ordinance is suggested to continue the effectiveness of Ordinance 02-77 and allow district boundary change applications to continue to go to hearing without the special exception requirement.

FISCAL IMPACT

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



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6 (N)

03.120

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(N)

Veto _____

5-6-03

Override _____

ORDINANCE NO. 03-120

ORDINANCE RELATING TO ZONING; MODIFYING ORDINANCE 02-77; DELETING SUNSET PROVISION FOR SPECIAL EXCEPTION FOR SITE PLAN APPROVAL; 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 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.

* * *

~~[(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, 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~~

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.

~~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: (1) 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 380.06, 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 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 shall stand repealed one (1) year from its effective date.]]~~

>>**Section 6.** This ordinance does not contain a sunset provision.<<

PASSED AND ADOPTED: MAY 06 2003

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

JAC

Joni Armstrong Coffey





MEMORANDUM

Agenda Item No. 6(M)

(Second Reading 5-6-03)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: March 11, 2003

From: Steve Shiver
County Manager

Subject: Proposed Ordinance Pertaining to
Zoning Regulations for Multi-
Family Zoning Districts

03-119

RECOMMENDATION

It is recommended that the Board approve the attached ordinance providing alternative regulations for multi-family zoning districts. The proposed ordinance provides additional site development standards to be applied at public zoning hearings to determine setbacks, lot coverage and floor area ratio, common open space, lot area and frontage, lot coverage and floor area ratio and height of walls, hedges and fences.

BACKGROUND

The proposed ordinance establishes an alternative site development option, after public hearing, for three-unit or four-unit apartment house, multiple-family apartment house use and multiple-family housing developments, when such uses are permitted by the applicable district regulations, in the RU-3, RU-3M, RU-4L, RU-4M, RU-4, RU-4A, and RU-5 zoning districts, in accordance with the standards established herein. 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 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 three-unit or four-unit apartment house, multiple-family apartment house use and multiple-family housing 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

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(M)

03-119

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6 (M)
5-6-03

ORDINANCE NO. 03-119

ORDINANCE PERTAINING TO ZONING; MODIFYING CHAPTER 33 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE") TO INCLUDE ALTERNATIVE DEVELOPMENT OPTION STANDARDS FOR APPROVAL AFTER PUBLIC HEARING OF SETBACKS, MINIMUM LOT AREA AND FRONTAGE, MAXIMUM LOT COVERAGE, MAXIMUM FLOOR AREA RATIO, MINIMUM COMMON LANDSCAPE OPEN SPACE, PRIVATE OPEN SPACE AND MAXIMUM FENCE STRUCTURE HEIGHT, FOR THREE-UNIT OR FOUR-UNIT APARTMENT HOUSE USE, MULTIPLE-FAMILY APARTMENT HOUSE USE AND MULTIPLE-FAMILY HOUSING DEVELOPMENTS IN CERTAIN ZONING DISTRICTS PERMITTING SUCH 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.

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.

03.119

* * *

>>(15) Alternative Site Development Option for Three-unit or Four-unit Apartment House, Multiple-Family Apartment House Use and Multiple-Family Housing Developments. This subsection provides for the establishment of an alternative site development option, after public hearing, for three-unit or four-unit apartment house use, multiple-family apartment house use and multiple-family housing developments, when such uses are permitted by the applicable district regulations, in the RU-3, RU-3M, RU-4L, RU-4M, RU-4, RU-4A, and RU-5 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 three-unit or four-unit apartment house use, multiple-family apartment house use and multiple-family housing development 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:

"Common 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, except as otherwise restricted by the regulations governing the specified zoning district, patios, limited roof overhangs, screened enclosures with screened roofs, open trellises, pedestrian walkways and sitting areas, shuffle board recreational areas, swimming pools, tennis courts, landscaped areas, decks, lakes, entrance features, accessory buildings related to active or passive recreational uses, golf courses, similar open space amenities on roof decks and other above-grade surfaces, and ingress and egress drives not exceeding the maximum width required to serve the parking area.

“Applicable district regulations” means the site development regulations of the particular zoning district in which the proposed alternative development is located or the requirements, limitations and restrictions applicable to the particular type of proposed alternative development such as setbacks, lot area and frontage, lot coverage, floor area ratio, common open space, private open space, structure height and densities.

(c) Setbacks for a three-unit or four-unit apartment house use, multiple-family apartment house use or multiple-family housing development 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 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 common open space on the parcel proposed for alternative development by less than 20% of the open space percentage required by the applicable district regulations; 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(s) 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 if located on the roof of such an alternative development shall be screened from ground view and from view at the level in which the installations are located, and shall be designed as an integral part of and harmonious with the building design; 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(s) or addition(s) are aesthetically harmonious

03.119

with that of other existing or proposed structure(s) or building(s) on the parcel proposed for alternative development; and

(8) the wall(s) of any building within a setback area required by the applicable 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, parcel or tract; and

(10) any windows or doors in any building(s) to be located within an interior side setback required by the applicable 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 applicable district regulations; and

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

(A) in any parking garage where the garage door or entrance(s) or exit(s) 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(s) within an interior side setback required by the applicable 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(s) 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(s), except canopy carports, is located behind the front building line; and

(15) any structure(s) not attached to a principal building(s) and proposed to be located within a setback required by the applicable district regulations shall be separated from any other structure(s) by at least five (5) feet; and

(16) when a principal building(s) is proposed to be located within a setback required by the applicable 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 applicable district regulations or, if applicable, prior zoning actions for similar uses issued prior to the effective date of this ordinance (May 16, 2003), regulating setbacks, lot area and frontage, lot coverage, floor area ratio, common open space, private open space, structure height and densities; and

03.119

(21) the proposed development will meet the following:

(A) interior side setbacks shall not be reduced by more than twenty-five percent (25%) of the setbacks required by the applicable district regulations, except that no such alternative interior side setback shall be permitted from an interior side property line adjoining lands approved or developed for single-family or duplex residential use or designated for Low Density, Agriculture or Open Land on the Land Use Plan map of the Comprehensive Development Master Plan;

(B) side street setbacks shall not be reduced by more than twenty-five percent (25%) of the setbacks required by the applicable district regulations;

(C) interior side setbacks for active recreational uses shall not be reduced by more than 25% of the setbacks required by the applicable district regulations, except that no such alternative interior side setback shall be permitted from any interior side property line adjoining lands approved or developed for single-family or duplex residential use or designated for Low Density, Agriculture or Open Land on the Land Use Plan map of the Comprehensive Development Master Plan;

(D) front setbacks shall not be reduced by more than twenty-five percent (25%) of the setbacks required by the applicable district regulations;

(E) rear setbacks shall not be reduced by more than twenty-five percent (25%) required by the applicable district regulations, except that no such alternative rear setback shall be permitted from a rear property line adjoining lands developed for single-family or duplex residential use or designated for Low Density, Agriculture or Open Land on the Land Use Plan map of the CDMP; and

(F) setbacks between principal building(s) shall not be reduced by more than twenty-five percent (25%) of the setback required by the applicable district regulations.

(d) A lot coverage or floor area ratio for a three-unit or four-unit apartment house use, multiple-family apartment house use or multiple-family housing development shall be approved upon demonstration of the following:

(1) total lot coverage or floor area ratio shall not be increased by more than twenty percent (20%) of the lot coverage and floor area ratio permitted by the applicable 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 or floor area ratio will not result in principal building(s) 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 the immediate vicinity.

(e) Common open space for a multiple-family apartment house use or multiple-family housing development shall be approved upon demonstration of the following:

(1) common open space shall not be decreased by more than twenty percent (10%) of the common open space required by the applicable 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 common open space provided shall be used to shade and cool, direct wind movements, enhance architectural features, relate structure design to site, visually screen non-compatible uses and block noise generated by major roadways and intense use areas; and

(4) the common open space provided shall relate to any natural characteristics in such a way as to preserve and enhance their scenic and functional qualities to the fullest extent possible; and

(5) the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity.

(f) The lot area and frontage for a three-unit or four-unit apartment house use, multiple-family apartment house use or multiple-family housing

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development shall be approved upon demonstration of at least one of the following:

(1) the proposed lot area and lot frontage will permit the development or redevelopment of a lot, parcel or tract of land where such development would not otherwise be permitted by the applicable district regulations due to the size or configuration of the parcel proposed for alternative development, provided that:

(A) the lot, parcel or tract is under lawful separate ownership from any contiguous property; and

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

(C) the size and dimensions of the lot, parcel or tract 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 applicable 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 does not adjoin or lie adjacent to AU or GU zoned lands, nor lands designated for Low Density, Agricultural or Open Land under the Land Use Plan map of the Comprehensive Development Master Plan; and

(G) the lot frontage dimension is not less than ninety percent (90%) of the minimum lot frontage required by the applicable district regulations, except that the frontage dimension of a flag-lot, parcel or tract shall be permitted to be reduced to the minimum width necessary to allow vehicular access as determined by the County; and

(H) the resultant lot frontage provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment.

(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 applicable district regulations, provided that:

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

(B) the size and dimensions of each lot, parcel or tract in the proposed alternative development are sufficient to provide all setbacks required by the applicable district regulations, or, if applicable, any prior zoning actions for similar uses issued prior to the effective date of this ordinance (May 16, 2003); and

(C) the area of each lot, parcel or tract is not less than eighty percent (80%) of the area required by the applicable 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 does not adjoin or lie adjacent to AU or GU zoned lands, nor lands designated for Low Density, Agricultural or Open Land under the Land Use Plan map of the Comprehensive Development Master Plan; and

(F) the resultant lot frontage provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment.

(3) the proposed lot area and frontage is such that:

(A) the proposed alternative development will not result in the creation of more than two (2) lots, parcels or tracts; and

(B) the size and dimensions of each lot, parcel or tract are sufficient to provide all setbacks required by the applicable 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 applicable district regulations; or

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(ii) the average area of the developed lots, parcels or tracts 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 does not adjoin or lie adjacent to AU or GU zoned lands, nor lands designated for Low Density, Agricultural or Open Land under the Land Use Plan map of the Comprehensive Development Master Plan; and

(F) the resultant lot frontage provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment.

(g) A lot coverage or floor area ratio for a three-unit or four-unit apartment house use, multiple-family apartment house use or multiple-family housing development shall be approved upon demonstration of the following:

(1) total lot coverage or floor area ratio shall not be increased by more than twenty percent (20%) of the lot coverage and floor area ratio permitted by the applicable 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 or floor area ratio will not result in principal building(s) 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 the immediate vicinity.

(h) An alternative maximum height of walls, hedges or fences for a three-unit or four-unit apartment house use, multiple-family apartment house use or multiple-family housing development 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 or side street setback required by the applicable 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, natural feature of the site such as a lake or golf course, or waterbody from any window or door in a residential dwelling 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

(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 sides are "finished" in accordance with the applicable regulations; 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; and

(8) safe sight distance triangles are maintained pursuant to this code.

(i) 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.

(j) 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

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(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, parcels or tracts may warrant the provision of additional common open space. A reduction in a particular lot, parcel, or tract's interior side setback may warrant the provision of additional landscaping.<<

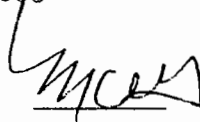
Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

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

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

PASSED AND ADOPTED: MAY 06 2003

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Joni Armstrong Coffey

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MEMORANDUM

Agenda Item No. 6(L)

To: Honorable Chairperson and Members
Board of County Commissioners

(Second Reading 5-6-03)
Date: April 22, 2003

From: Steve Shiver
County Manager

Subject: Proposed Ordinance Pertaining to
Zoning Regulations for Industrial
Zoning Districts

03-118

RECOMMENDATION

It is recommended that the Board approve the attached ordinance providing alternative regulations for industrial zoning districts. The proposed ordinance provides additional site development standards to be applied at public zoning hearings to determine lot setbacks, minimum lot area and frontage, maximum lot coverage, maximum floor area ratio, minimum common landscape open space, maximum structure height and maximum fence structure height.

BACKGROUND

The proposed ordinance establishes additional new standards for commercial development in the IU-1, IU-2, IU-3 and IU-C 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 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 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

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(L)

03-118

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(L)

Veto _____

5-6-03

Override _____

ORDINANCE NO. 03-118

ORDINANCE PERTAINING TO ZONING; MODIFYING CHAPTER 33 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA (CODE) TO INCLUDE ALTERNATIVE DEVELOPMENT OPTION STANDARDS FOR APPROVAL AFTER PUBLIC HEARING OF SETBACKS, MINIMUM LOT AREA AND FRONTAGE, MAXIMUM LOT COVERAGE, MAXIMUM FLOOR AREA RATIO, MINIMUM COMMON LANDSCAPE OPEN SPACE, MAXIMUM STRUCTURE HEIGHT AND MAXIMUM FENCE STRUCTURE HEIGHT, FOR BUILDINGS AND STRUCTURES PERMITTED AS OF RIGHT IN IU-1, IU-2, IU-3 AND IU-C ZONING DISTRICTS EXCEPT RESIDENTIAL BUILDINGS AND STRUCTURES AND RELIGIOUS FACILITIES; 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.

* * *

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.

>>(19) Alternative Site Development Option for Buildings and Structures in IU Zoning Districts. This subsection provides for the establishment of an alternative site development option, after public hearing, for buildings and structures permitted by the underlying district regulations, except residential buildings and structures and religious facilities, in the IU-1, IU-2, IU-3, and IU-C 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 industrial buildings and structures 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 term shall have the following meaning:

"Discordant Use" means adjacent land uses which

- 1) have a different zoning district prefix, or
- 2) contain an existing or approved use which is otherwise allowable as of right in a different zoning district prefix.

(c) Setbacks for a principal or accessory industrial building or structure 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 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 by more than 20% of the landscaped open space percentage required by the applicable district regulations; and
- (4) any area of shadow cast by the proposed alternative development upon an adjoining property 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 if located on the roof of such an alternative development shall be screened from ground view and from view at the level in which the installations are located, and shall be designed as an integral part of and harmonious with the building design; 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(s) or addition(s) are aesthetically harmonious with that of other existing or proposed structure(s) or building(s) on the parcel proposed for alternative development; and
- (8) the wall(s) of any building within a front, side street or double frontage setback area or within a setback area adjacent to a discordant use, required by the underlying district regulations, shall be improved with architectural

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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, parcel or tract; and
- (10) any windows or doors in any building(s) to be located within an interior side or rear 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 building(s) of a discordant use located on an adjoining parcel of land; and
- (11) total lot coverage shall not be increased by more than ten percent (10%) of the lot coverage permitted by the underlying district regulations; or a total floor area ratio shall not be increased by more than ten percent (10%) of the floor area ratio permitted by the underlying district regulations; and
- (12) the area within an interior side or rear setback required by the underlying district regulations located adjacent to a discordant use 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 of a discordant use located on an adjoining parcel of land; or
 - (B) 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%), ninety percent (90%) if located adjoining or adjacent to a discordant use, of the proposed alternative development to a height of the lower fourteen (14) feet of such structure(s) at time of planting; or
- (B) is screened from adjoining property by an opaque fence or wall at least eight (8) feet, six (6) feet if located adjoining or adjacent to a discordant use, in height that meets the standards set forth in paragraph (g) herein; and
- (14) 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 10 feet or the minimum distance to comply with fire safety standards, whichever is greater; and
- (15) when a principal or accessory 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
- (16) safe sight distance triangles shall be maintained as required by this code; and
- (17) the parcel proposed for alternative development shall continue to provide the required number of on-site parking spaces as required by this Code, except that off-site parking spaces may be provided in accordance with Section 33-128 of this Code; and
- (18) the parcel proposed for alternative development shall satisfy all other applicable underlying district regulations

or, if applicable, prior zoning actions issued prior to the effective date of this ordinance (May 16, 2003), regulating setbacks, lot area and lot frontage, lot coverage, floor area ratio, landscaped open space and structure height; and

(19) the proposed development will meet the following:

(A) interior side setbacks shall not be reduced by more than fifty percent (50%) of the side setbacks required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater when the adjoining parcel of land is a BU or IU district; interior side setbacks shall not be reduced by more than twenty-five (25%) percent of the interior side setbacks required by the underlying district regulations when the adjoining parcel of land allows a discordant use;

(B) side street setbacks shall not be reduced by more than twenty-five (25%) of the underlying district regulations;

(C) front setbacks (including double-frontage setbacks) shall not be reduced by more than twenty-five (25%) percent of the setbacks required by the underlying district regulations; and

(D) rear setbacks shall not be reduced below fifty (50%) percent of the rear setback required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater, when the adjoining parcel of land is a BU or IU district; rear setbacks shall not be reduced below twenty-five (25%) percent of the rear setback required by the underlying district regulations when the adjoining parcel of land allows a discordant use.

(E) setbacks between building(s) shall not be reduced below 10 feet, or the minimum distance required to comply with fire safety standards, whichever is greater.

(d) A lot coverage or floor area ratio for an industrial building shall be approved upon demonstration of the following:

- (1) total lot coverage or floor area ratio shall not be increased by more than ten percent (10%) of the lot coverage or floor area 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 or floor area ratio will not result in a principal or accessory building(s) 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.
- (e) Landscaped open space for an industrial development shall be approved after public hearing upon demonstration of the following:
 - (1) landscaped open space shall not be decreased by more than ten percent (10%) of the landscape open space required by the applicable 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 landscaped open space provided shall be used to shade and cool, direct wind movements, enhance architectural features, relate structure design to site, visually screen non-compatible uses and block noise generated by major roadways and intense use areas; and
 - (4) the landscaped open space provided shall relate to any natural characteristics in such a way as to preserve and enhance their scenic and functional qualities; and
 - (5) the proposed alternative development will not result in an obvious

departure from the aesthetic character of the immediate vicinity.

- (6) the installation of the required percentage of landscaped open space on an industrial site containing an existing building, would necessitate a decrease in the number of parking spaces provided, or necessitate a decrease in the square footage of an existing building on the site; and
 - (7) that twenty percent (20%) more lot or street trees are provided on the site or within the adjacent rights-of-way, respectively; said trees to be of a type and size as required by Chapter 18A; and
 - (8) that an additional number of shrubs shall be provided commensurate with the trees in (7) above; said shrubs to be of a number, type and size as required by Chapter 18A.
- (f) The lot area and frontage for industrial development shall be approved upon demonstration of at least one of the following:
- (1) the proposed lot area and frontage shall permit the development or redevelopment of an industrial building(s) on a lot, parcel or tract of land where such structure(s) 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 lot, parcel or tract is under lawful separate ownership from any contiguous property; and
 - (B) the proposed alternative development will not result in the further subdivision of land; and
 - (C) the size and dimensions of the lot, parcel or tract are sufficient to provide all setbacks required by the underlying district regulations; and
 - (D) the area of the lot, parcel or tract is not less than ninety percent (90%) of the minimum lot area required by the underlying district regulations; and
 - (E) the proposed alternative development does not result in an obvious departure from the aesthetic character of the immediate vicinity; and
 - (F) the lot, parcel or tract proposed for alternative development does not adjoin or lie adjacent to a dissimilar use; and

- (G) the frontage dimension of the lot, parcel or tract is not less than ninety percent (90%) of the minimum frontage required by the applicable district regulations, except that the frontage dimension of a flag-lot, parcel or tract shall be permitted to be reduced to the minimum width necessary to allow vehicular access as determined by the County; and
 - (H) the resultant frontage dimension of the lot, parcel or tract provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment.
- (2) the proposed alternative development results in landscaped 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 applicable district regulations, provided that:
- (A) the number of lots, parcels or tracts of the proposed alternative development does not exceed that normally permitted by the lot area dimensions of the underlying district regulations; and
 - (B) the size and dimensions of each lot, parcel or tract in the proposed alternative development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions for similar uses issued prior to the effective date of this ordinance May 16, 2003); and
 - (C) the area of each lot, parcel or tract is not less than eighty percent (80%) of the area required by the applicable 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 lot, parcel or tract proposed for alternative development does not adjoin or lie adjacent to a dissimilar use; and
 - (F) the resultant frontage of the lot, parcel or tract provides including on-site access to emergency equipment.
- (3) the proposed lot area and frontage is such that:

- (A) the proposed alternative development will not result in the creation of more than two (2) lots, parcels or tracts; and
- (B) the size and dimensions of each lot, parcel or tract are sufficient to provide all setbacks required by the applicable 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 applicable district regulations; or
 - (ii) the average area of the developed lots, parcels or tracts 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 does not adjoin or lie adjacent to a dissimilar use; and
- (F) the resultant frontage provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment.
- (g) An alternative maximum height of walls, hedges or fences shall be approved upon demonstration of the following:
 - (1) no wall, hedge or fence shall exceed ten (10) feet in height when adjoining BU or IU zoned lot or parcel; no wall, hedge or fence shall exceed eight (8) feet when adjoining a discordant use, and
 - (2) no wall, hedge or fence located in a front or side street setback required by the applicable 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 of a building on an adjoining discordant use; 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
- (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 all sides of the fence are "finished" in accordance with the applicable regulations; 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 hedges totally screen the fence; and
- (8) safe sight distance triangles are maintained pursuant to this code.
- (h) An alternative placement of a required perimeter wall setback from the rear property line(s) of the IU site where said property line adjoins or lies across the street right-of-way from a residential district, shall be approved after public hearing upon demonstration of the following:
 - (1) the setback of the wall is the minimum distance necessary so as not to encroach into existing utility or landscaped easement(s); and
 - (2) that visual screening for the wall by way of landscaping is included in the easement area to prevent graffiti vandalism in a manner provided by this Code; and

03-118

- (3) that a suitable mechanism for maintenance of the landscaped area by the property owner, tenant association, or similar association be provided in the form of a covenant running with the land.
 - (i) An alternative opening in a wall otherwise required by this code to be a solid, unbroken barrier when an outdoor industrial use is required to be confined within an area enclosed with walls when the use adjoins or lies adjacent to a residential district, shall be approved after public hearing upon demonstration of the following:
 - (1) that the width of the wall opening is the minimum width necessary for pedestrians to access the industrial site from adjoining or adjacent residential development(s); and
 - (2) that the wall opening is immediately adjoining or adjacent to a residential lot, parcel or tract which is restricted in use as common open space.
 - (j) An alternative reduction in the number of required parking spaces shall be approved on an IU site after public hearing upon demonstration of the following:
 - 1) the alternative reduction of the number of parking spaces does not apply to parking spaces for the disabled, parking spaces for persons transporting small children, nor to bicycle racks or other means of bicycle storage; and either
 - 2) the total number of required parking spaces is not reduced below 10%; and
 - (A) the alternative reduction of the number of required parking spaces does the lot, parcel or tract is located within 660 feet of an existing transportation corridor such as a Major Roadway identified on the Land Use Plan (LUP) Map, within one-quarter (1/4) mile from existing rail, transit stations, or existing express busway stops; or
 - (B) the hours of operation of multiple industrial uses within the development vary and do not overlap and a recordable agreement is provided which restricts the hours of operation; or
 - 3) the alternative development involves a mixed-use project in which

the number of off-street parking spaces is calculated by applying the Urban Land Institute (ULI) Shared Parking Methodology to the required number of parking spaces.

- (k) 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.
- (l) 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 economic viability of any industrial enterprises proposed within the approved development and the quality of life of residents and other owners of property in 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, landscaped open space over and above that normally required by the code, additional trees or landscaping, convenient pedestrian connection(s) to adjacent residential development(s), 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, monument signage (where detached signs are allowed) or limited wall signage, and decorative street lighting. In determining which amenities or buffering elements are appropriate, the following shall be considered:
- (A) the types of needs of the residents or other owners of property in the immediate vicinity and the needs of the occupants of the parcel proposed for development 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 the residents or on other owners of property in parcel(s) in 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 landscaped open space.<<

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 Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

PASSED AND ADOPTED: **MAY 0 6 2003**

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

JAC

Joni Armstrong Coffey

MEMORANDUM

Agenda Item No. 6(K)

TO: Hon. Chairperson and Members
Board of County Commissioners

(Second Reading 5-6-03)

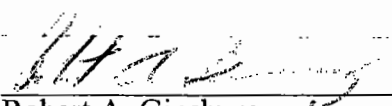
DATE: March 11, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning;
providing standards for the
provision of parking for certain
housing for older persons

03-117

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Diaz.



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to zoning;
providing standards for the
provision of parking for certain
housing for older persons

03-117

The proposed ordinance providing standards for the provision of parking for certain housing developments for older persons will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(K)

03-117

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6 (K)
5-6-03

ORDINANCE NO. 03-117

ORDINANCE PERTAINING TO ZONING; PROVIDING STANDARDS FOR THE PROVISION OF PARKING FOR CERTAIN HOUSING FOR OLDER PERSONS; AMENDING SECTION 33-124(o) 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 33-124(o) of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-124. Standards.

(o) *Housing for low and/or moderate income for ~~[[the elderly]]~~ >>older persons<< and/or~~[[handicapped]]~~ >>persons with disabilities<<.*

~~(1) For any >>publicly owned or non-profit<< apartment building exceeding four (4) units >>providing housing for elderly persons or persons with disabilities that is developed and financially assisted under the United States Housing Act of 1937<<, fifty hundredths (0.50) parking space shall be provided for each dwelling unit in the apartment building.~~

>>(2) For any other apartment building exceeding four (4) units providing low and/or moderate income housing for older persons as defined by the Fair

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.

Housing Act, 42 U.S.C. § 3607, one (1) parking space shall be provided for each dwelling unit in the apartment building.<<

[[~~(2)~~]]>>(3)<<Provisions of Chapter 33 of the Code of Miami-Dade County concerned with the requirements for lot coverage and open space shall remain enforced under this section. The lot area not used as a result of the decrease in parking spaces as required under Section 33-124(a) shall remain as open space and shall be landscaped or used for recreational purposes. Said open space shall be in addition to the open space requirements of the Code. The site plan submitted to the Department shall illustrate future parking spaces if the present parking requirements are in-adequate pursuant to subdivision [[~~(3)~~]] >>(4)<< herein.

[[~~(3)~~]]>>(4)<<If it is determined by the Department at the time of annual renewal of certificate of occupancy that the parking reduction [[~~of fifty hundredths (0.50) space per unit~~]] >>permitted pursuant to subsections (1) or (2) above<< does not allow adequate parking for the apartment building, the owner must increase the number of parking spaces to fulfill the needs as determined by the Director.

[[~~(4)~~]] ~~For the purposes of this section only, housing for low and/or moderate income elderly and/or handicapped shall be defined as publicly owned or nonprofit sponsored and owned housing for the elderly or handicapped developed and financially assisted under the United States Housing Act of 1937, as amended.]]~~

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: MAY 06 2003

Approved by County Attorney as to form and legal sufficiency:

RHG
CHK

Prepared by:

Craig H. Coller

Sponsored by Commissioner "Pepe" Diaz

MEMORANDUM

Agenda Item No. 6(J)

(Second Reading 5-6-03)

DATE: March 11, 2003

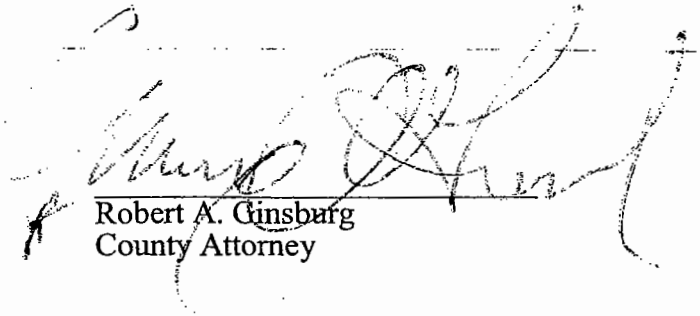
TO: Hon. Chairperson and Members
Board of County Commissioners

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating zoning
allowing electric substations
in IU-1 district

03-116

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



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to zoning;
Allowing electric substations in
IU-1 districts

03-116

The proposed ordinance allowing electric substations in IU-1 districts will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(J)

03-116

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(J)
5-6-03

ORDINANCE NO. 03-116

ORDINANCE RELATING TO ZONING; PERMITTING ELECTRIC SUBSTATIONS IN THE IU-1 ZONING DISTRICT; AMENDING SECTION 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 33-259 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

Sec. 33-259. Uses permitted.

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

* * *

>>(29.1) Electric substation.<<

* * *

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.

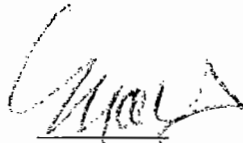
Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

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

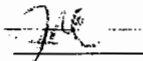
Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED MAY 06 2003

Approved by County Attorney as
to form and legal sufficiency:



Prepared By: _____



Joni Armstrong Coffey

Sponsored by Commissioner Rebeca Sosa

5

7

MEMORANDUM

Agenda Item No. 6(H)

TO: Hon. Chairperson and Members
Board of County Commissioners

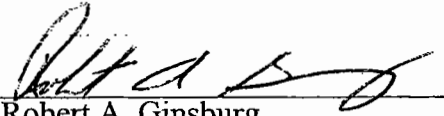
(Second Reading 5-6-03)
DATE: March 11, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning
regulation of the filing of certain
lake excavations and rock pits

03-114

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Diaz and Commissioner Rebeca Sosa.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to zoning;
regulation of the filing of
certain lake excavations and
rock pits

03-114

The proposed ordinance regulating the filing of certain lake excavations and rock pits will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(H)

03-114

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(H)
5-6-03

Veto _____

Override _____

ORDINANCE NO. **03-114**

ORDINANCE PERTAINING TO ZONING REGULATION OF THE FILLING OF CERTAIN LAKE EXCAVATIONS AND ROCK PITS; PROVIDING STANDARDS AND PROCEDURES FOR ADMINISTRATIVE APPROVAL OF EXCAVATION FILL PLANS; PROVIDING STANDARDS AND PROCEDURES FOR PERMITS; 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 33-16.01 of the Code of Miami-Dade County, Florida, is hereby created as follows:¹

>>Section 33-16.01. Administrative approval and permitting for filling of certain lake excavations and rock pits.

(I) Excavation Fill Plan Approval Required.

It shall be unlawful for any person to place fill into a lawfully existing lake excavation or rock pit without the prior written approval of the Director of an Excavation Fill Plan and a valid Excavation Fill Permit issued in accordance with the requirements set forth herein, except as such fill project may be approved at public hearing pursuant to Section 33-311 of this code. Such written approval shall expire within (i) eighteen (18) months from the date of the Director's administrative approval unless commencement of the fill project has occurred or (ii) upon abandonment of the fill project as defined in this Section.

Notwithstanding the provisions of Section 33-13(e) of this Code pertaining to the filling of a lake excavation or rock pit, the Director shall consider and approve an application for a plan for the filling of a lawful existing lake excavation or rock pit ("excavation fill plan") when it is demonstrated that the application satisfies the requirements provided herein and does not contravene the standards or criteria set

¹ Words stricken though 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.

forth in Chapter 24 of this Code. It is provided, however, that nothing contained in this section shall preclude an applicant from applying for public hearing approval to fill an excavation or rock pit pursuant to Section 33-311 of this Code. In approving an application under this section in whole or in part, the Director shall impose such conditions as necessary and appropriate to minimize the risk to public safety, health and welfare.

A. For purposes of this section the following terms shall apply:

- (1) "fill project" shall include all aspects of the filling of a lake excavation or rock pit and all ancillary activity related to the filling, including but not limited to the transportation of fill to the excavation, the unloading, testing, sorting and removal from the excavation and application site of any fill material transported to the excavation that is not considered clean fill, the placement of the remaining clean fill into the excavation, and any required lake sloping;
- (2) "phased fill project" shall be defined as a fill project conducted in separate phases as approved by the Director, where the combined filling of all phases consists of no more than forty (40) gross acres of the area of the lake excavation or rock pit, measured waterward of the top of slope;
- (3) "commencement of the fill project" shall mean the date of original Certificate of Use issuance;
- (4) "abandonment of the fill project" shall mean a six-month suspension of filling activity as defined by the above term "fill project"

B. Excavation Fill Plan Application Requirements and Standards.

- (1) The application shall be for a fill project including a total of no more than forty (40) gross acres of the area of a lawful existing lake excavation or rock pit, measured waterward from the top of slope. No application shall be considered pursuant to this section for a fill project where the total acreage approved by the Director for a single lake excavation or rock pit would exceed forty (40) gross acres, whether approved in a single application or through multiple separate applications.
- (2) The application shall seek approval of a fill project that will require no more than three (3) years to complete.

- (3) The application shall not request approval to fill an excavation or rock pit regulated by a declaration of restrictive covenants that by its terms can be modified or eliminated only at public hearing.
- (4) No portion of the lake excavation or rock pit proposed to be filled shall be on a parcel of land located (a) east of the salt barrier line pursuant to Section 7-1(b) of this code, (b) outside the Urban Development Boundary of the adopted Miami-Dade Comprehensive Development Master Plan (CDMP) Land Use Plan Map as may be amended from time to time, (c) within a designated coastal wetland or jurisdictional freshwater wetland as defined in Chapter 24 of this Code, or d) within a wellfield protection area established pursuant to Chapter 24 of the Code.
- (5) The fill project shall be located entirely on a parcel of land (a) within an IU (Industrial) zoning district, or (b) within a GU (Interim) zoning district and designated industrial and office on the CDMP Land Use Plan Map.
- (6) No portion of the requested fill project shall be located within a 1/2 mile radius of (a) the nearest property line of any parcel of land with a lawfully existing dwelling unit, except watchman's quarters, or (b) any RU, EU or AU zoned property or property designated for Residential Communities in the CDMP and on the CDMP Land Use Plan Map. Such distance shall be measured from the closest point of the proposed filling activity to the nearest RU, EU or AU district boundary line and to the nearest property line of any parcel of land with a lawfully existing non-conforming dwelling unit in any other zoning district. For purposes of establishing such distances, the applicant for such filling approval shall furnish a certified survey from a registered surveyor, which shall indicate such 1/2-mile distance. Notwithstanding the provisions of this paragraph, a fill project proposed for less than six (6) months and no more than five (5) gross acres waterward of the top of slope shall not be subject to such distance requirements.
- (7) The application shall provide that any remaining slopes not requested to be modified shall be in accordance with previously approved excavation plans or in accordance with the sloping requirements pursuant to Section 33-16(a)(6)(m) of this Code.
- (8) The fill project shall be so designed and operated so as not to create noise, vibration, dust and traffic impacts beyond that which might be otherwise expected of an allowable industrial use in an IU zoning district.

- (9) The application shall contain an off-site traffic route plan. The off-site truck route immediately abutting the fill project shall only utilize section line roads or major access roads, including major roadways (three or more lanes) and frontage roadways serving limited access expressways, providing such roadways do not abut residentially zoned or CDMP Land Use Plan Map designated park or residential areas.
- (10) The fill project shall not contravene an express prohibition contained in a prior zoning resolution.
- (11) The fill project is so designed as not to create a material risk of groundwater contamination or other adverse environmental impact, nuisance, water pollution, or ground pollution as defined in Chapter 24 of the Code.
- (12) If a lake excavation or rock pit is proposed to be filled in phases, a phase plan shall be submitted with the initial excavation fill plan and permit application. The plan and supporting documents shall delineate the area to be filled in each phase and the time frame projected to close out each phase of the fill project.
- (13) No application shall seek to fill and no administrative approval shall be granted to fill a lake excavation or rock pit utilized as part of a stormwater management plan established by a zoning resolution, plat or restrictive covenant.

(II) Excavation Fill Permit Approval and Bond Requirements.

A. Permit Requirements.

After approval of an excavation fill plan for a lake excavation or rock pit, the Director shall consider and approve an application for a permit and shall issue a permit to fill such lake excavation or rock pit, where it is demonstrated that the following requirements have been met. In approving an application under this subsection in whole or in part, the Director shall impose such conditions as necessary and appropriate to minimize the risk to public safety, health and welfare, including but not limited to requirements for posting and fencing of the property.

- (1) The plans submitted with the permit application shall be substantially in compliance with the approved excavation fill plan. The permit application plans shall include a copy of the approved excavation fill plan and at least three (3) sets of the proposed fill

03.114

project permit plans, sealed by a Florida-licensed surveyor and/or professional engineer.

- (2) The applicant shall record a notice of authorization on a form prescribed by the Director of the excavation fill plan approved by the Director and the Director of the Department of Environmental Resources Management (DERM Director) for the fill project in the public records of Miami-Dade County prior to the issuance of a Certificate of Use (CU) authorizing commencement of the fill project.
- (3) The applicant shall submit a detailed written disclosure of the fill project specifying the equipment and methods to be utilized during the fill project, including every aspect of the trucking, dumping, sorting and filling process.
- (4) The applicant shall obtain a fill project CU permit, and shall promptly renew the same semi-annually with the Department, upon compliance with all terms and conditions, the same subject to cancellation upon violation of any of the conditions. Failure to commence the fill project within six months of the date of the original CU issuance shall result in an abandonment of the fill project.
- (5) Prior to each CU renewal, the applicant shall submit a status report indicating the percentage of fill project completion and the estimated time of the fill project's final completion.
- (6) If an excavation will be filled in phases, a phase plan shall be submitted with the initial excavation fill plan and permit plan application. The plan and supporting documents shall delineate the area to be filled in each phase and the time frame projected to close out each phase of the fill project.

(B) Bond Requirements.

In addition to any bond required by DERM, the property owner and any and all parties who may have a legal beneficial or equitable interest in the land shall execute a bond agreement with the Department of Planning and Zoning prior to issuance of a CU for a fill project. Such bond agreement shall stipulate that in order to insure compliance with all terms and conditions associated with the fill project permit approval, a cash or surety bond or substantially equivalent instrument meeting with the approval of the Director shall be posted by the applicant with the Department, payable to Miami-Dade County, in an amount as may be determined and established by

the Director and the DERM Director. Said instrument shall be in such form that the same may be recorded in the public records of Miami-Dade County. The bond amount will be based on the volume of cut required to conform any remaining excavation to the approved slope configuration, as well as a minimum flat rate bond amount of \$50,000 to remove any unauthorized fill material. The bond agreement terms and conditions shall include, but shall not be limited to, the following:

- (1) that no portion of the property subject to the approved excavation fill plan and permit shall be transferred without the approval of the Director, unless the filling of the subject excavation has been completed in accordance with the excavation fill plan and permit for the fill project and unless the bond has been released;
- (2) that only such clean fill material as allowed by Chapter 24 of this Code and approved in writing by the Department of Environmental Resources Management, as set forth herein, shall be used in the fill project;
- (3) that no fill material or unacceptable fill to be removed shall be permitted to be stored on property abutting the fill project site or within the adjacent rights-of-way at any time during the fill project;
- (4) that any unacceptable fill material shall be stored in containers; shall not be permitted to remain on the project site for more than thirty (30) days; and shall not exceed a volume of forty (40) cubic yards
- (5) that neither the clean fill material piles, nor the unacceptable fill material piles, nor the piles awaiting sorting shall be permitted to exceed a height of 10 feet above the applicable flood elevations for the property.
- (6) that the applicant shall be permitted to operate no longer than between the hours of 8:00 a.m. and 5:00 p.m. on weekdays;
- (7) that the deadline date for the completion of the fill project, including final closure and completion of all tasks set forth in the approved plans and permit shall be determined by the Director and established in the permit. All authorized work shall be carried on continuously and expeditiously so that the filling will be completed within the allocated time, but in no event for any more than three (3) years from issuance of the CU permit;
- (8) that if the fill project is discontinued, abandoned, falls behind schedule or time expires under the permit, the remaining excavation

shall immediately be sloped to conform with the previously approved excavation plans and all equipment and concomitant uses shall be removed from the premises, unless an application to extend the time is filed with the Department prior to expiration of the approval and provided that good cause is demonstrated as to the delay in completing the filling of the excavation. In no event shall such extension allow the fill project to continue beyond three (3) years after issuance of permit;

(9) that the grading, leveling, sloping of the banks and perimeter restoration shall be on a progressive basis during the fill project. In accordance with this requirement, the applicant shall submit "as-built" surveys prepared and sealed by a Florida-licensed surveyor and /or professional engineer annually and at final completion of the fill operation or upon request of either the Director or the DERM Director when it is determined by the Director or the DERM Director that the filling is proceeding contrary to approved plans or in violation of the conditions of the approved excavation fill plan or the permit plan;

(10) that the property shall be suitably posted to meet with the approval of the Director and the DERM Director; said postings shall denote the fill project and shall warn the public concerning the possible hazards prior to commencement and for the duration of the fill project;

(11) that the applicant shall obtain all permits required by this Code and comply with all permit requirements and all applicable conditions of the Department of Environmental Resources Management as well as the Public Works Department for the duration of the fill project;

(12) that upon completion of the fill project, the property shall be restored and left in an acceptable condition meeting the approval of the Director and the DERM Director;

(13) that the final slope(s) of the remaining excavation shall be in accord with the previously approved excavation plan or in accord with the slope requirements of Section 33-16(a)(6)(m) of this Code, unless otherwise approved by the Director in accordance with a contiguous excavation fill plan application for an allowable phased fill project;

(14) that the final depth of any remaining excavation shall be in accord with Section 33-16(a)(6)(k) or in accord with previously approved plans for the excavation;

- (15) that the fill project shall meet all stormwater management requirements of the Code of Miami-Dade County and the filled excavation or portion of excavation filled shall not exceed the applicable flood elevations for the property;
- (16) that upon completion of a partial fill project, the site shall contain an earth berm or alternative structure in accord with the requirements of Section 33-16(a)(6)(l) or in accord with the previously approved plans if said plans had contained such a feature;
- (17) that to the extent possible, the property shall be staked and said stakes shall be maintained in proper position so that the limits of the filling, slopes and grade levels may be easily determined.<<

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 days from the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: MAY 06 2003

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

JMC

Sponsored by Commissioner Jose "Pepe" Diaz and
Commissioner Rebeca Sosa



MEMORANDUM

Agenda Item No. 6(E)

(Second Reading 5-6-03)

DATE: April 8, 2003

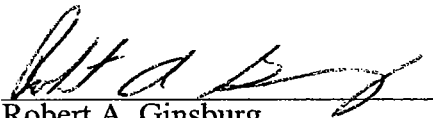
TO: Hon. Chairperson and Members
Board of County Commissioners

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance repealing Ordinance
02-27 relating to the creation
of the West Kendall Municipal
Committee Advisory

03-111

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


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance repealing Ordinance
02-27 relating to the creation of the
West Kendall Municipal
Committee Advisory

03-111

The accompanying ordinance, prepared and placed on the agenda at the request of Commissioner Joe Martinez, repealing the ordinance establishing the West Kendall Municipal Advisory Committee will not have a significant fiscal impact on Miami-Dade County.

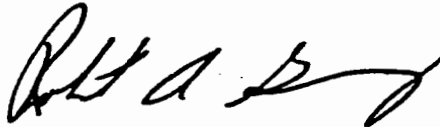


MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(E)

03.111

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6 (E)
5-6-03

ORDINANCE NO. 03-111

ORDINANCE REPEALING ORDINANCE NO. 02-27 OF MIAMI-DADE COUNTY RELATING TO THE CREATION OF THE WEST KENDALL MUNICIPAL ADVISORY COMMITTEE; 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. Ordinance No. 02-27 of Miami-Dade County that created the West Kendall Municipal Advisory Committee is hereby repealed in its entirety.

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.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

CAK

Craig H. Coller

Sponsored by Commissioner Joe A. Martinez

MEMORANDUM

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

Agenda Item No. 6 (B)

TO: Hon. Chairperson and Members
Board of County Commissioners

(Second Reading 5-6-03)

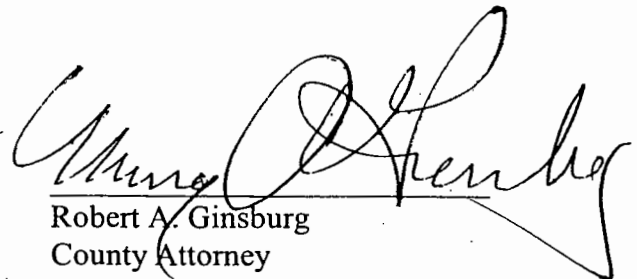
DATE: April 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT Ordinance creating and
establishing the East
Kendall Municipal Advisory
Committee

03-108

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


Robert A. Ginsburg
County Attorney

RAG/jls



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance creating and
establishing the East
Kendall Municipal Advisory
Committee

03-108

This ordinance serves as a continuation of the East Kendall Municipal Advisory Committee (MAC) because the committee's advisory report will not be completed prior to one year from the date that the MAC was created. County staff is already assigned to the MAC so consequently, Miami Dade County will not incur any additional costs.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(B)

03-108

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(B)
5-6-03

Veto _____

Override _____

ORDINANCE NO. 03-108

ORDINANCE 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; PROVIDING WAIVER OF SECTION 2-11.37(c) OF THE CODE OF MIAMI-DADE COUNTY; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

WHEREAS, pursuant to Resolution No. R-545-02 as modified by Resolution R-1084-02 (Attachment A) an East Kendall Municipal Advisory Committee was created; and

WHEREAS, it is anticipated that the Committee's advisory report will not be completed prior to one year from the date that the Committee was created pursuant to resolution; and

WHEREAS, pursuant to the Code of Miami-Dade County, Section 2-11.36.1, committees that will exist for a year or more shall be created by ordinance,

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

Section 1. **Creation of the East Kendall Municipal Advisory Committee; composition.**

There is hereby created a East Kendall Municipal Advisory Committee consisting of a minimum of seven (7) members and a maximum of eleven (11) members. The current members of the East Kendall Municipal Advisory Committee establish pursuant to R-545-02 as amended by R-1084-02 are hereby appointed to the East Kendall Municipal Advisory Committee established pursuant to this ordinance. 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. Any vacant position shall be filled by any

4

County Commissioner whose district boundaries are wholly or partially within the study area. 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 described by the boundaries set forth in Attachment B.
- (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 East Kendall 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 East Kendall.
- (2) Prior to the first public hearing, the committee shall meet with the District Commissioner and 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. The requirement of Section 2-11.37(c) of the Code of Miami-Dade County


is hereby waived.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: September 24, 200

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 9.(A)(5)

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. 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
Dorrin 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

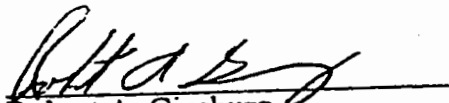
DATE: May 21, 2002

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 Stensson and Commissioner Jimmy L. Morales.


Robert A. Ginsburg
County Attorney

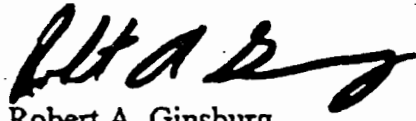
RAG/bw



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) 375-4808

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.



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.

MEMORANDUM

Amended
Agenda Item No. 6 (A)

TO: Hon. Chairperson and Members
Board of County Commissioners

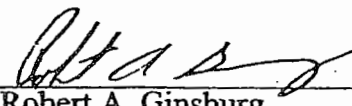
DATE: May 6, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to
Lobbyist; eliminating issue
registration requirement
and fee

O#03-107

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

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to
Lobbyist; eliminating
issue registration
requirement and fee

The proposed ordinance relating to lobbyist will have no fiscal impact to Miami-Dade County. This ordinance eliminates the issue registration fee of \$125 and the biannual lobbyist registration fee of \$500. Instead, an annual registration fee of \$490 is established. If the proposed annual fee of \$490 is approved, it should generate sufficient revenues to fully fund the required support activities such as transcribing, administration, and other costs incurred in the enforcement of the ordinance and in maintaining lobbyists records for the next five years.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: May 6, 2003


FROM: Robert A. Ginsburg
County Attorney

Amended

SUBJECT: Agenda Item No. 6(A)

Please note any items checked.

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

Approved  Mayor
Veto _____
Override _____

Amended
Agenda Item No. 6(A)
5-6-03

ORDINANCE NO. 03-107

ORDINANCE AMENDING SECTION 2-11.1(s) OF CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO LOBBYING; AMENDING DEFINITION OF LOBBYIST; ELIMINATING ISSUE REGISTRATION REQUIREMENT AND FEE; PROVIDING FOR ANNUAL LOBBYIST REGISTRATION AND FEE; PROVIDING FOR AUTOMATIC SUSPENSION OF LOBBYISTS WHO FAIL TO FILE EXPENDITURE REPORTS BY SEPTEMBER 1 OF EACH YEAR; PROHIBITING USE OF CONTINGENCY FEES TO COMPENSATE LOBBYISTS; 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 2-11.1(s) of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-11.1. Conflict of Interest and Code of Ethics Ordinance.

* * *

(s) *Lobbying.*

- (1) ~~>>(a)<<~~As used in this section, "County personnel" means those County officers and employees specified in Section 2-11.1(i)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.

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) As used in this section, << "Lobbyist" means all persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the County Commission; (2) any action, decision, recommendation of >>the County Manager or << any County board or committee; or (3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee. "Lobbyist" specifically includes the principal[;]] >>as well as any employee whose normal scope of employment includes lobbying activities << [[as described above, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee]]. >>The term "Lobbyist" specifically excludes the following persons: attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communications; expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings; any person who only appears as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item; any person who only appears as a representative of a not-for-profit community based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance; and

employees of a principal whose normal scope of employment does not include lobbying activities.<<

(2) All lobbyists shall register with the Clerk of the Board of County Commissioners within five (5) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first. Every person required to so register shall:

(a) Register on forms prepared by the Clerk;

~~[(b) Pay a registration fee of one hundred twenty-five dollars (\$125.00);]~~

~~[(e)]>>(b)<<~~ State under oath his or her name, business address~~[[,]]~~ >>and<< the name and business address of each person or entity which has employed said registrant to lobby~~[[, and the specific issue on which he or she has been employed to lobby]]~~. If the lobbyist represents a corporation, >>the corporation<< shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five (5) percent or more ownership interest in such corporation, partnership, or trust. ~~[[Separate registration shall be required for each specific issue. Such issue shall be described with as much detail as is practical, including but not limited to a specific description (where applicable) of a pending request for a proposal, invitation to bid, public hearing number, etc. The Clerk of the Board of County Commissioners shall reject any registration statement which does not provide a description of the specific issue on which such lobbyist has been employed to lobby]].~~ Registration of all lobbyists shall be required prior to >>January 15 of each<< ~~[[October 1 of every even-numbered]]~~ year and each person who withdraws as a lobbyist for a particular client shall file an

appropriate notice of withdrawal. The fee for >>annual<< [[biennial]] registration shall be >>four<< [[five]] hundred >>and ninety<< dollars >>(\$490.00)<< [[(\$500.00)]. ~~Initially, all lobbyists shall register on or before June 1, 1991. In addition, e]]>>E<< every registrant shall be required to state the extent of any business or professional relationship with any current person described in subsection (b)(1). The registration fees required by this subsection shall be deposited by the Clerk into a separate account and shall be expended for the purpose of recording>>, << transcribing, administration and other costs incurred in maintaining these records for availability to the public. There shall be no fee required for filing a notice of withdrawal and the Board of County Commissioners may, in its discretion, waive the registration fee upon a finding of financial hardship.~~

[[~~(d)~~]]>>(c)<< Prior to conducting any lobbying, all principals must file a form with the Clerk of the Board of County Commissioners, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal. Failure of a principal to file the form required by the preceding sentence may be considered in the evaluation of a bid or proposal as evidence that a proposer or bidder is not a responsible contractor. Each principal shall file a form with the Clerk of the Board at the point in time at which a lobbyist is no longer authorized to represent the principal.

* * *

- (4) Any person who only appears as a representative of a not >>-<< for >>-<< profit corporation or entity (such as a charitable organization, [[a-neighborhood-association]], or a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect or

contingent, to express support of or opposition to any item, shall register with the Clerk as required by this subsection, but, upon request, shall not be required to pay any registration fees.

- (5) Any person who appears as a representative for an individual or firm for an oral presentation before a county certification, evaluation, selection, technical review or similar committee, shall list on an affidavit provided by the County, all individuals who may make a presentation. The affidavit shall be filed by staff with the ~~[[e]]~~>>C<<lerk's office at the time the proposal is submitted. For the purpose of this subsection only, the listed members of the presentation team shall not be required to pay any registration fees. No person shall appear before any committee on behalf of an individual or firm unless he or she has been listed as part of the firm's presentation team pursuant to this paragraph or unless he or she is registered with the Clerk's office and has paid all applicable fees.
- (6) (a) Commencing July 1, 1986, and on July 1 of each year thereafter, the lobbyist shall submit to the Clerk of the Board of County Commissioners a signed statement under oath, as provided herein, listing all lobbying expenditures in excess of twenty-five dollars (\$25.00) for the preceding calendar year. A statement shall be filed even if there ~~[[has]]~~>>have<< been no expenditures during the reporting period. The statement shall list in detail each expenditure by category, including food and beverage, entertainment, research, communication, media advertising, publications, travel, lodging and special events.
- (b) The Clerk of the Board of County Commissioners shall notify any lobbyist who fails to timely file an expenditure report. In addition to any other penalties which may be imposed as provided in subsection (s)~~[[(\$)]]~~>>(9)<<, a fine of fifty dollars (\$50.00) per day shall be assessed for

reports filed after the due date. Where a fine of fifty dollars (\$50.00) per day is assessed, the Ethics Commission shall not impose a fine as provided in subsection ~~[(a)]~~>>(z). Any lobbyist who fails to file the required expenditure report by September 1st shall be automatically suspended from lobbying until all fines are paid unless the fine has been appealed to the Ethics Commission.<<

(c) The Clerk of the Board of County Commissioners shall notify the Commission on Ethics and Public Trust of the failure of a lobbyist >>or principal<< to file a report and/or pay the assessed fines after notification.

(d) A lobbyist >>or principal<< may appeal a fine and may request a hearing before the Commission on Ethics and Public Trust. A request for a hearing on the fine must be filed with the Commission on Ethics and Public Trust within fifteen (15) calendar days of receipt of the notification of the failure to file the required disclosure form. The Commission on Ethics and Public Trust shall have the authority to waive the fine, in whole or part, based on good cause shown. The Commission on Ethics and Public Trust shall have the authority to adopt rules of procedure regarding appeals from the Clerk of the Board of County Commissioners.

>>(7) No person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee. As used herein, "contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent on or in any way contingent on the passage, defeat, or modification of: (1) an ordinance, resolution, action or decision of the County Commission; (2) any action, decision or recommendation of the County Manager or any County board or committee; or (3) any action,

decision or recommendation of County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee.<<

[[~~(7)~~]]>>(8)<< The Clerk shall publish logs on a quarterly and an annual basis reflecting the lobbyist registrations which have been filed in accordance with this subsection (s). ~~[[The Clerk shall publish logs for the fourth quarter of fiscal year 1989-90 and the first quarter of fiscal year 1990-91 as soon as practicable after the effective date of this ordinance.]]~~ All logs required by this ordinance shall be prepared in a manner substantially similar to the logs prepared for the Florida Legislature pursuant to Section 11.045, Florida Statutes.

[[~~(8)~~]]>>(9)<< The Ethics Commission shall investigate any person engaged in lobbying activities who may be in violation of this subsection(s). In the event that a violation is found to have been committed the Ethics Commission may, in addition to the penalties set forth in subsection ~~[[~~(u)~~]]>>(z)<<~~, prohibit such person from lobbying before the County Commission or any committee, board or personnel of the County as provided herein. Every lobbyist who is found to be in violation of this section shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule:

1st violation for a period of 90 days from the date of determination of violation;

2nd violation for a period of one (1) year from the date of determination of violation;

3rd violation for a period of five (5) years from the date of determination of violation;

A bidder or proposer shall be subject to the debarment provisions of Section 10-38 of the Code of Miami-Dade County as if the bidder or proposer were a contractor where the bidder or proposer has

violated this section, either directly or indirectly or any combination thereof, on three (3) or more occasions. As used herein, a "direct violation" shall mean a violation committed by the bidder or proposer and an "indirect violation" shall mean a violation committed by a lobbyist representing said bidder or proposer. A contract entered into in violation of this section shall also render the contract voidable. The County Manager shall include the provisions of this subsection in all County bid documents, RFP, RFQ, CBO and CDBG applications; provided, however, the failure to do so shall not render any contract entered into as the result of such failure illegal per se.

~~[(9)]~~ (10) All members of the County Commission, and all County personnel, shall be diligent to ascertain whether persons required to register pursuant to this subsection have complied. Commissioners or County personnel may not knowingly permit a person who is not registered pursuant to this subsection to lobby the Commissioner, or the relevant committee, board or County personnel.

~~[(10)]~~ (11) Except as otherwise provided in subsection (s) ~~[(8)]~~ (9), the validity of any action or determination of the ~~[(b)]~~ Board of ~~[(e)]~~ County ~~[(e)]~~ Commissioners or ~~[(e)]~~ County personnel, board or committee shall not be affected by the failure of any person to comply with the provisions of this subsection(s).

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

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

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

PASSED AND ADOPTED: ~~MAY~~ 06 2003

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

GHS

Gerald K. Sanchez

Sponsored by Commissioner Katy Sorenson



MEMORANDUM

Substitute No. 2
Agenda Item No. 6(F)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: April 22, 2003

From: Steve Shiver
County Manager

Subject: Proposed Ordinance Pertaining to
Zoning Regulation of
Modification or Elimination of
Conditions and Restrictive
Covenants

03.93

This substitute provides for additional standards and regulations to modify or eliminate conditions or restrictive covenants of previously approved zoning actions and incorporates minor technical changes made at the Governmental Operations and Environment Committee meeting of 4/15/03.

RECOMMENDATION

It is recommended that the attached ordinance pertaining to zoning standards and regulations for modifying or eliminating conditions, restrictive covenants or parts thereof, of previously approved zoning actions or certain administrative approvals 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 modifications of certain parts of prior zoning approvals. 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 modifications or elimination of conditions and covenants from previously approved zoning actions and certain administrative approvals have not been able to be heard.

The proposed ordinance is to establish a review and approval process and standards for determining substantial compliance with, or modifying or eliminating conditions and restrictive covenants approved in connection with previously approved zoning actions or administrative approvals, in circumstances where there is substantial compliance with the previous approval, the previous approval or condition is satisfied or moot, is voluntarily abandoned, there are no new adverse impacts, there is an extension to a timing or phasing deadline, or where public benefits outweigh any new public burdens.

FISCAL IMPACT

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

Attachment



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 22, 2003

FROM: Robert A. Ginsburg
County Attorney

Substitute No. 2

SUBJECT: Agenda Item No. 6(F)

03-93

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Substitute No. 2
Agenda Item No. 6(F)
4-22-03

ORDINANCE NO. 03.93

ORDINANCE PERTAINING TO ZONING; PROVIDING STANDARDS AND PROCEDURES FOR DETERMINING SUBSTANTIAL COMPLIANCE WITH PRIOR ZONING ACTIONS OR ADMINISTRATIVE APPROVALS; PROVIDING STANDARDS AND PROCEDURES FOR MODIFYING OR ELIMINATING CERTAIN ZONING CONDITIONS AND RESTRICTIVE COVENANTS OR PARTS THEREOF; 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. 33-36.2 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:¹

>>Sec. 33-36.2. Administrative Modification or Elimination of Conditions of Prior Administrative Approvals.

The Director shall approve an application to modify or eliminate a condition of an administrative site plan approval, an administrative approval of a subdivision entrance feature, or any part of any such condition, upon demonstration pursuant to the applicable standards set forth in section 33-310.1 that the proposed modification or elimination will result in substantial compliance with the requirements of a previously approved administrative action, will correct a clerical or scrivener's error, or is no longer required because the administrative approval has been entirely and voluntarily abandoned.<<

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. Sec. 33-310 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

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

* * *

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

* * *

>>(3) For modification or elimination of conditions or restrictive covenants, or parts thereof, after public hearing, mailed notice shall be accomplished by placing in the United States mail a written notice to all property owners of record, as reflected on the Miami-Dade County Property Appraiser's tax roll as updated, within the same radius of the property as required to be noticed for zoning action imposing or accepting the condition or restrictive covenant sought to be modified or eliminated, or such greater distance as the Director may prescribe.<<

[[~~(3)~~]] >>(4)<< For district boundary change involving a change of prefix within BU (Business) or IU (Industrial) and use variance involving such a use prefix change; for unusual use for outdoor patio dining, outdoor display, adult congregate living facility, day nursery, convalescent home, day camp, home for the aged, institution for the handicapped, kindergarten, nursing home, retirement village, entrance feature, mobile home as watchman's quarters, bathing beach; for special exception for resubdividing/refacing of platted lots, servant's quarters in RU-1 district, convalescent home, eleemosynary and philanthropic institution in RU-4 districts, barn (spacing from residences) in AU district, dude ranch in AU district, temporary farm labor housing in AU district; and for all other applications for zoning action not specified in Subsections >>(d)<< (1), (2), [[and]] (3) >>and (4)<<, five hundred (500) feet.

* * *

Section 3. Sec. 33-310.1 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:

>>**Sec. 33-310.1. Administrative modification or elimination of conditions and restrictive covenants.**

A Standards

The Director is authorized to consider and approve 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 restrictive covenant, or part thereof, accepted at public hearing, where the requirements of at least one of the following subsections have been demonstrated. Upon demonstration that such requirements have been met, an application may be approved as to a portion of the property encumbered by the condition or the restrictive covenant where the condition or restrictive covenant is capable of being applied separately and in full force as to the remaining portion of the property that is not a part of the application and both the application portion and the remaining portion of the property will be in compliance with all other applicable requirements of prior zoning actions and of this chapter.

I. Substantial Compliance With Previous Approval. The Director shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, where it is demonstrated that the proposed modification or elimination will result in substantial compliance with the previous zoning action regarding a site plan, as demonstrated by all of the following:

- (A) Development density and intensity have not materially changed, in that:
1. the number of buildings is not increased by more than 10 percent;
 2. the number of stories is the same or fewer;
 3. the height of the building(s) is the same or less;
 4. the number of units is the same or fewer;
 5. the lot coverage and floor area ratio are the same or less;
 6. the number of bedrooms and corresponding parking spaces may be increased or decreased by as much as 10%, based on the entire plan, provided the plan complies with all other requirements of this subsection and of this chapter; and
 7. density or intensity (floor area ratio) may be transferred from one building to another or from one stage of development to another, provided that the total floor area ratio is not changed.

(B) Design has not materially changed, in that:

1. the roadway patterns, including ingress-egress points, are in the same general location as shown on the original plans, and are no closer to the rear or interior side property lines than shown on the original plans;
2. the parking area is in the same general location and configuration;
3. the building setbacks are the same or greater distance from perimeter property lines, except that the building setbacks for detached single family development, zero lot line, rowhouse, townhouse and cluster development may also be decreased, provided that such decrease is limited such that the resulting setback distance will be the greater of either
 - (a) the underlying zoning district regulations, or
 - (b) any condition or restrictive covenant regulating the setback for which a substantial compliance determination is sought;
4. the landscaped open space is in the same general location, is of the same or greater amount, and is configured in a manner that does not diminish a previously intended buffering effect;
5. the proposed perimeter walls and/or fences are in the same general location and of a comparable type and design as previously approved;
6. elevations and renderings of buildings have substantially similar architectural expressions as those shown on the approved plans;
7. recreational facilities, if shown on plans approved by a prior zoning action, either remain the same or are converted from one recreational use to another;
8. if recreational facilities were not shown in the approved plans, they may be added, provided there is no increase in lot coverage or decrease in required open space and such facilities are located internally within the proposed development;
9. if a variance for signage has been granted, the proposed sign(s) are no greater in size and are placed in the same general location on the site as approved by zoning action. An entrance sign location may be moved the same proportional distance as a relocated entrance drive;
10. the proposed changes do not have the effect of creating any noncompliance or nonconformity with the strict application of the zoning code that were not previously approved at public hearing, or of expanding the scope of existing variances, alternative site development options, or other approvals pursuant to alternative development standards such that

they would differ to a greater degree from the strict application of the zoning code;

11. additional outparcels may be added where:

- (a) there is no increase in the project's total floor area ratio or lot coverage;
- (b) there is no reduction in the total amount of landscaped open space; and
- (c) addition of the outparcel does not result in noncompliance with any other provision of this subsection on any other portion of the subject property.

12. reductions in the number of parking spaces on the site are permitted if sufficient parking spaces are provided to satisfy the requirements of this code.

(C) The slope of any lake for which a modification is requested complies with section 33-16 and all other applicable provisions of this code.

II. Reformation of Resolutions to Correct Clerical or Scrivener's Errors.

- (A) The Director shall approve an application to reform a clerical or scrivener's error in a prior zoning action, including an error in an application or notice, which error causes the zoning action not to accurately reflect the board's intent, and where it is demonstrated that all of the following requirements are met:
- 1. the reformation shall not include a change of judgment, policy, or prior intent of the board;
 - 2. prior to the conclusion of the public hearing at which the zoning action for which reformation is sought was taken, the current applicant either did not know of the error, or knew of the error and made it known to the adopting board;
 - 3. the reformation of the previous resolution is essential to insure that the zoning action reflects the intent of the adopting board;
 - 4. the record, including but not limited to the staff recommendation, minutes, and motion, evidences the clear intent of the board;
 - 5. the substance of the decision of the board was evident at the time of the adoption of the zoning action, and there was no intent to deceive the public or the board on the part of the current applicant at any time;
 - 6. failure to approve the reformation would lead to an unjust result;
 - 7. the error in the prior zoning action did not mislead anyone in a way that would cause them to be prejudiced by the reformation; and

8. any errors related to public notice did not affect the legal sufficiency of the required notice.

(B) Notwithstanding the foregoing provisions, the Director, within thirty (30) days of the transmittal of a resolution, may reform a clerical or scrivener's error in a zoning action without public notice, if:

1. the error is not related to public notice, and

2. the error causes the resolution as written to inaccurately reflect the clear decision of the board.

(C) A reformed zoning action shall relate back to the original zoning action and the effective date of the corrected language shall be deemed to be the same as the effective date of the previous resolution.

III. *Modification or Elimination of Conditions and Restrictive Covenants Associated with Voluntarily Abandoned Zoning Actions.* The Director shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof (except where the covenant requires a public hearing), where it is demonstrated by the following that the condition, restrictive covenant or part thereof was imposed to mitigate the adverse impacts of a zoning action which has been entirely and voluntarily abandoned, in that:

(A) the applicant has provided a sworn affidavit stating that the applicant has sufficient title and authority to abandon the development rights under the zoning action for the property for which the modification or elimination is sought, that the applicant intends to abandon the zoning action and all rights thereunder, and that no material changes to the character or use of the land have ever been undertaken pursuant to the zoning action;

(B) the development rights granted by the zoning action have been voluntarily abandoned in writing in a form approved by the Director;

(C) the zoning action which imposed or accepted the condition or restrictive covenant was not a district boundary change; and

(D) abandonment of the zoning action will not cause the subject property to fail to comply with any applicable provision of this code or the Comprehensive Development Master Plan.

IV. *Modification or Elimination of Conditions and Restrictive Covenants That Are Satisfied or Moot.* The Director shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof (except where the covenant requires a public hearing), where it is demonstrated by the following that the condition, restrictive covenant or part thereof either is satisfied or is moot:

(A) *Satisfied conditions, covenants, or restrictions.* The requirements imposed by a condition, restrictive covenant or part thereof do not create a continuing

obligation, and are fully completed or satisfied; and, in the case of a restrictive covenant, any procedural or approval requirement set forth in the covenant is satisfied. Applications under this paragraph must be accompanied by a sworn affidavit that the conditions of this subsection have been satisfied.

- (B) Moot conditions, covenants, or restrictions. The condition, restrictive covenant or part thereof is moot in that it can no longer serve the purpose for which it was imposed. A condition, restrictive covenant or part thereof in effect for a period of more than five (5) years shall be determined to be moot upon demonstration of any of the four (4) following:
1. The purpose of the condition, restrictive covenant or part thereof is apparent from the zoning record of the subject property, including record facts pertaining to the character of the subject property and its immediate vicinity, and the impacts that were projected to be generated by the zoning action at the time the condition or covenant was imposed; and either
 - (a) the property subject to the condition or covenant has been developed in a manner or to an extent which does not, and under existing zoning approvals cannot, generate the adverse impacts intended to be prevented or mitigated by the condition or covenant; or
 - (b) since the imposition of the condition or covenant, all abutting parcels and the immediate vicinity have been zoned or developed in a manner or to an extent that the impacts previously anticipated or projected to be prevented or mitigated by the condition or restrictive covenant are not, and cannot be, adverse to the abutting parcels or the immediate vicinity.
 2. The purpose of the condition, restrictive covenant or part thereof is not apparent from the zoning record of the subject property, including record facts pertaining to the character of the subject property and its immediate vicinity, and
 - (a) the condition, restrictive covenant or part thereof if imposed under current circumstances, would not and could not mitigate or prevent any describable harm or create any describable benefit to the public or to owners or residents of property in the immediate vicinity to a degree that is greater than *de minimus*; and
 - (b) the condition or restrictive covenant does not include a date of expiration.
 3. The condition or restrictive covenant for which modification or elimination is sought involves the timing or phasing of development, and

- (a) the development which is the subject of the condition or restrictive covenant is completed; and
 - (b) no enforcement action regarding the condition or restrictive covenant has been initiated.
4. The condition or restrictive covenant for which modification or elimination is sought involves only the timeliness of filing or recording of a document, and
- (a) the failure to file or record the document was due to circumstances beyond the control of the applicant, or to excusable neglect; and
 - (b) no one is prejudiced by the modification or elimination of the condition or restrictive covenant regarding the timing of the filing or recording; and
 - (c) the document has been recorded or filed subsequent to the deadline set by the original approval, and accepted by the County.

V. Modification or Elimination of Conditions and Restrictive Covenants When No New Adverse Impacts Will Result. The Director shall approve an application to modify an approved site plan, or modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof (except where the covenant requires a public hearing), where it is demonstrated by the following that the modification or elimination will not result in a material new adverse impact on the public health, safety, welfare, or aesthetic values:

- (A) The proposed modification or elimination does not contravene or eliminate an express prohibition or timing or phasing requirement contained in the prior zoning action;
- (B) The request does not include a modification or elimination of conditions or restrictive covenants imposed simultaneously with a district boundary change;
- (C) The modification or elimination of the condition, restrictive covenant, or part thereof will not create new adverse impacts. The application will be deemed not to create new adverse impacts upon demonstration of the following:
 - 1. the modification or elimination will result in an increase of not more than 10% in trips generated above that generated by the approved development, except that trips generated in excess of 10% shall be permitted where completely mitigated by increased capacity constructed since the current development was approved. Trip generation shall be calculated based on the most current methodology applied by the County.
 - 2. the modification or elimination will result in an increase in projected demand for local parks of no more than 10% or 1/5 acre, whichever is greater, except that demand in excess of 10% or 1/5 acre shall be

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- permitted if there is sufficient capacity of local parks to accommodate the increase in demand created by the modification;
3. the modification or elimination will result in an increase in demand placed on public stormwater drainage systems of not more than 10%;
 4. the modification or elimination will result in a projected increase in the number of school-age children residing on the subject property of not more than ten percent (10%), or not more than three (3) school-age children, whichever is greater;
 5. the modification or elimination will not result in any increase in potable water, sanitary sewer, or solid waste disposal demand for which adequate capacity is not available, or any change in existing or planned facilities will not affect the level of service of potable water, sanitary sewer, or solid waste disposal;
 6. the modification or elimination will not result in any material increase in the risk of potential for discharge or spillage of pollutants, or generation of carbon monoxide at unsafe levels;
 7. the modification or elimination will not result in any material increase in the potential for damage to jurisdictional wetlands;
 8. the modification or elimination will not result in a reduction in the area under tree canopy of greater than 10%;
 9. the modification or elimination will not result in any material increase in the risk of smoke, fire, odors, gases, excessive noise or vibration;
 10. the modification or elimination will result in an increase in building cubic content on the subject property of no more than 10%, or no more than 10% of the median building cubic content on similarly zoned parcels in the immediate vicinity, whichever is larger;
 11. the modification or elimination will not result in a decrease in the features or landscaping that buffer the existing use from properties in the immediate vicinity;
 12. the modification or elimination will not result in any material decrease in the privacy enjoyed by adjoining properties;
 13. the modification or elimination will not result in any material diminution of an existing view or vista to any landmark, natural area, or waterbody from any window or door in any residential unit on an adjoining parcel of land;
 14. the modification or elimination will not result in any material increase in the potential for vehicular-pedestrian conflicts;

15. the modification or elimination will not result in any material and obvious departure from the aesthetic character of the immediate vicinity, taking into account the architectural design, scale, height, mass and building materials of existing structures, pattern of development and open space;
 16. the modification or elimination will not result in any material increase in the area of shadow, or of light from outdoor lighting, cast onto adjacent parcels;
 17. the modification or elimination will not result in any material change in the manner or hours of operation on the subject property so differing from the similar existing or approved uses in the immediate vicinity that the convenient, safe, peaceful or intended uses of such uses is interrupted or materially diminished;
 18. the modification or elimination will not result in any material change in the density or intensity of use of the subject property so differing from the density or intensity of other existing or approved uses in the immediate vicinity that the subject property would represent an obvious departure from the established development pattern of the immediate vicinity;
 19. the modification or elimination will not result in any material change in the type of use of the subject property so differing from the existing or approved uses in the immediate vicinity that the subject property would represent an obvious departure from the established pattern of use in the immediate vicinity;
 20. the modification or elimination will not result in a use of land that will have a significant adverse impact upon the value of properties in the immediate vicinity; and
 21. the modification or elimination will not result in a material increase in height or volume of open lot uses or facilities, or a material increase in intensity of allowed open lot uses, including but not limited to outdoor storage of products, materials or equipment, fleamarkets, carnivals, telecommunications facilities, concrete and asphalt batching plants, landfills and private playgrounds and recreational facilities.
- (D) The subject property complies with all other applicable requirements of prior zoning actions and this code.

VI. Modification of Conditions and Restrictive Covenants to Extend Timing or Phasing Deadlines. The Director shall approve an application to modify a condition or part thereof, or a restrictive covenant or part thereof (except where the covenant requires a public hearing) that is related solely to the timing or phasing of development, where the applicant demonstrates satisfaction of one of the following two requirements:

- (A) The applicant has been reasonably diligent in fulfilling the requirements of the condition or restrictive covenant, but is unable to perform within the time set forth in the condition or restrictive covenant, and
1. No enforcement actions are pending with regard to the timing or phasing condition or covenant; and
 2. The condition or restrictive covenant was not imposed to enforce compliance with an obligation that was imposed or accepted prior to the zoning action in which the condition or restrictive covenant sought to be modified was imposed or accepted; and
 3. The extension of time or modification of phasing is:
 - a. no greater than fifty (50%) of the time frame set forth in the condition or restrictive covenant or six (6) months, whichever is less; or
 - b. no greater than ten percent (10%) of the number of residential units (if the time frame or phasing schedule is set forth in terms of completion of residential units) or twenty-five (25) residential units, whichever is less; or
- (B) Development pursuant to the zoning action has not proceeded because of a pending appeal or pending litigation regarding the zoning action, and the application seeks only an extension of time or modification of phasing for the length of time that development has not proceeded due to such appeal or litigation.

B Procedures for Administrative Determinations

An application for administrative determination of substantial compliance with a prior administrative approval or zoning action, for reformation to correct a clerical or scrivener's error, for modification or elimination of conditions and restrictive covenants associated with voluntarily abandoned zoning actions or administrative approvals, or for modification or elimination of conditions or restrictive covenants which are satisfied or moot, or for modification or elimination of conditions or restrictive covenants where no new adverse impacts will result, or for modifications of conditions or restrictive covenants to extend timing or phasing deadlines, or for parts of any of the foregoing, shall be submitted to the Department on a form required by the Director. If the application involves a restrictive covenant, the application shall demonstrate that any procedural or other consent or approval requirements to modify or eliminate the restrictive covenant have been satisfied.

Within fifteen (15) days after the determination, notice of the Director's decision shall be published in a newspaper of general circulation. Additionally, for applications for administrative modification or elimination of conditions and

restrictive covenants associated with voluntarily abandoned zoning actions or administrative approvals, or conditions or restrictive covenants which are satisfied or moot, or for modification or elimination of conditions or restrictive covenants where no new adverse impacts will result, or for modifications of conditions or restrictive covenants to extend timing or phasing deadlines, mailed written notice shall be provided to all property owners of record, as reflected on the Miami-Dade County Property Appraiser's tax roll as updated, within the same radius of the property as required to be noticed for the zoning action adopting or accepting the condition or restrictive covenant, or such greater distance as the Director may prescribe.

Any aggrieved person may appeal the Director's decision pursuant to section 33-314 within thirty (30) days after the date of newspaper publication. For purposes of this section, an applicant for a substantial compliance determination shall not be considered an aggrieved person. If no timely appeal is taken, the decision shall become final, and the necessary changes shall be made upon the zoning maps and records. Any modifications or releases of recorded restrictive covenants, or parts thereof, shall be promptly recorded in the public records of Miami-Dade County, Florida.<<

Section 4. Sec. 33-311 of the Code of Miami-Dade County, Florida, is hereby amended to read

as follows:

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

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

* * *

(2) Appeal of administrative variances, >> administrative adjustments, << and appeals of administrative site plan review , >>substantial compliance determinations , and administrative correction of clerical or scrivener's errors.<<

(a) Upon application for, hear and decide appeals where it is alleged there is an error in the granting or denial of an administrative >> variance, administrative adjustment, administrative<< site plan review >>, determination of substantial compliance, or administrative correction of a clerical or scrivener's error,<< pursuant to the provisions of this Code. Such administrative decisions shall not include appeals filed pursuant to Sections 2-114.1 through 2-114.4.

* * *

(9) Hear and make recommendations to the Board of County Commissioners on applications for developments of regional impact and related requests, including requests for modifications thereof and substantial deviation determinations pursuant to Section 380.06(19), Fla. Stat., as amended, as provided by Section 33-314 >>except an application for modification or elimination of a condition or restrictive covenant that is not a substantial deviation, where such application does not contain a request for any other action under this chapter requiring a public hearing apart from modifying the DRI development order.<<

* * *

>>(17) Modification or Elimination of Conditions and Covenants After Public Hearing.

The Community Zoning Appeals Board shall approve applications to modify or eliminate any condition or part thereof which has been imposed by any zoning action, and to modify or eliminate any restrictive covenants, or parts thereof, accepted at public hearing, upon demonstration at public hearing that the requirements of at least one of the following paragraphs have been met. Upon demonstration that such requirements have been met, an application may be approved as to a portion of the property encumbered by the condition or the restrictive covenant where the condition or restrictive covenant is capable of being applied separately and in full force as to the remaining portion of the property that is not a part of the application, and both the application portion and the remaining portion of the property will be in compliance with all other applicable requirements of prior zoning actions and of this chapter.

I. Modification or Elimination of Conditions and Covenants Associated with Voluntarily Abandoned Zoning Actions. The Community Zoning Appeals Board shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, where it is demonstrated that the condition, restrictive covenant or part thereof was imposed to prevent or mitigate the adverse impacts of a zoning action that has been entirely and voluntarily abandoned, in that:

(A) the applicant has provided a sworn affidavit stating that the applicant has sufficient title and authority to abandon the development rights under the zoning

action for the property for which the modification or elimination is sought to abandon the zoning action and all rights thereunder, and stating that no material changes to the character or use of the land have ever been undertaken pursuant to the zoning action; and

- (B) the development rights granted by the zoning action have been voluntarily abandoned in writing on a form approved by the Director; and
- (C) abandonment of the zoning action will not cause the subject property to fail to comply with any applicable provision of this code or the Comprehensive Development Master Plan; and
- (D) the zoning action under which the condition or restrictive covenant was imposed or accepted was not a district boundary change.

II. Modification or Elimination of Conditions and Restrictive Covenants That Are Satisfied or Moot. The Community Zoning Appeals Board shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, where it is demonstrated by one of the following that the condition, restrictive covenant or part thereof either is satisfied or is moot:

- (A) Satisfied conditions, covenants, or restrictions. The requirements imposed by a condition, restrictive covenant or part thereof do not create a continuing obligation, and are fully completed or satisfied; and, in the case of a restrictive covenant, any procedural or approval requirement for its modification or elimination is satisfied.
- (B) Moot conditions, covenants, or restrictions. The condition, restrictive covenant or part thereof is moot in that it can no longer serve the purpose for which it was imposed. A condition, restrictive covenant or part thereof in effect for a period of more than five (5) years shall be determined to be moot upon demonstration of one of the four (4) following circumstances:
 1. the purpose of the condition, restrictive covenant or part thereof is apparent from the zoning record of the subject property, including record facts pertaining to the character of the subject property and its immediate vicinity, and the impacts that were projected to be generated by the zoning action at the time the condition or covenant was imposed; and either
 - (a) the property subject to the condition or covenant has been developed in a manner or to an extent which does not, and under existing zoning approvals cannot, generate the adverse impacts intended to be prevented or mitigated by the condition or covenant; or
 - (b) since the imposition of the condition or covenant, all abutting parcels and the immediate vicinity have been zoned or developed

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in a manner or to an extent that the impacts previously anticipated or projected to be prevented or mitigated by the condition or restrictive covenant are not, and cannot be, adverse to the abutting parcels or the immediate vicinity.

2. the purpose of the condition, restrictive covenant or part thereof is not apparent from the zoning record of the subject property, including record facts pertaining to the character of the subject property and its immediate vicinity, and
 - (a) the condition, restrictive covenant or part thereof if imposed under current circumstances, would not and could not mitigate or prevent any describable harm or create any describable benefit to the public or to owners or residents of property in the immediate vicinity to a degree that is greater than *de minimus*; and
 - (b) the condition or restrictive covenant does not include a date of expiration, or
3. the condition or restrictive covenant for which modification or elimination is sought involves the timing or phasing of development, and:
 - (a) the development which is the subject of the condition or restrictive covenant is completed; and
 - (b) no enforcement action regarding the condition or restrictive covenant has been initiated.
4. the condition or restrictive covenant for which modification or elimination is sought involved only the timeliness of filing or recording of a document, and:
 - (a) the failure to file or record the document was due to circumstances beyond the control of the applicant, or to excusable neglect; and
 - (b) no one is prejudiced by the modification or elimination of the condition or restrictive covenant regarding the timing of the filing or recording; and
 - (c) the document has been recorded or filed subsequent to the deadline set by the original application, and accepted by the County.

III. *Modification or Elimination of Conditions and Restrictive Covenants When No New Adverse Impacts Will Result.* The Community Zoning Appeals Board shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, where the applicant demonstrates that the modification or elimination will

not result in a material new adverse impact on the public health, safety, welfare, or aesthetic values, according to the following criteria:

- (A) If the request includes a modification or elimination of conditions or restrictive covenants imposed simultaneously with a district boundary change, the subject property would satisfy all current requirements and standards for a district boundary change to the property's present zoning district without the condition or restrictive covenant, or else the modification or elimination is sought in connection with an application for rezoning to a different district. For purposes of this requirement, new conditions or restrictive covenants may be imposed or proffered to satisfy such requirements and standards; and
- (B) The modification or elimination of the condition, restrictive covenant, or part thereof will not create new adverse impacts. The application will be deemed not to create new adverse impacts upon demonstration of the following:
1. the modification or elimination will result in an increase of not more than 10% in trips generated above that generated by the approved development, except that trips generated in excess of 10% shall be permitted where completely mitigated by increased capacity constructed since the current development was approved. Trip generation shall be calculated based on the most current methodology applied by the County.
 2. the modification or elimination will result in an increase in projected demand for local parks of no more than 10% or 1/5 acre, whichever is greater, except that demand in excess of 10% or 1/5 acre shall be permitted if there is sufficient capacity of local parks to accommodate the increase in demand created by the modification;
 3. the modification or elimination will result in an increase in demand placed on public stormwater drainage systems of not more than 10%;
 4. the modification or elimination will result in a projected increase in the number of school-age children residing on the subject property of not more than ten percent (10%), or not more than three (3) school-age children, whichever is greater;
 5. the modification or elimination will not result in any increase in potable water, sanitary sewer, or solid waste disposal demand for which adequate capacity is not available, or any change in existing or planned facilities will not affect the level of service of potable water, sanitary sewer, or solid waste disposal;
 6. the modification or elimination will not result in any material increase in the risk of potential for discharge or spillage of pollutants, or generation of carbon monoxide at unsafe levels;

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7. the modification or elimination will not result in any material increase in the potential for damage to jurisdictional wetlands;
8. the modification or elimination will not result in a reduction in the area under tree canopy of more than 10%;
9. the modification or elimination will not result in any material increase in the risk of smoke, fire, odors, gases, excessive noise or vibration;
10. the modification or elimination will result in an increase in building cubic content on the subject property of no more than 10%, or no more than 10% of the median building cubic content on similarly zoned parcels in the immediate vicinity, whichever is larger;
11. the modification or elimination will not result in a decrease in the features or landscaping that buffer the existing use from properties in the immediate vicinity;
12. the modification or elimination will not result in any material decrease in the privacy enjoyed by adjoining properties;
13. the modification or elimination will not result in any material diminution of an existing view or vista to any landmark, natural area, or waterbody from any window or door in any residential unit on an adjoining parcel of land;
14. the modification or elimination will not result in any material increase in the potential for vehicular-pedestrian conflicts;
15. the modification or elimination will not result in any material and obvious departure from the aesthetic character of the immediate vicinity, taking into account the architectural design, scale, height, mass and building materials of existing structures, pattern of development and open space;
16. the modification or elimination will not result in any material increase in the area of shadow, or of light from outdoor lighting, cast onto adjacent parcels;
17. the modification or elimination will not result in any material change in the manner or hours of operation on the subject property so differing from the similar existing or approved uses in the immediate vicinity that the convenient, safe, peaceful or intended uses of such uses is interrupted or materially diminished;
18. the modification or elimination will not result in any material change in the density or intensity of use of the subject property so differing from the density or intensity of other existing or approved uses in the immediate vicinity that the subject property would represent an obvious

departure from the established development pattern of the immediate vicinity;

19. the modification or elimination will not result in any material change in the type of use of the subject property so differing from the existing or approved uses in the immediate vicinity that the subject property would represent an obvious departure from the established pattern of use in the immediate vicinity;

20. the modification or elimination will not result in a use of land that will have a significant adverse impact upon the value of properties in the immediate vicinity; and

21. the modification or elimination will not result in a material increase in height or volume of open lot uses or facilities, or a material increase in intensity of allowed open lot uses, including but not limited to outdoor storage of products, materials or equipment, fleamarkets, carnivals, telecommunications facilities, concrete and asphalt batching plants, landfills and private playgrounds and recreational facilities.

(C) modification or elimination of the condition, restrictive covenant or part thereof will not result in a use of land that will have a significant adverse impact upon the value of properties in the immediate vicinity; and

(D) all applicable requirements of the underlying zoning district or if applicable any prior zoning action or administrative action, are satisfied .

IV. Modification of Conditions and Restrictive Covenants to Extend Timing or Phasing Deadlines. The Community Zoning Appeals Board shall approve an application to modify a condition or part thereof, or a restrictive covenant or part thereof that is related solely to the timing or phasing of development, where the applicant demonstrates that it has been reasonably diligent in fulfilling its obligations under the condition or restrictive covenant, but is unable to complete the obligation within the time set forth in the condition or restrictive covenant, and:

(A) an increase in time frames, deadlines, or phasing schedules will not result in a change of circumstances which would create a material delay between the approved development and the provision of public facilities and services or other improvements necessary or planned to mitigate the impact of the development;
or

(B) impossibility, force majeure, a non-self-created inability to secure a required right-of-way, actions of another governmental entity, or other similar circumstance beyond the direct control of the applicant or owner prevents adherence to the time frames, deadlines, or phasing schedules set forth in the condition or restrictive covenant sought to be modified.

No extension of timing or phasing shall be approved if it is demonstrated that that the extension of timing or phasing deadlines will substantially diminish property values in the immediate vicinity, will pose a continued risk to human life or safety or to the environment, will constitute a nuisance, and will constitute an obvious and deleterious use adversely and materially impacting the community character, taking into account changes in the immediate vicinity occurring since the condition or restrictive covenant was imposed or accepted.

V. Modification or Elimination of Conditions and Restrictive Covenants After Public Hearing, Where Public Benefits Are Created or Enhanced to a Level or Degree that Clearly Outweighs Additional New Public Burdens. The Community Zoning Appeals Board shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, where demonstratively greater public benefit will result from the modification or elimination than the resulting public burden as measured by the following:

- (A) Approval of the application will result in the provision of public benefits in two (2) or more of the following categories of public benefits:
1. Enhancement and/or preservation of substantial open space, public parks, environmentally sensitive land, or natural or historic resources in terms of one or more of the following:
 - (a) provision of additional on- or off-site open space, configured in such a manner that it provides a public benefit in terms of either public use or improved aesthetics when viewed from public rights-of-way (except where 2 (d) below is relied upon); or
 - (b) an increase in the amount of land available for public parks acceptable to the Park and Recreation Department, or in the recreational facilities of public parks; or
 - (c) perpetual preservation of "environmentally endangered lands"; or
 - (d) perpetual preservation of additional wetlands (which may include, in addition, restoration or enhancement); or
 - (e) removal of a use or structure that either has an adverse effect on a wellfield or aquifer recharge area, or that poses a high risk of wellfield contamination, and replacement with a use or structure that significantly lessens the impact or risk; or
 - (f) removal or reduction of the intensity of a use, that results in a substantial reduction of risk of groundwater contamination; or
 - (g) preservation of designated historic resources or rehabilitation of contributing historic structures.
 2. A substantial improvement to the character of the immediate vicinity by one or more of the following means:

- (a) elimination or rehabilitation of blighted buildings or other blighting influences; or
 - (b) substantial reduction of "sign clutter," where the character of the immediate vicinity is largely defined by an abundance of signage;
or
 - (c) relocation of utility lines underground, where the character of the immediate vicinity is heavily impacted by overhead utilities; or
 - (d) substantial improvements to landscaping or streetscaping (except where 1(a) is relied upon); or
 - (e) substantial reduction in excessive noise, smoke, vibration, odors, gases, dust, risk of pollutants, or damage to jurisdictional wetlands.
3. Elimination of uses that are inappropriately located, by either:
- (a) abandonment and elimination of a lawful existing nonconforming use; or
 - (b) elimination of a lawful use or building which, although not legally nonconforming, represents an obvious departure from the established pattern of development or use in the immediate vicinity.
4. Provision of one or more of the following facilities or services in and for locations in which there is a demonstrated need:
- (a) schools or vocational training facilities; or
 - (b) day care services for children or the elderly; or
 - (c) a police station or substation; or
 - (d) a fire station; or
 - (e) a library; or
 - (f) public buildings and facilities; or
 - (g) water or sanitary sewer lines.
5. Direct and specific implementation of adopted land use or community development plans of Miami-Dade County, by:
- (a) implementation of two or more preferred development types or scenarios from the Miami-Dade County *Urban Design Manual*; or
 - (b) implementation of the "guidelines for urban form" in the Land Use Element of the Comprehensive Development Master Plan; or
 - (c) implementation of a portion of the Adopted Action Plan of the Consolidated Plan of the Miami-Dade County Office of Community and Economic Development.

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6. A benefit to the function of the transportation network in the immediate vicinity, in terms of one or more of the following:
 - (a) a substantial decrease in trip generation during hours of peak use;
or
 - (b) an increase in the proportion of pedestrian, bicycle, or transit trips in relation to total daily trips in the immediate vicinity by all modes of transportation as a result of providing multi-modal amenities or mixed-use development; or
 - (c) an improvement in the quality, capacity, and function of pedestrian and bicycle circulation systems in the immediate vicinity of the subject property; or
 - (d) a reduction in vehicle miles attributable to dwelling units within a one-half (1/2) mile radius of the subject property; or
 - (e) improvements to one or more roadways in the immediate vicinity that increase capacity or improve traffic flow or traffic safety beyond the marginal traffic impacts of the proposed development.
7. Improvements to the supply of affordable housing, by
 - (a) development of affordable housing for very low, low, and moderate income households in a location where the need for such housing has been identified pursuant to the Housing Element of the Comprehensive Development Master Plan or other adopted affordable housing initiatives; or
 - (b) rehabilitation or redevelopment of substandard housing units resulting in an increase in the number of very low, low, and moderate income units provided on the site of the rehabilitation or redevelopment.
8. The creation of 15 or more new permanent jobs.
9. Substantial improvement to the design of the subject property through improvements in two or more of the following:
 - (a) pedestrian, bicycle, or vehicular access and circulation; or
 - (b) the design of parking areas; or
 - (c) drainage or stormwater retention and treatment; or
 - (d) connectivity, by elimination of dead-end, cul-de-sac or similar street types, or elimination of walled-in residential communities, or by providing streets that interconnect within the development and connect to adjacent neighborhoods and rights-of-way.

(B) Notwithstanding the provisions of the preceding paragraphs, no application will be approved under this subsection if such approval would result in:

1. a use of land which will have a significant adverse effect upon the value of properties in the immediate vicinity;
2. community design, architecture, or layout and orientation of buildings, open space, or amenities that is inconsistent with and deleterious to the aesthetic character of the immediate vicinity;
3. a material change in the density, intensity, or use of the subject property that so differs from the density, intensity, or use of other existing or approved development in the immediate vicinity that the subject property would represent an obvious and significant departure from the established development pattern of the immediate vicinity which has a deleterious effect on its community character;
4. a substantial degradation of localized traffic patterns or a substantial adverse impact on the roadway network;
5. unmitigated demands on potable water, sanitary sewer, or stormwater treatment systems which exceed the capacity of those systems; or
6. a new or continued and substantial risk to human life or safety or to the environment, or a nuisance; or
7. a material increase in height or volume of open lot uses or facilities, or a material increase in intensity of allowed open lot uses, including but not limited to such open lot uses as outdoor storage of products, materials or equipment, fleamarkets, carnivals, telecommunications facilities, concrete and asphalt batching plants, landfills and private playgrounds and recreational facilities;

The Community Zoning Appeals Board shall impose such conditions and requirements in connection with an approval under this subsection as shall prevent or mitigate any resulting adverse impacts to the County or to any aggrieved person who has reasonably, demonstrably and detrimentally relied upon the condition or covenant sought to be modified or eliminated.

VI. Modification or Elimination of Conditions or Restrictive Covenants After Public Hearing, Where the Conditions or Restrictive Covenants were Accepted or Imposed Simultaneously with a District Boundary Change. The Community Zoning Appeals Board shall approve an application to modify or eliminate a condition or part thereof, or a restrictive covenant or part thereof, which requires development of a specific site plan and which was accepted or imposed simultaneously with a district boundary change, where it is demonstrated that:

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- (A) The subject property would satisfy all current requirements and standards for a district boundary change to the property's present zoning district without the condition or restrictive covenant, or else the modification or elimination in sought in connection with an application for rezoning to a different district. For purposes of this requirement, new conditions or restrictive covenants may be imposed or proffered to satisfy such requirements and standards.
- (B) The Community Zoning Appeals Board shall impose such conditions and requirements in connection with an approval under this subsection as shall prevent or mitigate any resulting adverse impacts to the County or to any aggrieved person who has reasonably, demonstrably and detrimentally relied upon the condition or covenant sought to be modified or eliminated.
- (C) Notwithstanding the provisions of the preceding paragraphs, no application will be approved under this subsection if such approval would result in:
1. a use of land which will have a significant adverse effect upon the value of properties in the immediate vicinity;
 2. community design, architecture, or layout and orientation of buildings, open space, or amenities that is inconsistent with and deleterious to the aesthetic character of the immediate vicinity;
 3. a material change in the density, intensity, or use of the subject property that so differs from the density, intensity, or use of other existing or approved development in the immediate vicinity that the subject property would represent an obvious and significant departure from the established development pattern of the immediate vicinity which has a deleterious effect on its community character;
 4. a substantial degradation of localized traffic patterns or a substantial adverse impact on the roadway network;
 5. unmitigated demands on potable water, sanitary sewer, or stormwater treatment systems which exceed the capacity of those systems; or
 6. a continued and substantial risk to human life or safety or to the environment, or a nuisance. <<

* * *

Section 5. Sec. 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.

25

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

(1) Applications for development approval of Developments of Regional Impact ("DRI"), modification thereof or substantial deviation determination or modification thereof, including applications for modifications to restrictive covenants related thereto, after hearing and recommendation by the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the entire Development of Regional Impact. Where an application substantial deviation determination or for development approval of a DRI, modification thereof or substantial deviation determination also contains a request for any other action under this chapter requiring a public hearing or where there is pending on any property an application of or development approval for a DRI and an application for any other action under this chapter requiring a public hearing (related requests), except applications for essentially built out determinations, all such applications shall be heard in their entirety by the Board of County Commissioners after hearing and recommendation of the Community Zoning Appeals Board or Boards having jurisdiction over the area encompassed by the application or applications. >>Where an application requests a modification or elimination of a condition or restrictive covenant not constituting a substantial deviation, and where such application does not contain a request for any other action under this chapter requiring a public hearing apart from modifying the DRI development order, then such application shall be heard directly by the Board of County Commissioners after recommendation of the Developmental Impact Committee.<<

Section 6. Sec. 33-315.1 of the Code of Miami-Dade County, Florida, is hereby repealed.

Section 7. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 8. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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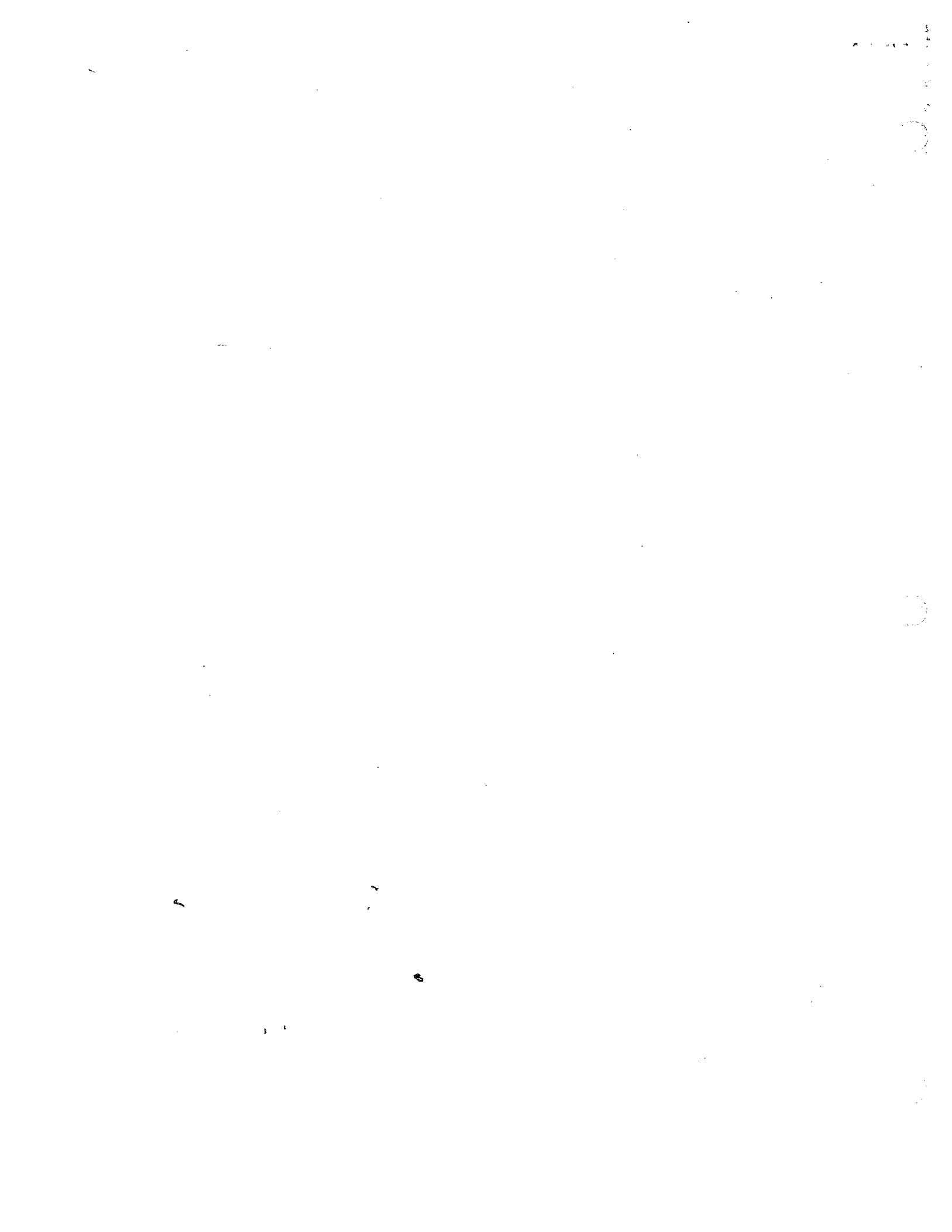
Section 9. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: APR 22 2003

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

Prepared by: JAC

Joni Armstrong Coffey





MEMORANDUM

Substitute
Agenda Item No. 6(E)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: April 22, 2003

From: Steve Shiver,
County Manager

Subject: Proposed Ordinance Pertaining to
Zoning Regulations for
Commercial Zoning Districts

03-92

This substitute incorporates minor technical modifications made at the Governmental Operations and Environment Committee meeting of 4/15/03.

RECOMMENDATION

It is recommended that the Board approve the attached ordinance providing alternative regulations for commercial zoning districts. The proposed ordinance provides additional site development standards to be applied at public zoning hearings to determine lot setbacks, area, frontage and coverage, floor area ratio, common open space, fence and wall height and placement.

BACKGROUND

The proposed ordinance establishes additional new standards for commercial development in the BU-1, BU-1A, BU-2 and BU-3 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

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 22, 2003

FROM: Robert A. Ginsburg
County Attorney

Substitute
SUBJECT: Agenda Item No. 6(E)

03.92

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

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Agenda Item No. 6(E)
4-22-03

ORDINANCE NO. 03-92

ORDINANCE PERTAINING TO ZONING; MODIFYING CHAPTER 33 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE") TO INCLUDE ALTERNATIVE DEVELOPMENT OPTION STANDARDS FOR APPROVAL AFTER PUBLIC HEARING OF SETBACKS, MINIMUM LOT AREA AND FRONTAGE, MAXIMUM LOT COVERAGE, MAXIMUM FLOOR AREA RATIO, MINIMUM LANDSCAPED OPEN SPACE, MAXIMUM FENCE AND WALL HEIGHT, FENCE AND WALL PLACEMENT, FOR BUILDINGS AND STRUCTURES PERMITTED AS OF RIGHT IN BU-1, BU-1A, BU-2, AND BU-3 ZONING DISTRICTS EXCEPT RESIDENTIAL BUILDINGS AND STRUCTURES AND RELIGIOUS FACILITIES; 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.

, ' * * *

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.

>>(16) Alternative Site Development Option for Buildings and Structures in the BU Zoning Districts. This subsection provides for the establishment of an alternative site development option, after public hearing, for buildings and structures permitted by the underlying district regulations, except residential buildings and structures and religious facilities, in the BU-1, BU-1A, BU-2, and BU-3 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 buildings and structures, except residential buildings and structures and religious facilities, in specified BU 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 including the objectives of creative urban design, the Guidelines for Urban Form, landscaping and redevelopment opportunities, 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:

"Discordant Use" means adjacent land uses which

- 1) have a different zoning district prefix, or
- 2) contain an existing or approved use which is otherwise allowable as of right in a different zoning district prefix.

(c) Setbacks for a principal or accessory building or structure 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 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 by more than 20% of the landscaped open space percentage required by the applicable district regulations; and
- (4) any area of shadow cast by the proposed alternative development upon an adjoining property 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, soundproofed structure and if located on the roof of such an alternative development shall be screened from ground view and from view at the level in which the installations are located, and shall be designed as an integral part of and harmonious with the building design; 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(s) or addition(s) are aesthetically harmonious with that of other existing or proposed structure(s) or building(s) on the parcel proposed for alternative development; and

- (8) the wall(s) of any building within a front, side street or double frontage setback area or within a setback area adjacent to a discordant use, 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, parcel or tract; and
- (10) any windows or doors in any building(s) to be located within an interior side or rear 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 building(s) of a discordant use located on an adjoining parcel of land; and
- (11) total lot coverage shall not be increased by more than ten percent (10%) of the lot coverage permitted by the underlying district regulations; or a total floor area ratio shall not be increased by more than ten percent (10%) of the floor area ratio permitted by the underlying district regulations; and
- (12) the area within an interior side or rear setback required by the underlying district regulations located adjacent to a discordant use 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 of a discordant use 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 eighty percent (80%) (if located adjoining or adjacent to a discordant use) of the proposed alternative development to a height of the lower fourteen (14) feet of such structure(s) at time of planting; or

(B) is screened from adjoining property by an opaque fence or wall at least eight (8) feet, six (6) feet if located adjoining or adjacent to a discordant use, in height that meets the standards set forth in paragraph (g) herein; and

(14) 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 10 feet or the minimum distance to comply with fire safety standards, whichever is greater; and

(15) when a principal or accessory 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

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

(17) the parcel proposed for alternative development shall continue to provide the required number of on-site parking spaces as required by this Code, except that off-site parking spaces may be provided in accordance with Section 33-128 of this Code; and

(18) the parcel proposed for alternative development shall satisfy all other applicable underlying district regulations or, if applicable, prior zoning actions issued prior to the effective date of this ordinance (May 2, 2003), regulating setbacks, lot area and lot frontage, lot coverage, floor area ratio, landscaped open space and structure height; and

(19) the proposed development will meet the following:

(A) interior side setbacks shall not be reduced by more than fifty percent (50%) of the side setbacks required by the underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater when the adjoining parcel of land is a BU or IU district; interior side setbacks shall not be reduced by more than twenty-five (25%) percent of the interior side setbacks required by the underlying district regulations when the adjoining parcel of land allows a discordant use.

(B) side street setbacks shall not be reduced by more than twenty-five (25%) of the underlying district regulations;

(C) front setbacks (including double-frontage setbacks) shall not be reduced by more than twenty-five (25%) percent of the setbacks required by the underlying district regulations; and

(D) rear setbacks shall not be reduced below fifty (50%) percent of the rear setback required by the

underlying district regulations, or the minimum distance required to comply with fire safety standards, whichever is greater, when the adjoining parcel of land is a BU or IU district; rear setbacks shall not be reduced below twenty-five (25%) percent of the rear setback required by the underlying district regulations when the adjoining parcel of land allows a discordant use.

(E) setbacks between building(s) shall not be reduced below 10 feet, or the minimum distance required to comply with fire safety standards, whichever is greater.

(d) An alternative lot coverage or floor area ratio for a building shall be approved upon demonstration of the following:

(1) total lot coverage or floor area ratio shall not be increased by more than ten percent (10%) of the lot coverage or floor area 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 or floor area ratio will not result in a principal or accessory building(s) 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.

(e) An alternative amount of landscaped open space shall be approved upon demonstration of the following:

- (1) landscaped open space shall not be decreased by more than ten percent (10%) of the landscaped open space required by the applicable 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 landscaped open space provided shall be used to shade and cool, direct wind movements, enhance architectural features, relate structure design to site, visually screen non-compatible uses and block noise generated by major roadways and intense use areas; and
 - (4) the landscaped open space provided shall relate to any natural characteristics in such a way as to preserve and enhance their scenic and functional qualities; and
 - (5) the proposed alternative development will not result in an obvious departure from the aesthetic character of the immediate vicinity, and
 - (6) the installation of the required percentage of landscaped parcel containing a previously approved and existing building, would necessitate a decrease in the number of parking spaces provided, or necessitate a decrease in the square footage of an existing building on the site; and
 - (7) that 20% more lot or street trees are provided on the site or within the adjacent rights-of-way, respectively; said trees to be of a type and size as required by Chapter 18A; and
 - (8) that an additional number of shrubs shall be provided commensurate with the trees in (7) above, said shrubs to be of a number, type and size as required by Chapter 18A.
- (f) 'An alternative lot area and frontage shall be approved upon demonstration of at least one of the following:

- (1) the proposed lot area and frontage shall permit the development or redevelopment of a structure(s) on a lot, parcel or tract of land where such structure(s) 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 lot, parcel or tract is under lawful separate ownership from any contiguous property; and
 - (B) the proposed alternative development will not result in the further subdivision of land; and
 - (C) the size and dimensions of the lot, parcel or tract are sufficient to provide all setbacks required by the underlying district regulations; and
 - (D) the area of the lot, parcel or tract is not less than ninety percent (90%) of the minimum lot area required by the underlying district regulations; and
 - (E) the proposed alternative development does not departure from the aesthetic character of the immediate vicinity; and
 - (F) the lot, parcel or tract proposed for alternative development does not adjoin or lie adjacent to a discordant use; and
 - (G) the frontage dimension of the lot, parcel or tract is not less than ninety percent (90%) of the minimum frontage required by the applicable district regulations, except that the frontage dimension of a flag-lot, parcel or tract shall be permitted to be reduced to the minimum width necessary to allow vehicular access as determined by the County; and
 - (H) the resultant frontage dimension of the lot, parcel or tract provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment.
- (2) the proposed alternative development results in landscaped 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 applicable district regulations, provided that:

- (A) the number of lots of the proposed alternative development does not exceed that normally permitted by the lot area dimensions of the underlying district regulations; and
 - (B) the size and dimensions of each lot, parcel or tract development are sufficient to provide all setbacks required by the underlying district regulations, or, if applicable, any prior zoning actions for similar uses issued prior to the effective date of this ordinance (May 2, 2003); and
 - (C) the area of each lot, parcel or tract is not less than eighty percent (80%) of the area required by the applicable 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 lot, parcel or tract proposed for alternative development does not adjoin or lie adjacent to a discordant use; and
 - (F) the resultant frontage of the lot, parcel or tract provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment.
- (3) the proposed lot area and frontage is such that:
- (A) the proposed alternative development will not result in the creation of more than two (2) lots, parcels or tracts; and
 - (B) the size and dimensions of each lot, parcel or tract are sufficient to provide all setbacks required by the applicable 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 applicable district regulations; or
 - (ii) the average area of the developed lots, parcels or tracts 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 does not adjoin or lie adjacent to a discordant use; and
- (F) the resultant frontage provides vehicular ingress and egress to all resulting lots, parcels or tracts, including on-site access to emergency equipment.
- (g) An alternative maximum height of walls, hedges or fences shall be approved upon demonstration of the following:
- (1) no wall, hedge or fence shall exceed ten (10) feet in height when adjoining BU or IU zoned lot or parcel; no wall, hedge or fence shall exceed eight (8) feet when adjoining a discordant use, and
 - (2) no wall, hedge or fence located in a front or side street setback required by the applicable 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 of a building on an adjoining discordant use; 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) improved with landscaping material 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
- (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 all sides of the fence are "finished" in accordance with the applicable regulations; 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 hedges totally screen the fence; and
- (8) safe sight distance triangles are maintained pursuant to this code.
- (h) An alternative placement of a required perimeter wall setback from the property line(s) of a parcel where said property line adjoins or lies across the street right-of-way from a residential district, shall be approved after public hearing upon demonstration of the following:

- (1) the setback of the wall is the minimum distance necessary so as not to encroach into an existing utility or landscape easement(s); and
 - (2) that visual screening for the wall by way of landscaping is included in the easement area to prevent graffiti vandalism in a manner provided by this Code; and
 - (3) that a suitable mechanism for maintenance of the landscaped area by the property owner, tenant association or similar association be provided in the form of a covenant running with the land.
- (i) An alternative opening in a wall otherwise required by this code to be a solid, unbroken barrier when a parcel adjoins or lies adjacent to a residential district, shall be approved after public hearing upon demonstration of the following:
- (1) the width of the wall opening is the minimum width necessary for pedestrians to access the parcel from adjoining or adjacent residential development(s); and
 - (2) the wall opening is immediately adjoining or adjacent to a residential lot, parcel or tract which is restricted in use as common open space.
- (j) An alternative reduction in the number of required parking spaces shall be approved after public hearing upon demonstration of the following:
- (1) the alternative reduction of the number of required parking spaces does not apply to parking spaces for the disabled, parking spaces for persons transporting small children, nor to bicycle racks or other means of bicycle storage; and either:
 - (2) the total number of required parking spaces is not reduced below ten percent (10%); and
 - (A) the lot, parcel or tract is located within six hundred and sixty (660) feet of an existing transportation corridor such as a Major

Roadway identified on the Land Use Plan (LUP) map, within one-quarter (1/4) mile from existing rail transit stations or existing express busway stops; or

(B) the hours of operation of multiple commercial uses within the development vary and do not overlap and a recordable agreement is provided which restricts the hours of operation; or

(3) the alternative development involves a mixed-use project in which the number of off-street parking spaces is calculated by applying the Urban Land Institute (ULI) Shared Parking Methodology to the required number of parking spaces.

(k) 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.

(l) 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 economic viability of any commercial enterprises proposed within the approved development and the quality of life of residents and other owners of property in 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, landscaped open space over and above that normally required by the code, additional trees or landscaping materials, the inclusion of residential use(s), convenient pedestrian connection(s) to adjacent residential development(s), 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, monument signage (where detached signs are allowed) or limited and cohesive wall signage, and decorative street lighting. In determining which amenities or buffering elements are appropriate, the following shall be considered:

- (A) the types of needs of the residents or other owners immediate vicinity and the needs of the business owners and employees of the parcel proposed for development 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 the residents or other owners of property of parcel(s) in the immediate vicinity and the amenities or buffering required. For example, a reduction in setbacks for numerous lots or significantly large commercial buildings may warrant the provision of additional landscaped open space.<<

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 Miami-Dade County, Florida. The sections of this ordinance may be

renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

PASSED AND ADOPTED: APR 22 2003

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

JAC

Joni Armstrong Coffey



MEMORANDUM

Substitute
Agenda Item No. 6(D)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: April 22, 2003

From: Steve Shiver
County Manager

Subject: Proposed Ordinance Pertaining to
Zoning Regulations for Zero Lot
Line Residences

03-91

This substitute incorporates minor technical modifications made at the Governmental Operations and Environment Committee meeting of 4/15/03.

RECOMMENDATION

It is recommended that the Board approve the attached ordinance providing new regulations for zero lot line residences. The proposed ordinance provides additional site development standards to be applied at public zoning hearings to determine lot setbacks, area, and fence, hedge and wall height.

BACKGROUND

The proposed ordinance establishes additional new standards for zero lot line residences. 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 home owners of zero lot line residences 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

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 22, 2003

FROM: Robert A. Ginsburg
County Attorney

Substitute

SUBJECT: Agenda Item No. 6(D)

03-91

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No. 6(D)
4-22-03

ORDINANCE NO. 03-91

ORDINANCE PERTAINING TO ZONING; PROVIDING DEFINITIONS FOR NEW ZONING TERMS; PROVIDING STANDARDS FOR APPROVAL AFTER PUBLIC HEARING OF SETBACKS, MAXIMUM LOT COVERAGE, AND MAXIMUM FENCE, HEDGE AND WALL HEIGHT, FOR SINGLE FAMILY ZERO LOT LINE DWELLINGS; PROVIDING FOR VARIANCE OF ANY ZONING REGULATION UPON DEMONSTRATION OF UNNECESSARY HARDSHIP; 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. 33-302 of the Code of Miami-Dade County, Florida, is hereby amended as follows:¹

Sec. 3-302. 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, Florida Statutes, and Chapter 33 of the Code of Miami-Dade County, Florida, and the following additional definitions, shall apply:

* * *

>>(s) "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

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.

radius of not more than five hundred (500) feet from the parcel proposed for alternative development, whichever is smaller.

- (t) "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.
- (u) "Parcel proposed for alternative development" means the site of the structure for which alternative site development option approval is sought.
- (v) "Proposed alternative development" means any building activity for which alternative site development approval is sought.
- (w) "Underlying district regulations" means the site development regulations of the particular zoning district in which proposed alternative development is located, such as setbacks, lot area, frontage, and depth, lot coverage, and structure height.<<

Section 2. Sec. 33-311 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

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

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

* * *

>>(15) Alternative Site Development Option for Single Family Zero Lot line Dwellings. This subsection provides for the establishment of an alternative site development option, after public hearing, for zero lot line dwellings, when such uses are permitted by

the underlying district regulations, or when such uses were approved for development by a prior public hearing action, 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 site specific development of zero lot line dwellings. The standards provided in this subsection are alternatives to the generalized standards contained in regulations governing this specified type of residence. 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) Alternative setbacks for a zero lot line 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 lot 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 applicable 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 or the regulations in effect at the time of development, 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 or the regulations in effect at the time of development, 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 or the regulations in effect at the time of development 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 ten (10%) percent of the lot coverage permitted by the underlying district regulations or the regulations in effect at the time of development; and

- (12) the area within an interior side setback required by the underlying district regulations or the regulations in effect at the time of development, 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 or the regulations in effect at the time of development:
- (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 or the regulations in effect at the time of development 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 or the regulations in effect at the time of development, 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 the regulations in effect at the time of development or, if applicable, prior zoning actions or administrative decisions issued prior to the effective date of this ordinance (May 2, 2003) regulating lot area, frontage and depth; and
- (21) the proposed alternative development of the lot will meet the following:
- (A) the interior side setbacks will be at least four (4) feet or the minimum distance necessary to comply with Fire safety requirements, whichever is greater;
- (B) the side street setback shall not be reduced by more than fifty percent (50%) of the underlying district regulations or the regulations in effect at the time of

development;

- (C) the interior side setbacks for active recreational uses shall be no less than seven (7) feet or the minimum distance necessary to comply with Fire safety requirements, whichever is greater;
 - (D) the front setback of the dwelling or accessory use shall not be reduced;
 - (E) the rear setback will be at least three (3) feet for detached accessory structures and ten (10) feet for principal structures;
 - (F) the proposed alternative development shall not encroach into the maintenance easement as required by this chapter and shown on the approved plat; and
 - (G) the proposed alternative development shall not contain openings on the zero lot line side of the structure, other than permitted by the underlying district regulations.
- (c) An alternative lot coverage ratio for a zero lot line dwelling shall be approved upon demonstration of the following:
- (1) total lot coverage shall not be increased by more than ten percent (10%) of the lot coverage permitted by the underlying district regulations or the regulations in effect at the time of development; 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.
- (d) An alternative maximum height of walls, hedges or fences for a zero lot line 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 or the regulations in effect at the time of development 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
 - (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; and
- (8) safe sight distance triangles are maintained pursuant to this code.
- (e) 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.

(f) 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, an increase in the lot area coverage 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 >>for non-use variances<< 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.

PASSED AND ADOPTED:

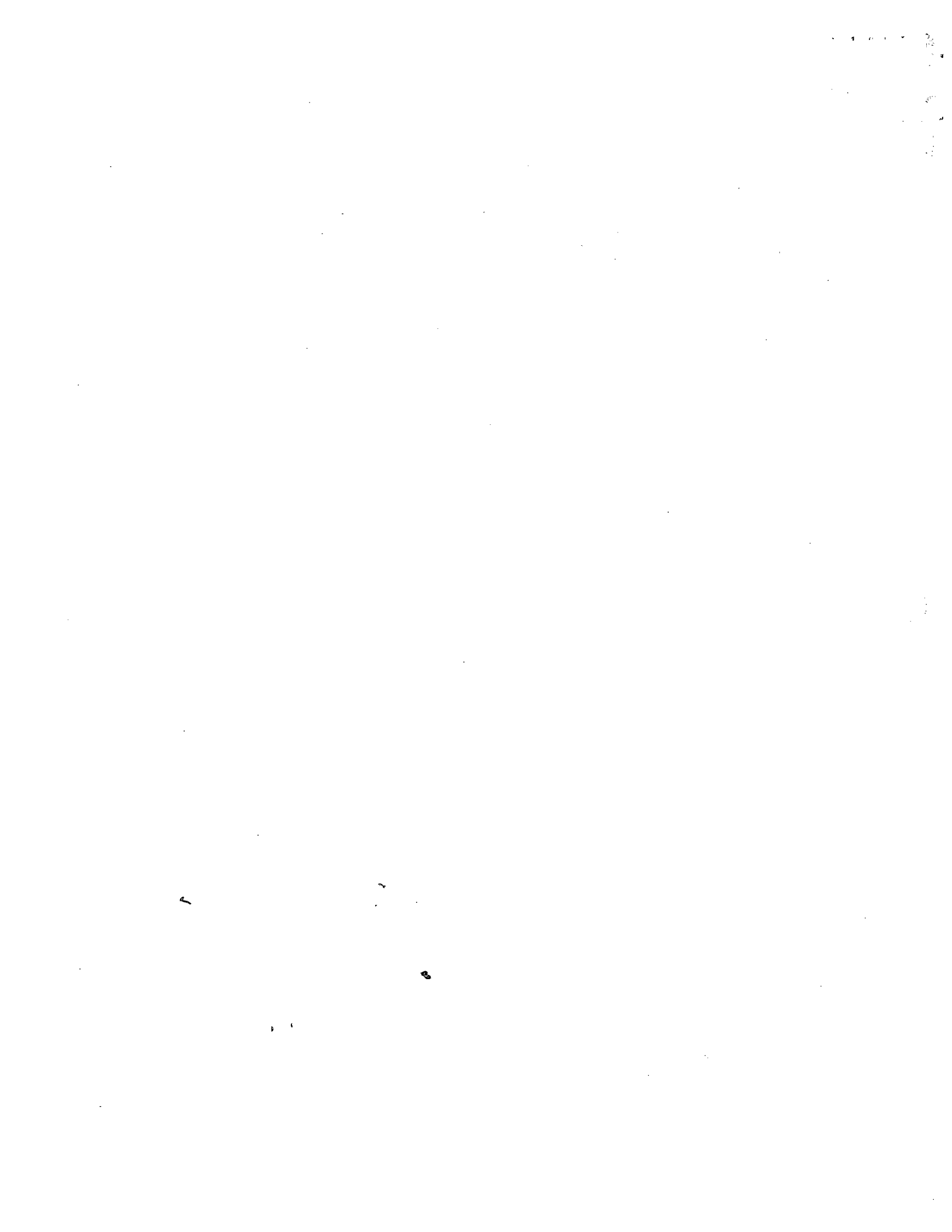
Approved by County Attorney as
to form and legal sufficiency:

RAE

Prepared by:

JAC

Joni Armstrong Coffey





MEMORANDUM

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

Agenda Item No. 6(P)

(Second Reading 4-8-03)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: February 20, 2003

From: Steve Shiver
County Manager

Subject: Proposed Ordinance
Permitting Home
Improvement Centers
in the BU-1A District

03.80

RECOMMENDATION

It is recommended that the Board adopt the attached proposed ordinance pertaining to zoning permitting home improvement centers in the BU-1A, Limited Business District, subject to restrictions.

BACKGROUND

This Ordinance is required to codify the Department of Planning and Zoning's file records, including letters of interpretations, director's memorandums and opinions, and department policy, dating back to 1974 permitting home improvement centers in the BU-1A District and a 1991 director's memorandum permitting a retail/wholesale facility similar to a home improvement center in all industrial districts. The first letter of interpretation, dated March 21, 1974, acknowledged a "home care center" as a new use distinctly different from a lumberyard and a permitted use in the BU-1A district. On July 18, 1977, a second letter of interpretation was issued expanding the items that may be offered for sale at a home improvement center, including small amounts of pre-cut lumber and specifying that all such items be sold on a retail basis. A director's memorandum was issued on January 24, 1983, addressing restrictions on outside storage/sales areas and parking calculations for home improvement centers. Another director's memorandum was issued on August 27, 1991 permitting a retail/wholesale facility similar to a home improvement center in all of the industrial zoning districts. All such aforementioned letters of interpretations, memorandums, opinions and department policy would be superseded upon the adoption of this proposed ordinance, including the memorandum permitting home care centers in the industrial zones. The proposed ordinance also provides that any home improvement center currently lawfully located in an industrial zoning district shall be exempt from the prohibition on reconstruction of a nonconforming use.

Staff research has shown that home improvement centers are generally allowed in commercial districts within other jurisdictions, with similar restrictions as proposed in this draft.

FISCAL IMPACT

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

Attachment



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6 (P)

03-80

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6 (P)

Veto _____

4-8-03

Override _____

ORDINANCE NO. 03.80

ORDINANCE RELATING TO ZONING; PROVIDING FOR HOME IMPROVEMENT CENTERS IN THE BU-1A LIMITED BUSINESS ZONING DISTRICT; PROVIDING PARKING STANDARDS; AMENDING SECTIONS 33-124 AND 33-247 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, this Board desires to accomplish the purposes described in the attached memorandum incorporated herein by reference; and

WHEREAS, the Director of the Department of Planning and Zoning is authorized under the Code to make interpretations of the Code; and

WHEREAS, the Director of the Department of Planning and Zoning's long-standing interpretation of the Code permits home care centers in the BU-1A zoning district; and

WHEREAS, this ordinance is not intended to change this aforementioned interpretation but rather to confirm, ratify, and codify the interpretation ,

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

Section 1. Section 33-124 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.

03-80

Sec. 33-124. Standards.

Off-street parking shall be provided in accordance with the following minimum standards:

* * *

(h) Commercial:

* * *

>>(3.1) Home improvement centers, including all storage/sales areas, shall have parking provided at a rate of one parking space for each two hundred fifty (250) square feet of gross floor area or fractional part thereof.<<

* * *

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:

* * *

>>(24.1) Home improvement centers, subject to the conditions enumerated below. As used herein, a home improvement center is a facility engaged in the retail sale of a variety of home improvement products, including hardware, appliances, cleaning supplies, construction supplies, electrical and plumbing fixtures and supplies, paint and wall coverings, lumber, pool supplies, and

tools as well as lawn and garden supplies. As an accessory use, a home improvement center may offer the short-term rental of tools, compressors, chain saws, ladders, post-hole diggers, hand trucks and similar light equipment as well as trucks (subject to the limitations set forth below). Additionally, a home improvement center may perform customer-requested cutting of pre-cut wood products and other products offered for sale, provided such cutting is done within the roofed area of the principal building.

(a) Lawn, garden and pool supplies may also be stored, displayed and sold from attached areas with or without a solid roof, subject to the following limitations:

(1) such storage, display and sales areas does not exceed thirty-five percent (35%) of the home improvement center's gross building floor area; and

(2) all such storage, display and sales areas must be enclosed by a solid masonry wall or ornamental metal picket fence or combination thereof, a minimum of eight (8) feet in height. The items stored within these areas shall not exceed the height of the wall or metal picket fence. Openings for ingress and egress purposes, restricted to the narrowest width

C3.80

necessary, are permitted,
subject to site plan review;
and

(3) setbacks as required for the
principal building shall apply
to all storage, display and
sales areas; and

(4) parking for the home
improvement center,
including such storage,
display and sales areas, shall
be provided in accordance
with Section 33-124(h)(3.1)
herein.

(b) The rental of trucks for the
convenience of customers
purchasing items only shall be
permitted at home improvement
centers with greater than one
hundred thousand (100,000) square
feet of gross floor area, subject to the
following limitations:

(1) The total number of trucks
available for rental shall not
exceed five (5);

(2) The location of storage areas
for rental trucks shall be
subject to site plan review;

(3) Storage areas for rental trucks
shall not utilize any of the
facility's minimum required
parking spaces; and

03.80

- (4) No repairs or maintenance of rental trucks shall take place on the premises.

Loading dock facilities for the purpose of supplying the home improvement center shall be oriented away from adjacent residential zoning districts unless screened from view by a masonry wall of not less than six (6) feet in height but not more than eight (8) feet in height.<<

* * *

Section 3. Any home improvement center located in an industrial zoning district that obtained a certificate of use and occupancy prior to the effective date of this ordinance shall not be subject to the provisions of Section 33-35(c) of this code relating to the restriction on reconstruction of a nonconforming use.

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.

03-80

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: APR - 8 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6
CAC

Prepared by:

Craig H. Coller

MEMORANDUM

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

Agenda Item No. 6(0)

(Second Reading 4-8-03)

TO: Hon. Chairperson and Members

DATE: February 4, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning;
amending section 33-259
permitting automobile service
station and automobile
self-service gas station in IU
industrial zoning districts

03-79

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Jose "Pepe" Diaz.



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to zoning;
amending section 33-259
permitting automobile service
stations and self-service gas stations
in IU industrial zoning district

03-79

The proposed ordinance permitting automobile service stations and self-service gas stations in the IU industrial zoning district will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(0)

03.79

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(O)
4-8-05

Veto _____

Override _____

ORDINANCE NO. 03-79

ORDINANCE PERTAINING TO ZONING; AMENDING SECTION 33-259 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA PERMITTING AUTOMOBILE SERVICE STATION AND AUTOMOBILE SELF-SERVICE GAS STATION IN THE IU (INDUSTRIAL) ZONING DISTRICTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

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

Section 1. Section 33-259 of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

Sec. 33-259. Uses permitted.

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

* * *

>>(7.2) Automobile self-service gas stations shall be permitted only on major access roads, including major roadways (three or more lanes) and frontage roadways serving limited access expressways, and shall be subject to the conditions enumerated in Section 33-247(6) of this code.

(7.3) Automobile service stations shall be permitted only on major access roads, including major roadways (three or more lanes)

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.

03.79

and frontage roadways serving limited access expressways, and shall be subject to the conditions enumerated in Section 33-247(5) of this code. <<

* * *

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

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

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

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

PASSED AND ADOPTED: **APR - 8 2003**

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

JAC

Joni Armstrong Coffey

Sponsored by Commissioner Jose "Pepe" Diaz

5



MEMORANDUM

Agenda Item No. 6(N)

(Second Reading 4-8-03)

TO: Hon. Chairperson and Members

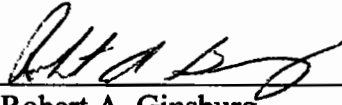
DATE: February 4, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning;
amending section 33-255
permitting self-service
mini-warehouse storage facility
in BU-3 liberal business district

03.78

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Jose "Pepe" Diaz.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to zoning;
amending section 33-255
permitting self-service
mini-warehouse storage facility
in BU-3 liberal business district

03.78

The proposed ordinance permitting self-service mini-warehouse storage facilities in BU-3 liberal business district will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(N)

03-78

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(N)
4-8-03

Veto _____

Override _____

ORDINANCE NO. 03-78

ORDINANCE PERTAINING TO ZONING; AMENDING SECTION 33-255 PERMITTING SELF-SERVICE MINI-WAREHOUSE STORAGE FACILITY IN BU-3 LIBERAL BUSINESS DISTRICT SUBJECT TO CONDITIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 33-255 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-255. Uses permitted.

No land, body of water and/or structure in the BU-3 District shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, arranged or intended to be used, occupied or maintained for any purpose, unless otherwise provided for, excepting for one (1) or more of the following uses:

- *
 - *
 - *
- >>(23.1) Self-service mini-warehouse storage facility. "Self-service mini-warehouse storage facility" shall be defined as a fully enclosed space used for warehousing which contains individual storage units with floor area no greater than four hundred (400) square feet and an interior height not to exceed twelve (12) feet. No business or business activity, and no wholesale or retail sales are permitted in an individual storage area within a self-service mini-warehouse

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.

storage facility.

- (a) Ancillary rentals of trucks other than light trucks are permitted in conjunction with a self-service mini-warehouse storage facility, providing such facility is situated on a site containing not less than 2.5 acres gross, subject to compliance with the following requirements:
- (1) That a decorative masonry wall at least 8 feet in height shall enclose the rental truck storage area; and
 - (2) There shall be a landscaped buffer between the masonry wall and any abutting roads which may be a hedge, and/or trees at least 48 inches high at the time of planting, or other reasonable landscape plans acceptable to the department; and
 - (3) That there be no rental of any truck having a net vehicle weight exceeding 12,600 pounds; and
 - (4) That for each 100 self-storage units there shall be no more than two rental trucks stored, e.g., 1-100 units: 2 rental trucks; 101-200 units; 4 rental trucks, etc.; provided however, no more than ten rental trucks may be stored on the premises; and
 - (5) That no loading or unloading of trucks is permitted outside the enclosed area and all trucks must be stored inside the enclosed area at all times; and
 - (6) That there shall be no repairs or maintenance work on the rental trucks on the premises of the self-service mini-warehouse storage facility.
- (b) Ancillary storage of recreational vehicles and boats is permitted in conjunction with a self-service mini-warehouse storage facility, subject to compliance with the following requirements:
- (1) That a decorative masonry wall at least 8 feet in height shall enclose the recreational vehicle and boat storage area; and
 - (2) There shall be a landscaped buffer between the masonry wall and any abutting roads which may be a hedge, and/or trees at least 48 inches high at the time

03-781

of planting, or other reasonable landscape plans acceptable to the department; and

- (3) That there shall be no repairs or maintenance work on the recreational vehicles or boats on the premises of the self-service mini-warehouse storage facility.<<

* * *

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 - 8 2003

Approved by County Attorney as to form and legal sufficiency:

RAG

Prepared by:

[Signature]

Joni Armstrong Coffey

Sponsored by Commissioner Jose "Pepe" Diaz

MEMORANDUM

Agenda Item No. 6(M)

(Second Reading 4-8-03)

TO: Hon. Chairperson and Members

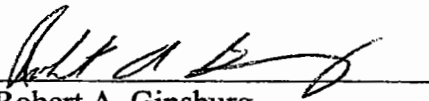
DATE: February 4, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance pertaining to
zoning right of way plan

03.77

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Diaz.


Robert A. Ginsburg
County Attorney

RAG/bw

Approved _____ Mayor

Agenda Item No. 6 (M)
4-8-03

Veto _____

Override _____

ORDINANCE NO. 03.77

ORDINANCE PERTAINING TO ZONING RIGHT OF WAY PLAN AND MINIMUM WIDTH OF STREETS AND WAYS; MODIFYING MINIMUM RIGHT-OF-WAY WIDTH FOR PORTIONS OF NW 122ND AVENUE, LYING SOUTH OF NW 25TH STREET TO THEORETICAL NW 21ST TERRACE; AMENDING SECTION 33-133 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 33-133 of the Code of Miami-Dade County, Florida, is hereby amended as follows:¹

ARTICLE VIII. RIGHT OF WAY PLAN AND MINIMUM WIDTH

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 be provided in Sections 33-133(A) and (B) hereof, 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 subsection shall not

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

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. 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 >>or that portion of N.W. 122 Avenue south of N.W. 25 Street to theoretical N.W. 21 Terrace<<.

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

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

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

PASSED AND ADOPTED: APR - 8 2003

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:
Joni Armstrong Coffey
Sponsored by Commissioner Jose "Pepe" Diaz

JAC



MEMORANDUM

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

Agenda Item No. 6(W)

(Second Reading 4-8-03)

TO: Hon. Chairperson and Members
Board of County Commissioners

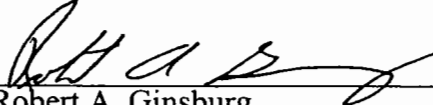
DATE: January 23, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning;
regulating landscaping on
industrial properties

O#03-76

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Diaz.


Robert A. Ginsburg
County Attorney

RAG/bw




MEMORANDUM.

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

SUBJECT: Ordinance relating to zoning;
regulating landscaping on industrial
properties

FROM: Steve Shiver
County Manager



The proposed ordinance regulating landscaping on industrial property will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6 (W)

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. 6(W)
4-8-03

ORDINANCE NO. 03-76

ORDINANCE PERTAINING TO ZONING; REDUCING REQUIRED LANDSCAPED OPEN SPACE AND ELIMINATING GREENBELT REQUIREMENT FOR CERTAIN INDUSTRIAL ZONED PROPERTIES ABUTTING THE GU ZONING DISTRICT UNDER PRESCRIBED CONDITIONS; AMENDING SECTIONS 33-261, 33-263.1 AND 33-266.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE"); 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 33-261 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-261. Minimum landscaped open space, greenbelts, trees, >>and<< maintenance.

- (a) *Landscaped open space.* A minimum of ten (10) percent of the net lot area of the site shall be developed as landscaped open space; provided, however, that an industrial-zoned site that abuts residentially zoned or developed property shall provide fifteen (15) percent of the net lot area as landscaped open space. >>It is further provided, however, that if the industrial-zoned site abuts property which is depicted as "Industrial & Office" on the Land Use Plan map of the Comprehensive Development Master Plan, is zoned GU and no building permit has been issued for a residence at the time of the approval of the building permit for the industrial use, the landscape open space requirement shall be ten (10) percent of the net lot area.<< Said landscaped open space may include entrance features, greenbelts, unpaved passive and active recreation area, and

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

other similar landscaped open space at ground level. Open space areas may also include tree preservation zones of "natural forest communities" as defined in Section 26B-1, Code of Miami-Dade County. Tree preservation zones shall be delineated on all plans submitted to Miami-Dade County, for site plan review under Section 33-261.1 of the Code of Miami-Dade County, for the purposes of determining overall preservation area and percent of overall landscaped area. The requirements contained herein do not replace or substitute for any requirements contained within Chapter 18A, Code of Miami-Dade County.

Water bodies may be used as part of the required landscaped open space but such water areas shall not be credited for more than twenty (20) percent of the required open space. The specific areas within enclosed or unenclosed malls which are landscaped with grass, trees and/or shrubbery, water areas herein and areas therein with permanent art display may be used as part of the required landscaped open space, but such areas shall not be credited for more than ten (10) percent of the required landscaped open space. For approved structures exceeding four (4) stories in height, additional landscaped open space shall be provided equivalent to twenty-five (25) percent of the gross floor area of each floor above four (4) stories.

- (b) *Greenbelts.* Continuous, extensively planted greenbelts, penetrated only at approved points for ingress or egress to the property, shall be provided along all property lines abutting public rights-of way or properties zoned residential, in accordance with the following minimum standards:

<i>Size of Net Lot Area</i>	<i>Width of Greenbelts</i>
Up to 3 acres	8 feet
More than 3 acres	10 Feet

>>It is provided, however, that this greenbelt requirement shall not apply along property lines abutting property which is depicted as "Industrial & Office" on the Land Use Plan map of the Comprehensive Development Master Plan, is zoned GU and no building permit has been issued for a residence at the time of the approval of the building permit for the industrial use.<<

* * *

Section 2. Sec. 33-263.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-263.1. Minimum landscaped open space, greenbelts, trees, >>and<< maintenance.

- (a) *Landscaped open space.* A minimum of ten (10) percent of the net lot area of the site shall be developed as landscaped open space; provided, however, that an industrial-zoned site that abuts residentially zoned or developed property shall provide fifteen (15) percent of the net lot area as landscaped open space. >>It is further provided, however, that if the industrial-zoned site abuts property which is depicted as "Industrial & Office" on the Land Use Plan (LUP) map of the Comprehensive Development Master Plan (CDMP), is zoned GU and no building permit has been issued for a residence at the time of the approval of the building permit for the industrial use, the landscape open space requirement shall be ten (10) percent of the net lot area.<< Said landscaped open space may include entrance features, greenbelts, unpaved passive and active recreation area, and other similar landscaped open space at ground level. Open space areas may also include tree preservation zones of "natural forest communities" as defined in Section 26B-1, Code of Miami-Dade County. Tree preservation zones shall be delineated on all plans submitted to Miami-Dade County, for site plan review under Section 33-261.1 of the Code of Miami-Dade County, for the purposes of determining overall preservation area and percent of overall landscaped area. The requirements contained herein do not replace or substitute for any requirements contained within Chapter 18A, Code of Miami-Dade County.

Water bodies may be used as part of the required landscaped open space but such water areas shall not be credited for more than twenty (20) percent of the required open space. The specific areas within enclosed on unenclosed malls which are landscaped with grass, trees and/or shrubbery, water areas herein and areas therein with permanent art display may be used as part of the required landscaped open space, but such areas shall not be credited for more than ten (10) percent of the required landscaped open space. For approved structures exceeding four (4) stories in height, additional landscaped open space shall be

provided equivalent to twenty-five (25) percent of the gross floor area of each floor above four (4) stories.

- (b) *Greenbelts.* Continuous, extensively planted greenbelts, penetrated only at approved points for ingress or egress to the property, shall be provided along all property lines abutting public rights-of way or properties zoned residential, in accordance with the following minimum standards:

<i>Size of Net Lot Area</i>	<i>Width of Greenbelts</i>
Up to 3 acres	8 feet
More than 3 acres	10 Feet

>>It is provided, however, this greenbelt requirement shall not apply along property lines abutting property which is depicted as "Industrial & Office" on the LUP map of the CDMP, is zoned GU and no building permit has been issued for a residence at the time of the approval for the building permit for the industrial use.<<

* * *

Section 3. Sec. 33-266.2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-266.2. Minimum landscaped open space, greenbelts, trees, >>and<< maintenance.

- (a) *Landscaped open space.* A minimum of ten (10) percent of the net lot area of the site shall be developed as landscaped open space; provided, however, that an industrial-zoned site that abuts residentially zoned or developed property shall provide fifteen (15) percent of the net lot area as landscaped open space. >>It is further provided, however, that if the industrial-zoned site abuts property which is depicted as "Industrial & Office" on the Land Use Plan map of the Comprehensive Development Master Plan, is zoned GU and no building permit has been issued for a residence at the time of the approval of the building permit for the industrial use, the landscape open space requirement shall be ten (10) percent of the net lot area.<< Said landscaped open space may include entrance features, greenbelts, unpaved passive and active recreation area, and

other similar landscaped open space at ground level. Open space areas may also include tree preservation zones of "natural forest communities" as defined in Section 26B-1, Code of Miami-Dade County. Tree preservation zones shall be delineated on all plans submitted to Miami-Dade County, for site plan review under Section 33-261.1 of the Code of Miami-Dade County, for the purposes of determining overall preservation area and percent of overall landscaped area. The requirements contained herein do not replace or substitute for any requirements contained within Chapter 18A, Code of Miami-Dade County.

Water bodies may be used as part of the required landscaped open space but such water areas shall not be credited for more than twenty (20) percent of the required open space. The specific areas within enclosed or unenclosed malls which are landscaped with grass, trees and/or shrubbery, water areas herein and areas therein with permanent art display may be used as part of the required landscaped open space, but such areas shall not be credited for more than ten (10) percent of the required landscaped open space. For approved structures exceeding four (4) stories in height, additional landscaped open space shall be provided equivalent to twenty-five (25) percent of the gross floor area of each floor above four (4) stories.

- (b) *Greenbelts.* Continuous, extensively planted greenbelts, penetrated only at approved points for ingress or egress to the property, shall be provided along all property lines abutting public rights-of way or properties zoned residential, in accordance with the following minimum standards:

<i>Size of Net Lot Area</i>	<i>Width of Greenbelts</i>
Up to 3 acres	8 feet
More than 3 acres	10 Feet

>>It is provided, however, this greenbelt requirement shall not apply along property lines abutting property which is depicted as "Industrial & Office" on the Land Use Plan map of the Comprehensive Development Master Plan, is zoned GU and no building permit has been issued for a residence at the time of the approval of the building permit for the industrial use.<<

* * *

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: APR 8 - 2003

Approved by County Attorney as
to form and legal sufficiency:

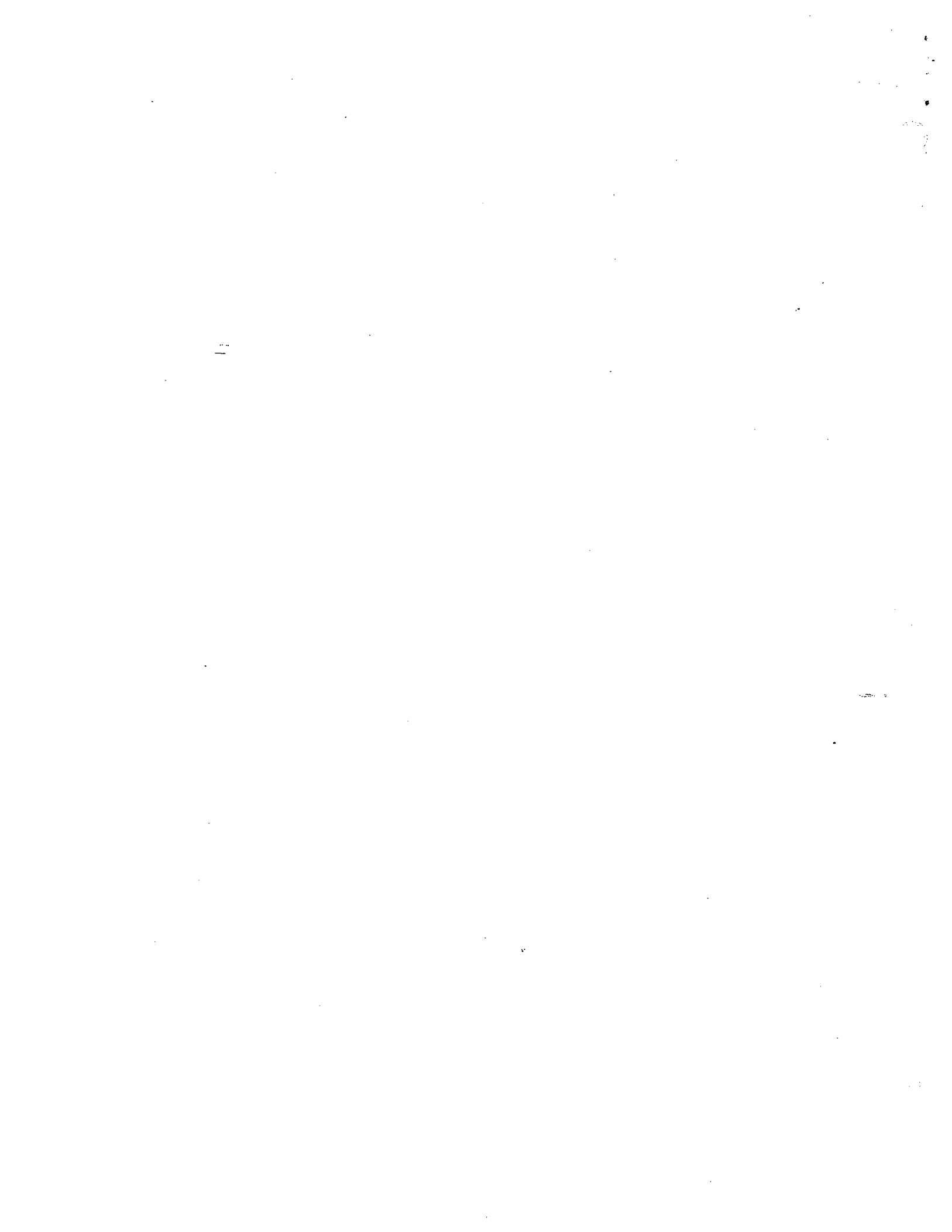
RAG

Prepared by:

JAC

Joni Armstrong Coffey

Sponsored by Commissioner Jose "Pepe" Diaz



MEMORANDUM

Agenda Item No. 6 (K)

TO: Hon. Chairperson and Members
Board of County Commissioners

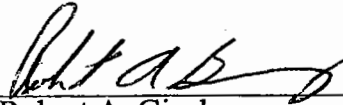
DATE: (Second Reading 4-8-03)
February 4, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to building
land improvement permit

03-75

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Sally A. Heyman.



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

SUBJECT: Ordinance relating to
building and land improvement

FROM: Steve Shiver
County Manager

03-75

The proposed ordinance relating to building and land improvement will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(K)

03-75

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(K)

Veto _____

4-8-03

Override _____

ORDINANCE NO. 03.75

ORDINANCE RELATING TO BUILDING AND LAND IMPROVEMENT PERMIT; MODIFYING REQUIREMENT FOR BOUNDARY SURVEY; AMENDING ORDINANCE NO. 02-150 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 2 of Ordinance No. 02-150 is hereby amended to read as follows:¹

* * *

Sec. 2-1321.1 Requirement of Boundary Survey.

As part of an application for a building permit or land improvement permit which authorizes construction of a new structure or expansion of existing structure, the permit applicant shall provide a boundary survey performed in accordance with Chapter 61G17-6.0031, Florida Administrative Code>>, in the event any portion of the subject property is contiguous to or across the street from a municipal boundary<<. It is further provided that such survey shall depict the location of any municipal boundary on or across the property being surveyed. The survey submitted shall have been updated within one year of the date of application for permit pursuant to this section. Such survey shall be forwarded to the appropriate county departments for their review for compliance with applicable county code provision.

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 a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

PASSED AND ADOPTED: APR - 8 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

CH

Craig H. Collier

Sponsored by Commissioner Sally A. Heyman

5



MEMORANDUM

Agenda Item No. 6(H)

(Second Reading 4-8-03)

TO: Hon. Chairperson and Members
Board of County Commissioners


DATE: January 23, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to
proposed ordinances that
affect municipalities

03.72

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


Robert A. Ginsburg
County Attorney

RAG/jls



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

SUBJECT: Ordinance relating to
proposed ordinances that
affect municipalities

FROM: Steve Shiver
County Manager

03-72

The proposed ordinance amending the County Commission Rules of Procedure relating to proposed ordinances that affect municipalities will have a minimal fiscal impact, if any, on Miami-Dade County because municipalities are currently notified of any ordinances affecting them by the Clerk of the Board of County Commissioners. This proposed amendment simply places the responsibility of notification on the County Manager's Office rather than the Clerk of the Board.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(H)

03.72

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(H)
4-8-03

ORDINANCE NO. 03.72

ORDINANCE AMENDING THE COUNTY COMMISSION RULES OF PROCEDURE RELATING TO PROPOSED ORDINANCES THAT AFFECT MUNICIPALITIES; AMENDING SECTION 2-1, RULE 5.06 (f) AND (g) OF THE CODE; 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 2-1, Rule 5.06 (f) of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Rule 5.06 (f) ORDINANCES >>DIRECTLY<< AFFECTING MUNICIPALITIES. Any proposed county ordinance>>s<< >>that<< ~~[[which]]~~ would directly affect the jurisdiction or the duties of municipalities >>or<< ~~[[and]]~~ their officers>>, <<>>or any proposed ordinances that may have a direct fiscal impact upon municipal governments in Miami-Dade County,<< shall be >>scheduled<< ~~[[brought forward]]~~for public hearing no sooner than six (6) weeks after its passage on first reading. >>At least four (4) weeks prior to the scheduled public hearing, the County Manager is directed to mail or e-mail a copy of the proposed ordinance to each city clerk, city attorney, city manager and the Executive Director of the Miami-Dade League of Cities, Inc. The County Manager's communication shall include the date of the scheduled public hearing and shall state that the proposed ordinance may have an impact upon municipalities.<< ~~[[Immediately following the board's approval of the ordinance on first reading, the clerk of the board of county commissioners shall notify each municipal~~

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

~~clerk in the county of the approval on first reading of each such ordinance by the board of county commissioners together with the date on which public hearing is scheduled to be held.]]~~ This subsection shall be construed as directory only, and failure to comply with the provisions hereof shall not affect the validity of any ordinance.

Section 2. Section 2-1, Rule 5.06 (g) of the Code of Miami-Dade County, Florida, is hereby deleted in its entirety :

Rule 5.06 (g) ~~[[ORDINANCES THAT HAVE DIRECT FISCAL IMPACT ON MUNICIPALITIES. The county manager is directed to mail, at least four weeks prior to the scheduled public hearing, a copy of any proposed ordinance that may have a direct fiscal impact upon a municipal government in Miami Dade County to each city clerk, city attorney, city manager and the Executive Director of the Miami Dade League of Cities, Inc. The county manager is further directed to include a cover letter stating the date of the public hearing and that the proposed ordinance may have a direct fiscal impact upon the municipality. This subsection shall be construed as directory only, and failure to comply with the provisions hereof shall not affect the validity of any ordinance.]]~~

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

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

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

PASSED AND ADOPTED: APR - 8 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6

Robert A. Ginsburg

Sponsored by Commissioner Rebeca Sosa

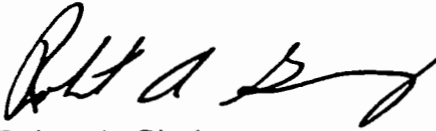


MEMORANDUM
(Revised)

Supplement to
Agenda Item No. 6(H)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to
proposed ordinances that
affect municipalities

Please note any items checked.

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



MEMORANDUM

Agenda Item No. 6 (K)

(Second Reading 4-8-03)

TO: Hon. Chairperson and Members
Board of County Commissioners

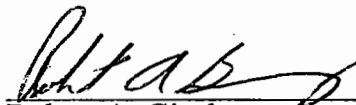
DATE: February 4, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to building
land improvement permit

03-75

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Sally A. Heyman.



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

SUBJECT: Ordinance relating to
building and land improvement

FROM: Steve Shiver
County Manager

03-75

The proposed ordinance relating to building and land improvement will have no fiscal impact on Miami-Dade County.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(K)

03-75

Please note any items checked.

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

Approved _____ Mayor

Agenda Item No. 6(K)

Veto _____

4-8-03

Override _____

ORDINANCE NO. 03.75

ORDINANCE RELATING TO BUILDING AND LAND IMPROVEMENT PERMIT; MODIFYING REQUIREMENT FOR BOUNDARY SURVEY; AMENDING ORDINANCE NO. 02-150 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 2 of Ordinance No. 02-150 is hereby amended to read as follows:¹

* * *

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As part of an application for a building permit or land improvement permit which authorizes construction of a new structure or expansion of existing structure, the permit applicant shall provide a boundary survey performed in accordance with Chapter 61G17-6.0031, Florida Administrative Code>>, in the event any portion of the subject property is contiguous to or across the street from a municipal boundary<<. It is further provided that such survey shall depict the location of any municipal boundary on or across the property being surveyed. The survey submitted shall have been updated within one year of the date of application for permit pursuant to this section. Such survey shall be forwarded to the appropriate county departments for their review for compliance with applicable county code provision.

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 a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

PASSED AND ADOPTED: APR - 8 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

CK

Craig H. Collier

Sponsored by Commissioner Sally A. Heyman

5



MEMORANDUM

Agenda Item No. 6(H)

(Second Reading 4-8-03)

TO: Hon. Chairperson and Members
Board of County Commissioners


DATE: January 23, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to
proposed ordinances that
affect municipalities

03.72

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


Robert A. Ginsburg
County Attorney

RAG/jls



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

SUBJECT: Ordinance relating to
proposed ordinances that
affect municipalities

FROM: Steve Shiver
County Manager

03-72

The proposed ordinance amending the County Commission Rules of Procedure relating to proposed ordinances that affect municipalities will have a minimal fiscal impact, if any, on Miami-Dade County because municipalities are currently notified of any ordinances affecting them by the Clerk of the Board of County Commissioners. This proposed amendment simply places the responsibility of notification on the County Manager's Office rather than the Clerk of the Board.



MEMORANDUM

(Revised)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(H)

03.72

Please note any items checked.

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

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(H)
4-8-03

ORDINANCE NO. 03.72

ORDINANCE AMENDING THE COUNTY COMMISSION RULES OF PROCEDURE RELATING TO PROPOSED ORDINANCES THAT AFFECT MUNICIPALITIES; AMENDING SECTION 2-1, RULE 5.06 (f) AND (g) OF THE CODE; 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 2-1, Rule 5.06 (f) of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Rule 5.06 (f) ORDINANCES >>DIRECTLY<< AFFECTING MUNICIPALITIES. Any proposed county ordinance>>s<< >>that<< ~~[[which]]~~ would directly affect the jurisdiction or the duties of municipalities >>or<< ~~[[and]]~~ their officers>>, << >>or any proposed ordinances that may have a direct fiscal impact upon municipal governments in Miami-Dade County, << shall be >>scheduled<< [[brought forward]]for public hearing no sooner than six (6) weeks after its passage on first reading. >>At least four (4) weeks prior to the scheduled public hearing, the County Manager is directed to mail or e-mail a copy of the proposed ordinance to each city clerk, city attorney, city manager and the Executive Director of the Miami-Dade League of Cities, Inc. The County Manager's communication shall include the date of the scheduled public hearing and shall state that the proposed ordinance may have an impact upon municipalities.<< [[Immediately following the board's approval of the ordinance on first reading, the clerk of the board of county commissioners shall notify each municipal

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

~~clerk in the county of the approval on first reading of each such ordinance by the board of county commissioners together with the date on which public hearing is scheduled to be held.]]~~ This subsection shall be construed as directory only, and failure to comply with the provisions hereof shall not affect the validity of any ordinance.

Section 2. Section 2-1, Rule 5.06 (g) of the Code of Miami-Dade County, Florida, is hereby deleted in its entirety :

Rule 5.06 (g) ~~[[ORDINANCES THAT HAVE DIRECT FISCAL IMPACT ON MUNICIPALITIES. The county manager is directed to mail, at least four weeks prior to the scheduled public hearing, a copy of any proposed ordinance that may have a direct fiscal impact upon a municipal government in Miami-Dade County to each city clerk, city attorney, city manager and the Executive Director of the Miami Dade League of Cities, Inc. The county manager is further directed to include a cover letter stating the date of the public hearing and that the proposed ordinance may have a direct fiscal impact upon the municipality. This subsection shall be construed as directory only, and failure to comply with the provisions hereof shall not affect the validity of any ordinance.]]~~

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.

03.721

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: APR - 8 2003

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

Robert A. Ginsburg

Sponsored by Commissioner Rebeca Sosa




MEMORANDUM
(Revised)

Supplement to
Agenda Item No. 6(H)

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: April 8, 2003


FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to
proposed ordinances that
affect municipalities

Please note any items checked.

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



MEMORANDUM

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

Amended
Agenda Item No. 6(L)

(Second Reading 3-11-03)

To: Honorable Chairperson and Members
Board of County Commissioners

Date: January 23, 2003

From: Steve Shiver
County Manager

Subject: Ordinance Relating to Traditional
Neighborhood Development

O#03-47

RECOMMENDATION

It is recommended that the Board approve the attached ordinance amending the Traditional Neighborhood Development (TND) District.

BACKGROUND

On April 2, 1991, the Board adopted Ordinance No. 91-41, the Traditional Neighborhood Development (TND) District, to enable the development of land using the traditional urban conventions that guided development in the United States until the 1940's. Since the adoption of the TND Ordinance, two applications for the development of a TND have been approved. The "Salamanca" project now known as "Kendall Commons" was approved under Resolution No. CZAB11-28-01 in October, 2001. Another application for a TND zoning district boundary change on certain property in the Naranja Lakes area of south Miami-Dade County was filed by the Director of the Department of Planning and Zoning. The rezoning was approved under Resolution No. 2-31-01 on December 20, 2001. Based on the lessons learned from these projects and on the recommendations of a market study for Naranja Lakes prepared by Goodkin Research, staff from the Department of Planning and Zoning realized the necessity to review the existing TND Ordinance in an effort to identify needed adjustments while maintaining the integrity of this development concept.

The amendments include additional accessibility provisions for people with disabilities, which are supported by the Commission on Disabilities. In addition, a green has been added as an alternative to the mandatory square; residential use has been added as a permitted use in the workplace land use category, as well as a modification to allow an additional workshop use area in a TND of 100 acres or more. Additionally, alternatives to the requirement for the use of alleys may be approved under certain conditions and the required land allocation for workplace uses may be reduced by 50 percent, if approved at public hearing. In addition, this ordinance will in most instances supersede conflicting provisions of the Landscape and Zoning Codes. A number of clarifying and non-substantive changes have also been included.

FISCAL IMPACT

These modifications to the existing TND Ordinance will result in no fiscal impact to the County, although it is expected that the variety of housing types to be provided in the TND will enhance affordability, and that the additional accessibility provisions will have a nominal effect.

HOUSING IMPACT

Adoption of this ordinance to amend the TND ordinance will have no direct or indirect impact on the housing in Miami-Dade County, although as stated above, a variety of housing types in the TND ordinance may enhance affordability.

Attachment



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: March 11, 2003

FROM: 
Robert A. Ginsburg
County Attorney

Amended
SUBJECT: Agenda Item No. 6(L)

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. 6(L)
3-11-03

ORDINANCE NO. 03-47

ORDINANCE PERTAINING TO TRADITIONAL NEIGHBORHOOD DEVELOPMENT ("TND") ZONING DISTRICT; AMENDING SECTIONS 33-284.46, 33-284.47, 33-284.48, 33-284.50, 33-284.51, 33-284.52 AND 33-284.53 OF THE CODE OF MIAMI-DADE COUNTY FLORIDA ("CODE"); CREATING SECTIONS 33-284.52.1 AND 284.54 OF THE CODE; MODIFYING DESIGN CRITERIA FOR ACCESSIBILITY FOR PEOPLE WITH DISABILITIES; DEFINING GREEN AND MODIFYING THE DEFINITIONS OF PARK AND PLAZA; DELETING PROVISIONS FOR LOCATION OF TOWN CENTER SHOPFRONT USES; MODIFYING PERMITTED USES IN THE SHOPFRONT USE CATEGORY; MODIFYING THE PERMITTED USES AND LIMITATIONS ON MINIMUM LAND ALLOCATION REQUIREMENTS FOR WORKPLACE USES; PROVIDING THAT THE TND DISTRICT REGULATIONS SHALL PREVAIL IN THE EVENT OF CONFLICT WITH OTHER PROVISIONS OF CHAPTERS 18A (LANDSCAPING) AND 33 (ZONING) OF THE CODE; CLARIFYING CERTAIN PROVISIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 33-284.46 of the Code of Miami-Dade County, Florida, is hereby amended as follows:¹

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

**ARTICLE XXXIIIH. TRADITIONAL
NEIGHBORHOOD DEVELOPMENT (TND) DISTRICT**

Sec. 33-284.46. Purpose and intent.

The TND District is designed to ensure the development of land along the lines of traditional neighborhoods. Its provisions adapt the urban conventions which were normal in the United States from colonial times until the 1940s. The TND ordinance prescribes the following physical conventions:

* * *

- (D) Carefully placed civic buildings >>,<< ~~[[and]]~~ squares >>, and greens<< reinforce the identity of the neighborhood.
- (E) Spatially defined squares >>,<< ~~[[and]]~~ parks >>, and greens<< provide places for social activity and recreation.

* * *

Section 2. Section 33-284.47 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 33-284.47. Design criteria.

(A) The following design criteria and requirements shall be applicable in the TND District. Terms used throughout this ordinance shall take their commonly accepted meaning unless otherwise defined in Chapter 33 or Chapter 28 of the Code of Miami-Dade County. Terms requiring interpretation specific to this ordinance are as follows:

- (1) Alley: A vehicular passageway providing >>primary,<< secondary and/or service access to the sides and or rear of building lots. Posted speed shall not exceed fifteen (15) miles per hour.

* * *

- (10) Curb radius: The curved edge of the street at intersections, measured at the edge of the travel lanes. Curbs at intersections shall not intrude into the intersection beyond the specified maximum curb radius. Where streets of different use categories intersect, the requirements of the higher intensity use shall govern. ~~[[The curb radius shall be handicapped accessible]]~~
- (11) Front porch: A front porch is an unairconditioned roofed structure attached to the front of the unit. A front porch shall have a minimum depth of six (6) feet and a minimum width of twelve (12) feet and, except for insect screening, shall only have supporting

columns visible above forty-two (42) inches from the finished porch floor level. Side and rear porches are not subject to these requirements. All or a portion of the front porch may encompass a ramp providing ~~[[handicap]]~~ access ~~>>~~for people with disabilities~~<<~~.

* * *

(13) *Greenbelt*: An optional open space area adjoining the neighborhood proper and no less than one hundred fifty (150) feet wide at any place. The area shall be preserved in perpetuity in its natural condition, or enhanced by the owner, as determined by the ~~>>Miami-<<~~Dade County Department of Environmental Resources Management. The greenbelt area may be used for non-row crop farming, wetlands, water retention, animal husbandry, bulky waste site (for the exclusive use of the TND), golf courses, or subdivided into house lots no smaller than five (5) acres. Roadways, exclusive of through streets, may penetrate greenbelts in order to provide access to areas outside the TND.

~~>>~~(14) *Green*: A public open space located within the neighborhood proper and bounded by streets. Paved areas in greens shall not exceed twenty percent (20%) of the green area exclusive of dedicated rights-of-way. Greens shall have a length to width ratio no greater than four to one (4:1). A green may be enclosed with a wrought iron or electrostatic plated aluminum fence not exceeding five (5) feet in height.~~<<~~

~~[[14]]>>~~(15)~~<<~~ *Height*: Building height shall be measured from the average elevation of the finished exterior building site to the eave line or to the top of the parapet. Flat roofs shall have parapet walls on all sides.

~~[[15]]>>~~(16)~~<<~~ *Home occupation use*: Premises used for the transaction of business or the supply of professional services excluding medical and dental. Home occupation shall be limited to the following: Architect, artist, broker, consultant, dressmaker, draftsman, engineer, interior decorator, lawyers, manufacturer's agent, notary public, teacher (excluding group instruction), and other similar occupations. Such use shall not simultaneously employ more than two (2) persons, one of whom must reside on the property. The total gross area of the home occupational use shall not exceed ~~>>~~twenty-five~~<<~~ ~~[[25.0]]~~ percent ~~>>~~(25%)~~<<~~ of the gross square footage of the residential unit. Certificates of use and occupancy shall be reviewed annually

~~[[16]]>>~~(17)~~<<~~ *Limited lodging use*: The provision of no more than four (4) bedrooms for letting. Food service may be included between the hours of 6:00 a.m. to 11:00 a.m. The maximum length of stay shall not exceed fourteen (14) days.

~~[[17]]>>~~(18)~~<<~~ *Limited office use*: The transaction of business or the supply of professional services, employing no more than eight (8) persons.

[[~~(18)~~]]>>(19)<<*Lodging use*: Buildings providing food service and bedrooms for letting.

[[~~(19)~~]]>>(20)<<*Maintenance easement*: A perpetual four-foot wide wall maintenance easement shall be provided on a lot adjacent to a zero lot line property line, which, with the exception of walls and/or fences, shall be kept clear of structures. This easement shall be shown on the plat and incorporated into each deed transferring title to the property. The wall shall be maintained in its original color and treatment unless otherwise agreed to in writing by the affected lot owners. Roof overhangs may penetrate the easement on the adjacent lot a maximum of twenty-four (24) inches but the roof shall be so designed that water runoff from the dwelling placed on the lot line is limited to the easement area. The easement shall be maintained unless otherwise agreed to, in writing, by the two (2) affected lot owners.

[[~~(20)~~]]>>(21)<<*Meeting hall*: A building designed for public assembly, containing at least one room having an area equivalent to four (4) square feet per dwelling unit or twenty-four hundred (2,400) gross square feet, whichever is greater. The total number of dwelling units shall be established at the time of the TND approval.

[[~~(24)~~]]>>(22)<<*Neighborhood proper*: The built-up area planned for development within a TND, including blocks, streets, squares, >>greens<< and parks, but excluding greenbelts or other open green periphery areas.

[[~~(22)~~]]>>(23)<< *Outbuilding*: An accessory use building, for residential, parking, or storage use only, contiguous with the rear lot line, of a maximum of twenty-four (24) feet in height and having a maximum building footprint of five hundred (500) gross square feet.

[[~~(23)~~]]>>(24)<<*Park*: ~~[[A public open space whose area is delineated by the surrounding building frontage lines within the neighborhood proper. Parks shall be paved for no more than ten (10.0) percent of their area exclusive of dedicated rights of way, landscaped, and surrounded by building frontage lines whose collective linear footage is equivalent to at least fifty (50.0) percent of the park perimeter's linear footage. Parks shall have a length to width ratio no greater than 3 to 1.]]>>An area of land designated for active or passive recreation.<<~~

[[~~(24)~~]]>>(25)<<*Pedestrian pathways*: Pedestrian pathways are interconnecting paved walkways that provide pedestrian passage through blocks running from street to street. Said pathways shall not be less than ten (10) feet, nor more than twenty (20) feet in width, with a minimum pavement width of ten (10) feet. Pedestrian pathways shall provide an unobstructed view, from street to street, no less than ten (10) feet wide.

[[~~(25)~~]]>>(26)<<*Plaza*: An open space area within a town center on which ~~[[all]]~~ shopfront lots front. Plazas shall ~~[[be limited to parking,]]~~ >>include<< landscaping. ~~[[and]]~~ permanent architectural >>features<< and/or water-oriented features. >>Parking may be included, but shall be limited to seventy-five percent (75%) of the total area of the plaza.<<

[[~~(26)~~]]>>(27)<<*Private open space*: That space on each building lot that is for the private use of the inhabitants of such lot. Said space shall be unenclosed, and open to the sky except for roofed porches. Atriums, gardens, garden courts, walks, >>ramps,<<patios, and other similar spaces shall count as private open space. Up to one third >>(1/3)<<of the private open space area may be a roof>>ed porch.<<[[terrace.]]

[[~~(27)~~]]>>(28)<<*Prohibited uses*: The following uses are not permitted anywhere within a TND: Vending machines, including newspaper, except as an accessory use within a commercial building; detached signs; chemical manufacturing, storage or distribution as a primary use; gun shops, pawn shops, chicken hatcheries, packing houses, tire vulcanizing and retreading, automobile sales and rental, any commercial use in which patrons remain in their automobiles while receiving goods or services, except service stations; on-site enameling, painting or plating, of materials for off-site use, except artist's studios and as provided in the workshop land use category; outdoor advertising or billboard; terminal or yard used for the business of carting, moving, or hauling goods, except delivery of goods to businesses within a TND; prisons, or detention centers, except as accessory to police station; manufacture, storage or disposal of hazardous waste materials; scrap yards; mobile homes; sand, gravel, or other mineral extraction; kennels.

[[~~(28)~~]]>>(29)<<*Residential use*: The term residential is applied herein to any lot, plot, parcel, or piece of land or any building used for dwelling purposes.

[[~~(29)~~]]>>(30)<<*Setback*: An absolute distance ~~[[from]]~~>>between<< the building lot line ~~[[on which]]~~ >>and<<the >>outside of the façade closest to said building lot line of the<< enclosed portion of the building ~~[[shall be built]]~~. Front porches and ~~[[handicap]]~~ ramps >>for people with disabilities<<are exempt from setback requirements.

[[~~(30)~~]]>>(31)<<*Shared parking*: Any parking spaces intended to be utilized for more than one use occurring on a single lot or within a single building, where persons utilizing the spaces are unlikely to need the spaces at the same time of day.

[[~~(31)~~]]>>(32)<<*Square*: An outdoor public tract ~~[[whose area is defined by adjacent buildings' frontage lines. Squares shall include]]~~ >>defined by<< streets on at least three (3) sides. Squares shall be at least seventy-five ~~[[75.0]]~~ percent >>(75%)<< paved and surrounded by shopfront use lots or rowhouse use lots on at least sixty ~~[[60.0]]~~ percent >>(60%)<< of its

perimeter (perimeter being defined as the aggregate of the frontage lines of the surrounding lots). ~~[[For at least one square, shopfront uses shall be permitted on all the surrounding lots.]]~~ Squares shall have a length to width ratio no greater than three to one (3:1).

~~[[32]]~~>>(33)<<*Streetedge*: A masonry wall, wood fence, or electrostatic plated black aluminum or wrought iron >>fence<< ~~[[or hedge,]]~~ no less than fifty ~~[[50.0]]~~ percent >>(50%)<<opaque, or a hedge on thirty inch centers, between two and one-half (2 ½) and >>four (4)<< ~~[[five (5)]]~~ feet in height, >>at time of planting positioned << ~~[[built]]~~ along the frontage line. Any wall, >>or<< fence >>built<< or hedge ~~[[built]]~~ >>planted<< between the frontage line and a point even with the nearest enclosed edge of the house shall not be of greater height than the streetedge.

~~[[33]]~~>>(34)<<*Streetwall*: A masonry or wood wall, or electrostatic plated black aluminum or wrought iron fence between six (6) feet and twelve (12) feet in height, no less than twenty-five ~~[[25.0]]~~ percent >>(25%)<<and no more than fifty ~~[[50.0]]~~ percent >>(50%)<< opaque, except for service yards which require no less than fifty ~~[[50.0]]~~ percent >>(50%)<< opacity, built along the frontage line. Any openings shall be gated. The percent opacity shall be calculated including all openings.

~~[[34]]~~>>(35)<<*Streetlamp*: A light standard not to exceed fifteen (15) feet in height. Streetlamps shall be installed on both sides of streets at no more than seventy-five-foot intervals measured parallel to the street. Any streetlights in alleys shall be designed in accordance with the standards developed by the Illumination Engineering Society. The installation and maintenance of the street light system will be through a special taxing district. Street lighting design shall meet the minimum standards developed by the Illumination Engineering Society.

~~[[35]]~~>>(36)<<*Street vista*: A view through or along a street centerline>> << ~~[[which is not less than six hundred (600) feet in length.]]~~

~~[[36]]~~>>(37)<<*Through street*: A street constructed in accordance with major and minor roadways as depicted on the adopted comprehensive development land use plan map. A TND may be located adjacent to, but shall not be bisected by a through street.

~~[[37]]~~>>(38)<<*Town center*: A town center is an optional and accessory use to the TND providing for larger scale commercial shopfront uses in buildings that front a plaza. A portion of the town center plaza may be used for parking. The town center buildings shall surround the plaza on at least thirty-five ~~[[35]]~~ percent >>(35%)<<of its perimeter. The town center shall meet all requirements of said shopfront use category, except as modified below, and

all other requirements of the TND, including requirements for parking lots, if any part of the plaza is used for parking.

A maximum of seventy-five ~~[[75.0]]~~ percent ~~>>~~(75%)~~<<~~ of the TND's allocation for shopfront use lots may be transferred to the town center. Any additional commercial area shall only be permitted where designated on CDMP, land use plan map.

A town center shall only be located where through streets or any street adjacent to the neighborhood proper intersect. There shall be no more than one town center in a TND. Town center plazas shall extend no further than six hundred (600) feet along the through street from the centerline of the intersection and shall have a maximum area of fourteen hundred (1,400) square feet per TND acre in area to a maximum of two hundred thousand (200,000) square feet. ~~[[The town center shopfront uses shall be located no further than a six hundred foot radius from other shopfront uses located on the mandatory square]]~~. There shall be a direct street connection between the mandatory square ~~>>~~or green~~<<~~ and the town center plaza. A minimum of thirty-five ~~[[35.0]]~~ percent ~~>>~~(35%)~~<<~~ of the gross leasable building area (taken in sum) of the lots fronting the plaza shall be for residential use. A maximum of four ~~>>~~(4)~~<<~~ lots fronting the town center plaza may be consolidated. Colonnades are required on all shopfront use buildings fronting the town center plaza. At least ten ~~[[10.0]]~~ ~~>>~~(10%)~~<<~~ percent of the plaza shall be devoid of parking and developed with permanent architectural and/or water features as a focal point for the town center. Said focal point shall be in addition to other landscape requirements as provided in the TND. Town centers may include, in addition to ~~[[BU-1]]~~ uses ~~>>~~provided in the shopfront use category~~<<~~, one grocery and/or department store use, each not exceeding ~~>>~~forty thousand ~~<<~~40,000~~>>~~ square feet of building area.

~~[[38]]~~~~>>~~(39)~~<<~~ *Warranted traffic control device*: A device (typically a yield or stop sign, or a traffic signal) that has met the minimum criteria for installation based on the Manual on Uniform Traffic Control Devices; National Manual, 1988 Edition.

Section 3. Section 33-284.48 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 33-284.48. Development parameters.

All applications for a TND shall comply with the following development parameters:

* * *

(C) *General development criteria.*

* * *

(3) *Lots and buildings.*

- (a) All lots shall share a frontage line with a street >> << ~~[[or]]~~ square >> or green. <<

* * *

~~[[e) No building or portion thereof shall be less than fifty (50) feet from the centerline right of way of a through street.]]~~

(4) *Streets, alleys and pedestrian pathways.*

* * *

- (b) Streets >> or alleys << shall provide access to all tracts and building lots.

* * *

- (g) A curb ~~[[, six (6) inches in height,]]~~ is required at all street intersections. There shall be curb cuts providing ~~[[handicap]]~~ access >> for people with disabilities << at all intersections and points of pedestrian crossing.

- (h) Curb interruptions are permitted only for alleys, ~~[[handicap]]~~ access >> for people with disabilities << and other parking access points specified herein.

* * *

- (j) All sidewalks shall have a continuous unobstructed clear area of a width no less than ~~[[thirty six (36)]]~~ >> forty-two (42) << inches. This area shall be unobstructed by utility poles, fire hydrants, benches or any other temporary or permanent structures. >> Free and clear public use of the sidewalk area beyond the right-of-way shall be protected by a public access easement, except as provided herein for the shopfront use category. <<

* * *

- (l) Rights-of-way in a TND shall extend >> a minimum of << eighteen (18) inches beyond the curbface/edge of the sidewalk, measured away from the right-of-way centerline.

~~[[m) Free and clear public use of the sidewalk area beyond the right-of-way shall be protected by a public access easement, except as provided herein for the shopfront use category.]]~~

~~[[n]]Where TND streets intersect through streets, the provisions of this ordinance shall not apply with regard to roadway design.~~]]

[[~~(o)~~]]>>(m)<< Street furniture such as trash containers and bus benches shall be permanently secured to the sidewalk. >>One (1) bench shall be provided along all edges of squares, greens and parks<<.

[[~~(p)~~]]>>(n)<< No sign, awning, lighting, wiring or other object higher than twenty-seven (27) inches from the ground shall extend more than four (4) inches horizontally over any sidewalk from the column, post or wall on which it is mounted or shall hang down above the sidewalk unless its bottom edge is more than eighty (80) inches above the sidewalk.

(5) *Parking.*

(a) Parking lots shall be located at the rear or at the side of buildings>>, except as otherwise permitted in a plaza<<. Streetwalls >>or streetedge<< shall be built on the frontage line.

(b) Parking lots and parking garages shall not: (1) abut street intersections or civic use lots; (2) be adjacent to squares>>, << [[~~(o)~~]] parks[[;]] >>, << or >>greens:<< (3) occupy lots which terminate a street vista>>, except as provided in a plaza<<.

* * *

(d) Except as otherwise provided by the ordinance, parking requirements for all uses shall be in accordance with ~~[[Chapter 33]]~~>>sections 33-122 through 33-132 of this Code<<. On-street parking directly fronting a lot shall count toward fulfilling the parking requirement of that lot. One parking space credit shall be given for every space in front of a lot that is over fifty ~~[[50.0]]~~ percent >>(50%)<< of the length of the parking space. Civic use lots within or adjacent to public use tracts may count on-street parking fronting the public use tract towards its parking requirements. A group or common parking lot is permitted in shopfront, rowhouse and workshop uses and shall be credited to the required parking for individual uses. Attached and detached single family units shall have a minimum of two (2) parking spaces.

(e) There shall be provided a minimum of one (1) ~~[[handicap]]~~ parking space >>for people with disabilities<< within one hundred (100) feet of each intersection. Such parking shall have a clear unobstructed space five (5) feet from the curbside, measured toward the lot line and shall be the full length of the parking space.

>>If a combination of on-street parking places and parking lot spaces is used to meet the total number of parking spaces required by sections 33-122 through 33-132 of this Code, then the number of parking spaces for people with disabilities provided in the

lot shall be at least as many spaces as would be required to be provided if all of the required parking spaces were provided in the lot.<<

* * *

(h) Parking for community related retail and service uses >>as listed below,<<shall not require on-site parking provided that: ~~[[(1) the required parking, in accordance with Chapter 33, is reserved and accessible within a six hundred foot radius of the activity;]]~~ ~~[[(2)]]~~ >>(1)<< the total floor space for the individual uses does not exceed five hundred (500) square feet of gross floor area; ~~[[(3)]]~~ >>(2)<< such uses be restricted to shopfront and rowhouse areas >>₁<<and ~~[[(4)]]~~ >>(3)<< that such uses shall be restricted to the following:

1. Art galleries.
2. Bakery.
3. Barber/beauty parlor.
4. Bookstore.
5. Coffee house.
6. Confectionery, sale of cookies/ice cream.
7. Convenience grocery.
8. Dry cleaning (no cleaning on premises).
9. Sale of newspapers, magazines.
10. Shoe repair (no sale of shoes).

(6) *Landscape.* Landscaping ~~[[and trees]]~~ shall be provided in accordance with Chapter 18A of this Code.

Section 4. Section 33-284.50 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 33-284.50. Review procedure.

The TND review procedures are divided into four (4) steps: (A) preapplication conference; (B) initial TND review>>₁<< (C) intermediate site plan review>>₁<< and (D) final review.

(A) *Preapplication conference.* It shall be the responsibility of the Developmental Impact Committee to coordinate with other affected departments, and where applicable, representatives of adjacent municipalities to a joint meeting for the purposes of participating in the review of the TND. Prior to said joint meeting, the applicant may confer with the Department, other affected ~~[[D]]~~>>d<<epartments and, where applicable, representatives of adjacent municipalities, in connection with the preparation of the TND District application. The applicant shall provide a general outline of the proposal through schematics and sketch plans including narrative information sufficient for the understanding of the proposed development. Thereafter and within ten (10) working days after the preapplication conference, the Developmental Impact Committee shall furnish the applicant with all written comments resulting from such conference including

appropriate recommendations to inform and assist the applicant in the preparation of the components of the TND District application. The applicant shall have the right to apply for an additional preapplication conference prior to filing a formal application with the Department. The same procedure as above shall be followed.

(B) Initial TND review.

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

* * *

- (b) *Required exhibits-Graphic documents.* Map, site plans and drawings, depicting the proposed TND shall be submitted as part of the development plan and shall contain the following minimum information:

* * *

3. Adequate information on land areas adjacent to the proposed TND at a scale of 1"=300' to indicate the relationships between the proposed development and adjacent areas, including existing land uses, zoning districts, densities, vehicular, pedestrian and equestrian circulation systems>>. access for people with disabilities<< and public facilities, as well as unique natural features of the landscape.

* * *

(C) Intermediate site plan review.

- (1) Following >>final<< approval of the TND >>zoning district<< by the Community Zoning Appeals Board >>or the Board of County Commissioners<< , the following plans and documents shall be submitted for Developmental Impact Committee review and approval together with any other relevant information required by said Committee, including but not limited to, the provision of residential units which are adaptable to the needs of individuals with disabilities.

The site plan(s) to be reviewed and approved administratively by the Developmental Impact Committee shall include:

- (a) A master plan at a scale of no less than 1"=100' which shall include the following information:
 1. All land use categories, blocks, squares and parks, greenbelts, >>greens<< civic and/or public/semi-public building footprints, parking >>, and<< landscaped open space. In addition, the plan shall indicate existing and

proposed circulation systems, including streets, alleys and major points of access.

* * *

- (2) Following administrative site plan approval by the Developmental Impact Committee, subsequent substantial modifications to the site plan with regard to land use including but not limited to the location of streets, parks and squares, civic use lots, greenbelts, >>greens<< and parking shall be required to be approved after a public hearing in accordance with the procedures contained in section (B) herein.

(D) *Final review.*

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

(a) Master plan at a scale of not less than 1"=100' which shall include the following information:

1. All land use categories, blocks, squares and parks, greenbelts, >>greens,<< civic and/or public/semi-public building footprints, parking >>and<< landscaped open space. In addition, the plan shall include existing and proposed circulation systems, including streets, alleys and major points of access.

* * *

Section 5. Section 33-284.51 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 33-284.51. Land use categories.

(A) *Public and/or semi-public use.*

(1) *Land use.*

- (a) Land designated for public and/or semi-public use shall be tracts consisting of parks, squares, ~~>>greens,<<~~ greenbelts and civic use lots and buildings.
- (b) The only buildings permitted in public and/or semi-public use tracts shall be civic use buildings.
- (c) A maximum of fifteen ~~[[15.0]]~~ percent ~~>>~~(15%)~~<<~~ of a park~~>>~~, ~~green<<~~ or square may be used as a civic use lot.
- (d) Large area recreational uses such as golf courses and multiple game fields shall be located outside the neighborhood proper.

(2) *Land allocation.*

- (a) A minimum of five ~~[[5.0]]~~ percent ~~>>~~(5%)~~<<~~ of the gross area of the neighborhood proper, or five (5.0) acres, (whichever is greater) shall be permanently allocated to tracts totally comprised of parks ~~[[0.5]]>>~~,~~<<~~ squares~~>>~~ or ~~greens.<<~~ Each neighborhood proper shall contain at least one ~~>>~~(1)~~<<~~ square ~~>>~~ or ~~green.<<~~ no less than ~~[[sixty thousand (60,000)]]~~ ~~>>~~forty five thousand (45,000)~~<<~~ square feet and no greater than ~~[[one hundred twenty thousand (120,000)]]~~ ~~>>~~ninety thousand (90,000)~~<<~~ square feet. ~~[[No single square or park can be more than forty-five (45.0) percent of the public use area.]]~~ This mandatory square ~~>>~~ or ~~green<<~~ shall be within a ~~[[three]]>>~~six~~<<~~ hundred-foot radius of the geometric center of the neighborhood proper.
- (b) The remaining required public use tracts shall be divided into lesser tracts and distributed such that no part of the neighborhood proper is further than a six-hundred-foot radius from a park~~>>~~,~~<<~~[[0.5]] square ~~>>~~ or ~~green<<~~.

* * *

(4) *Parking*

- (a) Parking on public use tracts shall be restricted to required parking for civic use facilities located thereon. Such parking shall be graded, compacted and paved in accordance with the requirements of ~~[[Chapter 33-122. Public/semi-public use tracts shall permit a maximum of fifteen (15) percent of the land area of each tract to be used for civic use lots including required parking.]]~~ ~~>>~~sections 33-122 through 33-132 of this Code.~~<<~~

(B) *Civic use.*

(1) *Land use.*

- (a) Land designated for civic use shall be lots containing community buildings, ~~[[which shall be open to the public]]~~ including meeting halls, libraries, schools, child care centers,

police stations, fire stations, post offices, clubhouses, religious buildings, playgrounds, museums, cultural societies, visual and performance arts buildings, and governmental buildings.

* * *

(2) *Land allocation*

* * *

(b) Civic use lots shall be located within or adjacent to a square >>~~1~~<<[[~~er~~]] park >>
green<<[[~~track~~]] or on a lot terminating a street vista.

* * *

(d) The developer shall [[~~dedicate~~]]>>designate<< a minimum of one civic use lot reserved for [[~~child-care use~~]]>> a day care center<<. The developer shall covenant that a building for said use shall be constructed when fifty [[~~(50.0)~~]] percent >>(50%)<<of the residential units are sold. Day care centers [[~~and private schools~~]] shall be in accordance with [[~~Chapter 33~~]] >>sections 33-122 through 33-132 of this Code. The developer shall have the option of selling, leasing or transferring title of the lot and building reserved for day care center.<<

* * *

(4) *Parking.*

(a) The number of required parking spaces for civic uses shall be in accordance with >>sections 33-122 through 33-132 of this Code<< [[~~Chapter 33~~]]; however, required parking may be provided within a six hundred-foot radius of the civic use facility provided that the required parking is under common lease or ownership with the civic use building it serves[[~~and that the same is approved at public hearing~~]].

* * *

(c) When on>>~~1~~<<site parking is provided, no less than seventy-five [[~~(75.0)~~]] percent >>(75%)<< of the off-street parking [[~~places~~]]>>spaces<< shall be >>placed<<to the rear of the building. Access may be through the frontage.

* * *

(C) *Shopfront use.*

(1) *Land use.*

(a) Land designated for shopfront use shall be >>on<<~~in building~~ lots containing buildings for residential >>use<<, including lodging and commercial uses as provided [[~~in the BU~~]]

~~1-District]] >>below<<, and other similar uses as approved by the [[Community Zoning Appeals Board]]>>Director<< at the time of the TND approval, except those listed as prohibited uses in the design criteria. [[At least fifty (50.0)]] percent of the gross square footage shall be restricted to residential and/or limited lodging use.]] >>At least twenty-five percent (25%) of the gross square footage shall be restricted to residential use, including lodging and commercial uses as provided below. The following uses shall be permitted on shopfront use parcels. No building for a single use shall exceed four thousand (4,000) square feet of interior floor area.~~

1. Antique shops, architects, interior designers, offices.
2. Apparel stores.
3. Art goods stores, artist studios and photograph shops and galleries.
4. Banks, excluding drive-in teller service.
5. Beauty parlors.
6. Bakeries, retail only (baking permitted on premises).
7. Barber shops.
8. Bicycle sales, rentals and repairs (nonmotorized).
9. Book stores.
10. Confectionery, ice cream stores and dairy stores.
11. Conservatories and music and dance schools.
12. Drugstores.
13. Floral shops.
14. Galleries.
15. Grocery stores, fruit stores, health food stores, delicatessen, meat and fish markets and other similar food stores.
16. Hardware stores.
17. Insurance and Bonds.
18. Jewelry stores.
19. Leather goods and luggage shops.
20. Liquor package store.
21. Medical equipment and supply stores.
22. Mail order offices, without storage of products sold.
23. Music, tape, CD and record stores.
24. Museum.
25. Newsstand.
26. Office.
27. Office supply stores.
28. Optician/Optomtrist.
29. Paint and wallpaper stores.
30. Post office.
31. Pottery shops.
32. Pubs, bars, and mini-breweries.
33. Real Estate.
34. Restaurants and coffee houses including outdoor dining and including alcoholic beverage service. A minimum of forty-two (42) inches clearance shall be reserved along the outside edge of a sidewalk for pedestrian passage.

- 35. Religious facilities.
- 36. Schools.
- 37. Shoe stores and shoe repair shops.
- 38. Sporting goods.
- 39. Tobacco shops.
- 40. Travel Agencies.
- 41. Variety stores.<<

* * *

(2) *Land allocation.*

- (a) Shopfront use ~~[[building]]~~ lots shall comprise a minimum of two ~~[[2-0]]~~ percent ~~>>(2%)<<~~ and a maximum of twenty ~~[[20-0]]~~ percent ~~>>(20%)<<~~ of the gross area of the neighborhood proper.

* * *

- (d) A minimum of two (2) shopfront use lots shall front on ~~[[the]]~~ ~~>>a<<~~ mandatory square ~~>>or be placed within two hundred (200) feet of a mandatory green<<~~.

(3) *Lots and buildings.*

* * *

- (b) Street-front entries shall be at grade to allow ~~[[handicap]]~~ access ~~>>for people with disabilities.<<~~
- (c) Buildings on shopfront use lots shall have the facade ~~>>~~ including colonnades if provided~~<<~~ built directly on the frontage line along at least seventy ~~[[70-0]]~~ percent ~~>>(70%)<<~~ of its linear frontage. For lots at street intersections, the building shall be built directly on the side street frontage for at least fifty ~~[[50-0]]~~ percent ~~>>(50%)<<~~ of its linear frontage.

* * *

- (e) Buildings on shopfront use lots shall have a setback of zero (0) feet along at least one side property line. For buildings without a side setback, a ~~>>perpetual four foot<<~~ maintenance easement ~~>>shall be<<~~ ~~[[is required in the form of a perpetual four-foot maintenance easement as]]~~ provided ~~[[herein]]~~ ~~>>on the lot adjacent to the shopfront property line<<~~. There shall be no required rear setback.
- (f) Buildings on shopfront use lots shall cover no more than fifty ~~[[50-0]]~~ percent ~~>>(50%)<<~~ of the ~~[[building]]>>net<<~~ lot area. ~~>>Outbuildings shall not count against lot coverage.<<~~

* * *

(h) At least twenty-five ~~[[25-0]]~~ percent ~~>>(25%)<<~~ of the ~~[[building]]>>~~net<< lot ~~>>area<<~~ shall be reserved for private open space.

* * *

(4) *Streets and alleys.*

(a) Shopfront use lots shall front on streets of sixty (60) feet maximum width consisting of two (2) twelve-foot wide travel lanes, and an eight-foot wide parallel parking lane on at least one side. Parallel parking shall be located adjacent to all shop front lots when such lots front a square, park>>, green<< and/or plaza. If the parking lane is provided on only one >>(1)<< side, there shall be a planting strip, at least four (4) feet wide, between the opposite travel lane and >>the<<sidewalk. Two (2) sidewalks are required and shall be no less than ten (10) feet wide. A public access easement shall provide for public passage excepting an area within four (4) feet of the shopfronts which may be occupied by furniture for restaurants. (As an example, refer to Figures 1 and 2). Shopfront use lots may also front on a square>>, << [[ø]] park >>, <<[[tract]] >>or green.<<

* * *

(c) At intersections>>, << the curb radius shall be twenty (20) feet, with a clear zone radius of twenty-five (25) feet. Parking lanes shall not be closer than ~~[[thirty (30)]]~~ >>twenty-five (25)<< feet to the nearest intersecting building lot line.

~~[[d)] Shopfront use lots may front on through streets or on a town center, if approved by the Community Zoning Appeals Board.]~~

~~[[e)]]>>(d)<<~~ Signs in colonnades shall have a minimum clearance of ~~[[nine (9)]]~~ >>eight (8)<< feet above the sidewalk.

~~[[f)]]>>(e)<<~~ Shopfront use lots shall have their rear >>or side<<lot lines coinciding with an alley twenty-four (24) feet wide, containing a vehicular pavement width of at least nine (9) feet one-way, and a maximum of eighteen (18) feet two-way.

* * *

(D) *Rowhouse use.*

(1) *Land use.*

(a) Land designated for rowhouse use shall be on lots containing buildings for residential uses, including townhouse, apartment, limited office as permitted in the RU-5A Zoning District, limited lodging, congregate living facilities, family day care ~~[[pursuant to Chapter 33]]~~, and artisanal >>use<<. Where nonresidential uses are proposed, at least fifty ~~[[50-0]]~~ percent >>(50%)<<of the gross square footage shall be restricted to

residential use as demonstrated by the submittal of floor plans identifying the use of each room.

* * *

(2) *Land allocation.*

(a) Rowhouse use ~~[[building]]~~ lots shall constitute a minimum of twenty ~~[[20.0]]~~ percent ~~>>(20%)<<~~and a maximum of fifty ~~[[50.0]]~~ percent ~~>>(50%)<<~~of the gross area of the neighborhood proper.

* * *

(3) *Lots and buildings.*

* * *

~~[[(d) All units must comply with the Americans With Disabilities Act 42 U.S.C. §12101, et seq. requirements regarding handicapped access.]]~~

~~[[(e)]]~~~~>>~~~~(d)~~~~<<~~ Buildings on rowhouse use lots shall be setback ~~[[six (6)]]~~~~>>~~eight (8)~~<<~~ or fifteen (15) feet from the frontage line. Buildings at street intersections shall be set back ~~[[six (6)]]~~ ~~>>~~eight (8)~~<<~~ feet from ~~>>~~the~~<<~~ frontage line and ~~>>~~six (6) feet from the~~<<~~ side street line. Setback requirements shall apply to the enclosed portion of the buildings only.

~~[[(f)]]~~~~>>~~~~(e)~~~~<<~~ Buildings on rowhouse use lots shall have a setback of zero (0) feet from at least one side property line. There shall be no required rear setback.

~~[[(g)]]~~~~>>~~~~(f)~~~~<<~~ Outbuildings shall have no required setbacks.

~~[[(h)]]~~~~>>~~~~(g)~~~~<<~~ Setbacks on consolidated rowhouse use lots shall apply as in a single lot.

~~[[(i)]]~~~~(h)~~ Buildings on rowhouse use lots shall cover no more than fifty ~~[[50]]~~ percent ~~>>(50%)<<~~ of the ~~[[building]]~~~~>>~~net~~<<~~ lot area. Outbuildings shall not count against lot coverage.

~~[[(j)]]~~~~(i)~~ Buildings on rowhouse use lots shall not exceed thirty-five (35) feet in height (excluding chimneys and elevator towers) and a cornice line shall be used to define the first floor.

~~[[(k)]]~~~~(j)~~ Buildings on rowhouse use lots shall have a ~~>>~~minimum~~<<~~ first floor front elevation eighteen (18) inches above finished sidewalk grade. ~~>>~~Rear entrance(s) shall be accessible for people with disabilities by grading or ramping. Space shall be provided in the front yard area for possible construction of a ramp.

[[(+)]>>(k)<<A minimum of thirty [[(30.0)]] percent >>(30%)<< of the
[[building]]>>net<< lot area shall be developed as private open space.

[[(+)]>>(l)<<Rowhouse use lots shall have a street edge built along the unbuilt parts of
the frontage line.

[[(+)]>>(m)<<A minimum of twenty-five [[(25.0)]] percent >>(25%)<< of the buildings
on rowhouse use lots shall have front porches. Said front porches may
encroach into the front setback and shall not count against lot coverage
requirements but shall count towards private open space requirements.

(4) *Streets and alleys.*

* * *

(d) Rowhouse use lots shall have their rear >>or side<<lot lines coinciding with an alley
twenty-four (24) feet wide containing a vehicular pavement width of at least ten (10) feet
one-way and sixteen (16) feet two-way.

(5) *Parking.*

* * *

>> (b) No parking shall be permitted in the front setback area.<<

* * *

(E) *House use.*

(1) *Land use.*

(a) Land designated for house use shall be on lots containing buildings for residential uses
including single family houses, guest houses as outbuildings, home occupation, >>and<<
family day care [[pursuant to Chapter 33]].

* * *

(2) *Land allocation.*

(a) House use [[building]] lots shall constitute a maximum of thirty [[(30.0)]] percent
>>(30%)<< of the gross area of the neighborhood proper.

* * *

(3) *Lots and buildings.*

(a) Houses on house use lots shall be raised a minimum of eighteen (18) inches from finished exterior sidewalk grade. >>At least one (1) entrance shall be accessible for people with disabilities either by grading or ramping, and the other entrance shall have sufficient space to construct a possible future ramp<<.

~~[[(b) All units must comply with Americans With Disabilities Act U.S.C. §12101 et. seq. regarding handicapped access.]]~~

(e)]>>(b)<< Buildings on house use lots shall be set back ten (10) or twenty (20) feet from the frontage line. Buildings at street intersections shall be set back ten (10) feet from the frontage line and the side street frontage >>line<<.

~~[[(d)]]~~>>(c)<< House use ~~[[building]]~~ lots shall have a minimum width of thirty-six (36) feet and a maximum width of seventy-five (75) feet with a minimum average lot size of five thousand (5,000) square feet.

~~[[(e)]]~~>>(d)<< Setbacks on consolidated house use lots shall apply as on a single lot.

~~[[(f)]]~~>>(e)<< Buildings on house use lots shall be set back from the side ~~[[building]]~~ lot lines equivalent (in total) to no less than twenty ~~[[(20.0)]]~~ percent >>(20%)<< of the width of the building lot. The entire setback may be allocated to one side. If buildings have a zero (0) foot setback on one side>>,<< a four-foot maintenance easement shall be provided on the adjacent lot.

~~[[(g)]]~~>>(f)<< Buildings on house use lots shall be set back no less than ~~[[twenty (20)]]~~ >>five (5)<< feet from the rear lot line. Outbuildings on house use lots shall have a setback no less than five (5) feet from the rear lot line except on an alley where it shall have a zero-foot setback. ~~[[Side setbacks for outbuildings shall be the same as for the primary building on the lot.]]~~

~~[[(h)]]~~>>(g)<< Buildings on house use lots shall cover no more than forty ~~[[(40.0)]]~~ percent >>(40%)<< of the ~~[[building]]~~ lot area. Outbuildings and front porches do not count in lot coverage.

~~[[(i)]]~~>>(h)<< Buildings on house use lots shall not exceed twenty-four (24) feet in height (excluding chimneys).

~~[[(j)]]~~>>(i)<< Buildings on house use lots shall have a streetedge built along the frontage line.

~~[[(k)]]~~>>(j)<< A minimum of twenty-five ~~[[(25.0)]]~~ percent >>(25%)<< of the buildings on house use lots shall have front porches which may encroach into the front setback >>not closer than eight (8) feet from the inside edge of the sidewalk<<~~[[and shall not count in lot coverage but shall count towards private open space requirements]]~~.

(4) *Streets and alleys.*

* * *

- (d) House use lots ~~[[shall]]~~ >>may<< have their rear >>or side<< lot lines coinciding with alley twenty-four (24) feet wide containing a pavement width of at least ten (10) feet one-way and sixteen (16) feet two-way, except where the rear lot adjoins a greenbelt >>. lake or canal<<.

(5) *Parking.*

- >>(a) No parking shall be permitted in the front setback area of residential lots of less than fifty (50) foot frontage.<<

- ~~[[a]]~~>>(b)<< All off-street parking places shall be to the side or the rear of the building. Where no alley access exists and vehicular access is through the frontage, garage or carports shall be located a minimum of twenty (20) feet behind the front building setback.

* * *

(F) *Workshop use.*

(1) *Land use*

- (a) Land designated for workshop use shall be in land containing buildings for the following uses. >>No building for a single use shall exceed thirty thousand (30,000) square feet of interior floor area.<<

1. Artists studios and accessory gallery use.
2. Artisanal use.
3. Automobile >>and motorcycle<< body shops.
4. Automobile parking garages.
5. Automobile service and repairs.
6. Bait and tackle shops.
7. Bakeries (wholesale).
8. Banks excluding drive-in teller services.
9. Bottling of beverages.
10. Cabinet shops.
11. Cold storage warehouse.
12. Dance studios.
13. Dog and pet hospitals in air-conditioned buildings.
14. Dry cleaning and dyeing establishments.
15. Engines, sales and services.
16. Gasoline service stations >>excluding markets.<<

17. Glass installation.
18. Health and exercise clubs.
19. Interior design shops.
20. Leather goods manufacturing, excluding tanning.
21. Locksmith shops, sharpening and grinding shops.
22. Lumber yards.
23. Mail order offices and storage.
- >>24. Medical equipment and supplies.<<
- >>25. Office supply stores.<<
- [[24]]>>26.<<Office buildings.
>>27. Post office substations and police substations.<<
- [[25]]>>28.<<Photography labs.
- [[26]]>>29.<<Pottery shops.
- [[27]]>>30.<<Printing shops.
>>31. Residential use shall be permitted on the second and/or third floor above workplace use. A second floor residential unit must provide access to people with disabilities.<<

- [[28]]>>32.<<Restaurants excluding drive-in service.
- [[29]]>>33. Secondhand stores and antique shops<<.
- [[30]]>>34.<<Upholstery and furniture shops.
- [[31]]>>35.<<Wholesale salesroom and storage rooms.
- >>36.<< Other similar uses as approved by the Director.

(2) *Land allocation.*

- (a) Workshop use ~~[[building]]~~lots shall constitute a minimum of three ~~[[3.0]]~~ percent >>(3%)<< and a maximum of seven ~~[[7.0]]~~ percent >>(7%)<<of the gross area of the neighborhood proper.
- (b) Workshop use lots shall not be within three hundred (300) feet of the geometric center of the neighborhood proper or the mandatory square >>or green<<. When a TND borders land designated in the CDMP as agriculture or open land, then workshop use lots shall not be permitted within three hundred thirty (330) feet of said TND boundary, except if necessary to maintain consistency with the goals, objectives and policies of the CDMP including the Guidelines for Urban Form.
- ~~[[e) All workshop use lots shall be located within one (1) geographic area with no intervening uses.]]~~
- >>(c) All workshop use lots shall be contiguous and located within one (1) area with no intervening uses, provided however, in TNDs exceeding one hundred (100) acres in size, two (2) workshop use areas shall be permitted.<<

(3) *Lots and buildings.*

25

- (a) Buildings on workshop use lots shall have a setback of zero (0) or five (5) feet from the frontage line. The setback at street intersections shall not exceed five (5) feet from the frontage line and the side street line.
- (b) Street-front entries shall be at grade to allow ~~[[handicap]]~~ access ~~>>for people with disabilities.<<~~
- (c) Buildings on workshop use lots shall cover no more than ~~[[fifty (50.0)]]~~ ~~>>~~ seventy ~~<<~~ percent ~~>>(70%)<<~~ of the ~~[[building]]~~ ~~>>~~ net ~~<<~~ lot area.
- (d) A minimum of fifteen ~~[[15.0]]~~ percent ~~>>(15%)<<~~ of the ~~[[building]]~~ ~~>>~~ net ~~<<~~ lot area shall be developed as landscaped open space.
- (e) Buildings on workshop use lots shall not exceed thirty-five (35) feet in height.
- (f) Workshop use lots shall be separated from other use types at the side and rear lot lines (excepting an entry on the alley) by a continuous masonry wall no less than six (6) feet ~~>>~~ in height ~~<<~~ ~~[[and no more than eight (8) feet in height.]]~~
- (g) Workshop use ~~[[building]]~~ lots shall have a maximum width of three hundred (300) feet.

(4) *Streets and alleys.*

- (a) Workshop use lots shall front on streets of a sixty (60) feet maximum width consisting of two (2) twelve-foot wide travel lanes, and eight-foot wide parallel parking on at least one side of the road. If the parking lane is provided on only one side there shall be a planting strip of at least eight (8) feet wide between the opposite lane and the sidewalk. Sidewalks shall be no less than eight (8) feet wide and are required on both sides of the street. (As an example, refer to Figures 7 and 8).
- (b) Posted vehicle speed for workshop use streets shall not exceed twenty-five (25) miles per hour.

* * *

~~[[d) Workshop use lots may front on through streets if approved by the Community Zoning Appeals Board at the time of submission.]]~~

~~[[e)]]~~ ~~>>~~ (d) ~~<<~~ Workshop use lots shall have their rear ~~>>~~ or side ~~<<~~ lot lines adjacent to an alley twenty-four (24) feet wide containing a vehicular pavement width of at least ten (10) feet one-way and eighteen (18) feet two-way, except where the rear lot line adjoins a greenbelt ~~>>~~ , lake or canal ~~<<~~.

(5) *Parking.*

- (a) Off-street parking ~~[[places may]]~~ >>shall<< be >>placed<< to the side or the rear of the building.

* * *

Section 6. Section 33-284.52 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 33-284.52. Limitation on variances.

The following provisions of the TND ordinance shall not be varied:

~~[[a) The requirement for the use of alleys.]]~~

~~[[(b)]]~~ >>(a)<< Curb requirements.

~~[[e)]]~~ >>(b)<< Front porch requirements.

~~[[d)]]~~ >>(c)<< Location of on-site parking.

~~[[e)]]~~ >>(d)<< Colonnades.

~~[[f)]]~~ >>(e)<< Rowhouse and house use with first floor of eighteen (18) inches above finished grade.

~~[[g)]]~~ >>(f)<< Average block perimeter.

~~[[h)]]~~ >>(g)<< Public/semi-public use and civic use land allocation requirements.

~~[[i)]]~~ >>(h)<< Minimum land allocation requirements >>, except for workplace uses which may be reduced by fifty percent (50%).<<

~~[[j)]]~~ >>(i)<< Street width requirements.

~~[[k)]]~~ >>(j)<< Maximum and minimum setback requirements.

Section 7. Section 33-284.52.1 of the Code of Miami-Dade County, Florida, is hereby created as follows:

>>Sec.33-284.52.1. Special exception to the use of alleys.

No alley shall be required for any location where one of the following conditions exist as demonstrated at public hearing;

- (a) Required parking is provided in the rear and due to design or intensity of such parking, alleys cannot provide safe or logical access to such parking, or

(b) Required parking is provided by on-street parking where permitted.<<

Section 8. Section 33-284.53 of the Code of Miami-Dade County, Florida, is hereby amended as follows:

Sec. 33-284.53. Ownership and maintenance of common open space(s) and civic use buildings.

All land designated on approved plans as common open space, including squares>>, greens<< and parks, and all structures devoted to the common use of the inhabitants of a TND will be owned and/or maintained as follows:

Section 9. Section 33-284.54 is hereby created as follows:

>>Sec. 33-284.54. Conflicts with other Chapters .

In the event of express conflict with any provision of Chapter 18A (Landscape Ordinance) or any other provision of Chapter 33, the provisions of this Article shall prevail. The requirement of section 33-284.51 (d) to provide a child care use in a TND zoning district shall not apply where the Director of Planning and Zoning determines that the TND zoning district is encumbered in whole or in part by conflicting airport regulations and no suitable site within a TND zoning district exists for a child care facility outside the areas that are in conflict with the airport regulations.<<

* * *

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 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.

JP

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.

PASSED AND ADOPTED: **MAR 11 2003**

Approved by County Attorney as
to form and legal sufficiency:

RAG

Prepared by:

JAC

Joni Armstrong Coffey

JAC

MEMORANDUM

Agenda Item No. 6(H)

TO: Hon. Chairperson and Members
Board of County Commissioners

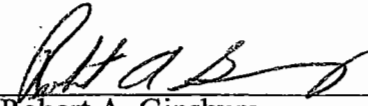
DATE: (Second Reading 3-11-03)
January 23, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to the Rules of
Procedure, providing that quasi-
judicial items shall be heard
directly by the Board of County
Commissioners

03 - 43

In response to the January 17th and 27th Memoranda from the Chairperson, copies attached, the accompanying ordinance was prepared and placed on the agenda by the County Attorney.



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: March 11, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to the Rules
of Procedure of the Board
of County Commissioners

03-43


The proposed ordinance providing that quasi-judicial items be heard directly by the Board of County Commissioners will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: March 11, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6 (H)

03 - 43

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. 6(H)
3-11-03

ORDINANCE NO. 03-431

ORDINANCE RELATING TO THE RULES OF PROCEDURE OF THE BOARD OF COUNTY COMMISSIONERS; PROVIDING THAT QUASI-JUDICIAL ITEMS AND SPECIAL TAXING DISTRICTS SHALL BE HEARD DIRECTLY BY THE BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 2-1, RULE 4.01(j), 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 2-1, Rule 4.01(j) of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec 2-1. Rules of Procedure of County Commission.

* * *

Rule 4.01 Committees

* * *

(j) EXCEPTION>>S<< TO COMMITTEE REQUIREMENT.

>>(1)<< An item that has not been considered by a committee may be placed on the agenda of the county commission by the chairperson of the board.

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

>>(2) Quasi-judicial items and special taxing districts shall be heard directly by the county commission.<<

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

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

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

PASSED AND ADOPTED: MAR 11 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6

Robert A. Ginsburg

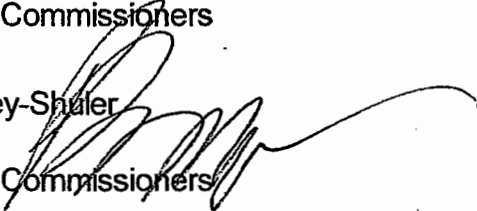
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03.43

Memo

To: Honorable Vice Chairperson and Members
Board of County Commissioners

From: Dr. Barbara Carey-Shuler
Chairperson
Board of County Commissioners 

Date: January 17, 2003

Re: Supplemental Memorandum relating to Committees; Providing an
exception for quasi-judicial matters

On November 22, 2002, I issued a memorandum outlining our new committee structure and jurisdiction. After consultation with the County Attorney and the County Manager, I have decided to issue a supplemental memorandum modifying the subject matter jurisdiction of the standing committees. Quasi-judicial matters will be heard directly by the Board of County Commissioners.

For further clarification, I have instructed the County Attorney to prepare an appropriate amendment to the Board's Rules of Procedures to reflect this change.

c: Honorable Alex Penelas, Mayor
Steve Shiver, County Manager
Robert A. Ginsburg, Esq., County Attorney
Harvey Ruvn, Clerk of the Courts
Kay Sullivan, Clerk of the Board
Dianne Davis, Agenda Coordinator



Memo

To: Honorable Vice Chairperson and Members
Board of County Commissioners

From: Dr. Barbara Carey-Shuler
Chairperson
Board of County Commissioners

Date: January 27, 2003

Re: Second Supplemental Memorandum relating to Committees; Providing an exception for Special Taxing Districts

On November 22, 2002, I issued a memorandum outlining our new committee structure and jurisdiction. After consultation with the County Attorney and the County Manager, I have decided to issue a second supplemental memorandum modifying the subject matter jurisdiction of the standing committees. Special Taxing Districts matters will be heard directly by the Board of County Commissioners.

For further clarification, I have instructed the County Attorney to prepare an appropriate amendment to the Board's Rules of Procedures to reflect this change.

c: Honorable Alex Penelas, Mayor
Steve Shiver, County Manager
Robert A. Ginsburg, Esq., County Attorney
Harvey Ruvn, Clerk of the Courts
Kay Sullivan, Clerk of the Board
Dianne Davis, Agenda Coordinator
Eric McAndrews, Chief Legislative Analyst

MEMORANDUM

Agenda Item No.: 6(G)

(Second Reading 3-11-03)

TO: Hon. Chairperson and Members
Board of County Commissioners

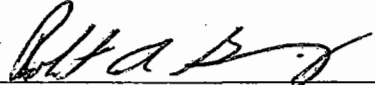
DATE: January 23, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance creating and
establishing the North Central
Dade Municipal Advisory
Committee

03-42

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Dorrin D. Rolle.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: March 11, 2003

FROM: Steve Stiver,
County Manager

SUBJECT: Ordinance creating and
establishing the North Central
Dade Municipal Advisory
Committee

03-427

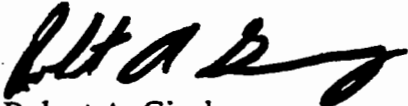
The accompanying ordinance prepared and placed on the agenda at the request of Commissioner Dorrin D. Rolle will not have an additional fiscal impact on Miami-Dade County. The municipal advisory committee has been meeting and staff will continue to provide the support it has been providing until the committee's work is done.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: March 11, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(G)

03-42

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. 6(G)
3-11-03

ORDINANCE NO. 03-421

ORDINANCE CREATING AND ESTABLISHING THE NORTH CENTRAL DADE MUNICIPAL ADVISORY COMMITTEE, DIRECTING STAFF TO PREPARE A STUDY OF THE POSSIBLE CREATION OF A NEW MUNICIPALITY IN THE AREA OF NORTH CENTRAL DADE, PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

WHEREAS, pursuant to Miami-Dade Resolution No. R-1445-01 (Attachment A) a North Central Dade Municipal Advisory Committee was created; and

WHEREAS, it is anticipated that the Committee's advisory report will not be completed within one year from the date that the Committee was created pursuant to resolution; and

WHEREAS, pursuant to the Code of Miami-Dade County, Section 2-11.31.1, committees that will exist for a year or more shall be created by ordinance,

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

Section 1. Creation of the North Central Dade Municipal Advisory Committee; composition:

There is hereby created a North Central Dade Municipal Advisory Committee consisting of a minimum of no less than seven (7) members and no more than eleven (11) members. The initial members as well as any vacancies on the North Central Dade Municipal Advisory Committee shall be those members appointed pursuant to memorandum to be issued by the County Commissioner for the District.

Section 2. Purposes.

- 1) To review the possible incorporation of the generally described area:
North: Cities of Opa-locka and North Miami – 125 Street east to 27 Avenue; north to 135 Street; east to 17 Avenue; south to 119 Street; east to I-95. East: I-95 and City of Miami – I-95 south to 79 Street; west to 7 Avenue; south on 7 Avenue to 71 Street; west on 71 Street to 17 Avenue to 62 Street; then west on 62 Street to 32 Avenue; then south to 54 Street; then west to 37 Avenue. South: N.W. 54 Street. West: City of Hialeah – 37 Avenue north to City of Opa-Locka.
- 2) To render an advisory report that shall address the results of the study prepared by County staff as well as incorporation concerns of members of the Board of County Commissioners and the manner in which those concerns may be alleviated in the event North Central Dade is incorporated as a new municipality.

Section 3. Duties and Responsibilities.

- 1) The committee shall conduct no less than two duly advertised public hearings at which the residents of the area shall have the opportunity to express their views and concerns regarding the proposed incorporation of North Central Dade.
- 2) Prior to the first public hearing, the committee 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 to the Board of County Commissioners.

Section 4. If any section, subsection, sentence, clause of 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 be excluded from the Code of Miami-Dade County, Florida.

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 shall stand repealed upon presentation of the final report of the Municipal Advisory Committee to the Board of County Commissioners.

PASSED AND ADOPTED: MAR 11 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6
CJ-B

Prepared by:

Cynthia Johnson-Stacks

Sponsored by Commissioner Dorrin D. Rolle

MEMORANDUM

Amended
Agenda Item No. 9(A)(3)

TO: Hon. Chairperson and Members
Board of County Commissioners

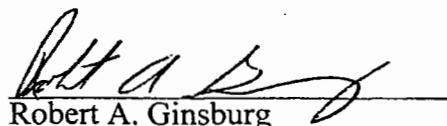
DATE: December 18, 2001

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Resolution creating and
establishing the North Central
Dade Municipal Advisory
Committee

R#1445-01

The accompanying resolution was prepared and placed on the agenda at the request of Commissioner Dorrin D. Rolle.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM.

TO:

Hon. Chairperson and Members
Board of County Commissioners

DATE: December 18, 2001
Amended

SUBJECT: Agenda Item No. 9(A)(3)

FROM:

Robert A. Ginsburg
County Attorney

03-42-

Please note any items checked.

- "4-Day Rule" (Applicable if raised)
- 6 weeks required between first reading and 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 a detailed County Manager's report for public hearing
- "Sunset" provision required
- Legislative findings necessary

Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 9(A)(3)
12-18-01

RESOLUTION NO. 1445-01

RESOLUTION CREATING AND ESTABLISHING THE NORTH CENTRAL DADE MUNICIPAL ADVISORY COMMITTEE; DIRECTING COUNTY STAFF TO PREPARE A STUDY OF THE POSSIBLE CREATION OF A NEW MUNICIPALITY IN THE AREA OF NORTH CENTRAL DADE

WHEREAS, a group of residents in the area of North Central Dade 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 North Central Dade includes the following generally described area:

- North: Cities of Opa-locka and North Miami - 125 Street east to 27 Avenue; north to 135 Street; east to 17 Avenue; south to 119 Street; east to I-95
- East: Interstate 95 and City of Miami - I-95 south to 79 Street; west to 7 Avenue; south on 7 Avenue to 71 Street; west on 71 Street to 17 Avenue to 62 Street; then west on 62 Street to 32 Avenue; then south to 54 Street; then west to 37 Avenue
- South: N.W. 54 Street
- West: City of Hialeah - 37 Avenue north to City of Opa-locka

Attached hereto and incorporated herein by reference is a map depicting the above-described boundaries.

03-421

Section 2. The North Central Dade Municipal Advisory Committee is hereby created and establish. The following electors and residents of North Central Dade described in Section 1 of this resolution are hereby appointed as members of the committee:

Orien Adams
Robert Baker
Billy Hester
Ivan McCaskill
Charles Mosley
Ernestine Perry
Gail Williams

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 North Central Dade.

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.

Section 5. Prior to the first public hearing, County staff from the Manager's Office, the Department of Planning and Zoning and the Office of Management and Budget shall prepare a report concerning the proposed incorporation according to the procedures and guidelines contained in Section 20-22(A) and (B) and Section 20-23(B) of the Code of Miami-Dade County and shall prepare a study to be reviewed by the Committee and presented at the public hearings.

Section 6. Prior to one year from the adoption of this resolution, the Committee shall prepare and submit 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 North Central Dade is incorporated as a new municipality. The Committee's responsibilities shall terminate upon the submission of its report.

The foregoing resolution was sponsored by Commissioner Dorrin D. Rolle and offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Dr. Miriam Alonso
Dr. Barbara Carey-Shuler
Gwen Margolis
Jimmy L. Morales
Dorrin D. Rolle
Katy Sorenson

Bruno A. Barreiro
Betty T. Ferguson
Joe A. Martinez
Dennis C. Moss
Natacha Seijas
Rebeca Sosa

Javier D. Souto

03-42

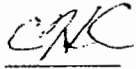
The Chairperson thereupon declared the resolution duly passed and adopted this 18th day of December, 2001. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

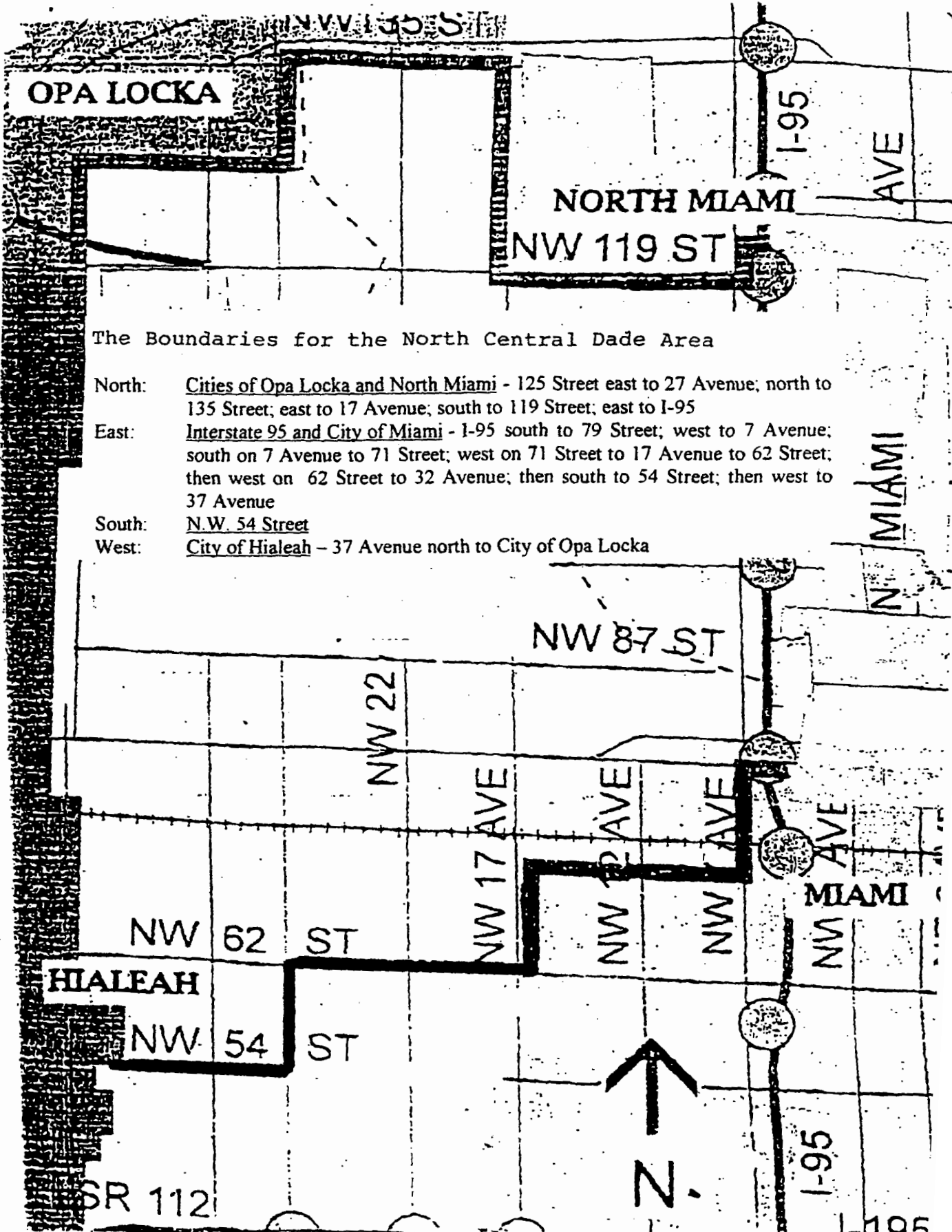
HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Craig H. Coller



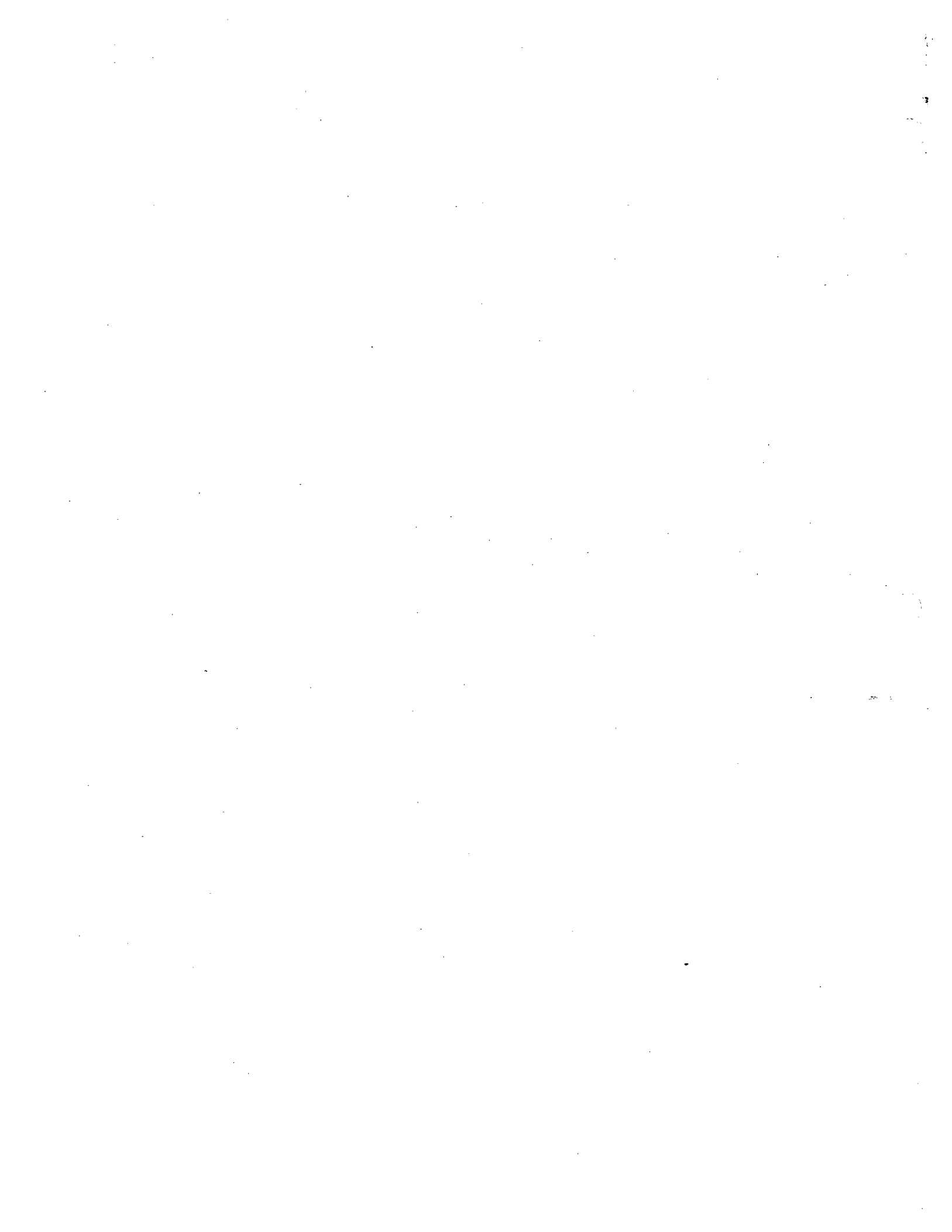
The Boundaries for the North Central Dade Area

North: Cities of Opa Locka and North Miami - 125 Street east to 27 Avenue; north to 135 Street; east to 17 Avenue; south to 119 Street; east to I-95

East: Interstate 95 and City of Miami - I-95 south to 79 Street; west to 7 Avenue; south on 7 Avenue to 71 Street; west on 71 Street to 17 Avenue to 62 Street; then west on 62 Street to 32 Avenue; then south to 54 Street; then west to 37 Avenue

South: N.W. 54 Street

West: City of Hialeah - 37 Avenue north to City of Opa Locka



MEMORANDUM

Agenda Item No. 6(D)

TO: Hon. Chairperson and Members
Board of County Commissioners

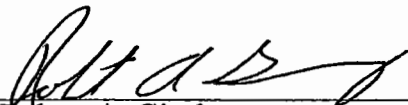
DATE: (Second Reading 3-11-03)
January 23, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to zoning;
regulating setbacks between
business or industrial and
GU properties

03-41

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Jose "Pepe" Diaz.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: March 11, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance relating to zoning;
regulating setbacks between
business or industrial and
GU properties

03-417


The proposed ordinance regulating setbacks where the GU zoning district abuts a BU or IU-1, IU-2 or IU-3 zoning district will have no fiscal impact on Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: March 11, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(D)

03-41

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. 6(D)
3-11-03

ORDINANCE NO. 03-417

ORDINANCE PERTAINING TO ZONING; PROVIDING FOR INCREASED SIDE STREET AND INTERIOR SIDE SETBACKS WHERE THE GU (GENERAL USE) ZONING DISTRICT ABUTS A BU (BUSINESS) OR IU-1, IU-2 OR IU-3 ZONING DISTRICT, EXCEPT UPON PRESCRIBED CIRCUMSTANCES; AMENDING SECTION 33-51 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA ("CODE"); 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 33-51 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

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 >>_<<[[€]] EU >>or GU<< 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; >>provided, however, if an abutting GU lot is depicted as "Industrial & Office" on the adopted Land Use Plan map of the Comprehensive Development Master Plan

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.

and no building permit has been issued for a residence at the time of the approval of the building permit for the business or industrial use, the setback shall be fifteen (15) feet from the side street property line.<<

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 any openings are provided in the wall of the proposed structure, adjacent to the interior side property lot line.

Ten (10) feet for such portions of the business structure as are devoted to residential use.

Fifteen (15) feet where the adjacent property is zoned RU, EU >>or GU. It is provided, however, that where an abutting GU lot is depicted as "Industrial & Office" on the adopted Land Use Plan map of the Comprehensive Development Master Plan and no building permit has been issued for a residence at the time of the approval of the building permit for the business or industrial use, in such instances the setback shall be:

Zero (0) feet where the wall along the interior side property line is unpierced and constructed in accordance with the Florida Building Code; or

Five (5) feet where any openings are provided in the wall of the proposed structure, adjacent to the interior side property lot 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 become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may

5

03-41

be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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

PASSED AND ADOPTED: MAR 11 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

JAC

Joni Armstrong Coffey

Sponsored by Commissioner Jose "Pepe" Diaz

MEMORANDUM

Agenda Item No. 6(C)

(Second Reading 3-11-03)

TO: Hon. Chairperson and Members
Board of County Commissioners

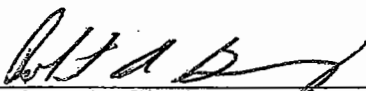
DATE: January 23, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance pertaining to
Comprehensive Development
Master Plan Amendment
procedure

03.40

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: March 11, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance pertaining to
Comprehensive Development
Master Plan Amendment
procedure

03-407


The proposed ordinance pertaining to the Comprehensive Development Master Plan amendment procedure will have no fiscal impact to Miami-Dade County.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: March 11, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(C)

03 - 40

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. 6(C)
3-11-03

ORDINANCE NO. 03-40

ORDINANCE PERTAINING TO COMPREHENSIVE DEVELOPMENT MASTER PLAN AMENDMENT PROCEDURE; PROHIBITING ARGUMENT OR REPRESENTATION REGARDING PROPOSED SPECIFIC FUTURE USES WITHOUT PROFFERING A RESTRICTIVE COVENANT; AMENDING SECTION 2-116.1, 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 2-116.1 of the Code of Miami-Dade County is hereby amended to read as follows:¹

Sec. 2-116.1. Amendment procedure for Comprehensive Development Master Plan.

* * *

- (9) ~~[[Reserved]]~~ >>No applicant or applicant's representative seeking a recommendation for approval or approval of an amendment to the land use map shall be permitted to argue or represent to the Board of County Commissioners or other recommending County board that the property which is the subject of the application will be put to a specific use or uses or to exclude a use or uses authorized by the proposed land use designation, unless the applicant has submitted a restrictive covenant committing to such representation which has been submitted to the Director and has received approval as to form.<<

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. This ordinance shall apply to all pending amendments to the Comprehensive Development Master Plan.

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

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

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

PASSED AND ADOPTED: **MAR 11 2003**

Approved by County Attorney as to form and legal sufficiency:

RA6
CHK

Prepared by:

Craig H. Coller

Sponsored by Commissioner Dennis C. Moss

5



MEMORANDUM

Agenda Item No. 4(E)

TO: Hon. Chairperson and Members
Board of County Commissioners

(Public Hearing 1-23-03)


DATE: December 17, 2002

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance repealing Ordinance
No. 01-123 which established
the Doral Municipal Advisory
Committee

03-05

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Jose "Pepe" Diaz.



Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: January 23, 2003

FROM: Steve Shiver
County Manager

SUBJECT: Ordinance amending section
2-103.1 regarding failure to
restore right-of-way

03-05

The ordinance amending section 2-103.1 regarding failure to restore right-of-way will have a slightly positive fiscal impact due to the increase of fine revenues. The department already collects some fines in this area.



MEMORANDUM

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: January 23, 2003

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(E)

03-05

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)
1-23-03

ORDINANCE NO. 03.057

ORDINANCE REPEALING ORDINANCE NO. 01-123 AS AMENDED BY ORDINANCE NO. 02-101 OF MIAMI-DADE COUNTY ESTABLISHING DORAL MUNICIPAL ADVISORY COMMITTEE; 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. Ordinance No. 01-123 as amended by Ordinance No. 02-101 of Miami-Dade County establishing the Doral Municipal Advisory Committee is hereby repealed in its entirety.

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 does not contain a sunset provision.

PASSED AND ADOPTED: **JAN 23 2003**

Approved by County Attorney as
to form and legal sufficiency:

RAG
CAK

Prepared by:

Craig H. Coller

Sponsored by Commissioner Jose "Pepe" Diaz

**MEMORANDUM**Supplement to
Agenda Item No. 4(E)**TO:** Honorable Chairperson and Members
Board of County Commissioners**DATE:** January 23, 2003**FROM:** Steve Shiver
County Manager**SUBJECT:** Ordinance repealing ordinance
No. 01-123 which established
the Doral Municipal Advisory
Committee

03-05

The ordinance related to the sunset of the Doral Municipal Advisory Committee (MAC) will not have a fiscal impact on Miami-Dade County. The volume of work in the office is such that the elimination of one MAC does warrant a reduction in personnel.

