

TOWN OF CUTLER BAY

Mayor Paul S. Vrooman
Vice Mayor Edward P. MacDougall
Councilmember Timothy J. Meerbott
Councilmember Ernest N. Sochin
Councilmember Peggy R. Bell

Town Manager Steven J. Alexander
Interim Town Attorney Mitchell Bierman
Interim Town Attorney Chad Friedman
Town Clerk Erika Gonzalez-Santamaria

In accordance with the American with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter or hearing impaired to participate in this proceeding should contact the Town Clerk at (305) 234-4262 for assistance no later than four (4) days prior to the meeting.

TOWN COUNCIL MEETING AGENDA

Wednesday, January 17, 2007

7:00 PM

South Dade Government Center
10710 SW 211th Street, Room 203
Cutler Bay, Florida 33189

- I. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE
- II. INVOCATION
- III. PROCLAMATIONS, AWARDS, PRESENTATIONS
- IV. APPROVAL OF MINUTES
 - A. December 20, 2006 (Regular Council Meeting) TAB 1
- V. ADDITIONS, DELETIONS, AND DEFERRALS (Voice Vote)
- VI. TOWN MANAGER'S REPORT
- VII. TOWN ATTORNEY'S REPORT
- VIII. BOARD AND COMMITTEE REPORTS
- IX. CONSENT AGENDA (ANY ITEM SHALL BE REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION OR SEPARATE VOTE IF REQUESTED BY A COUNCILMEMBER) [Voice Vote]
 - A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO CODIFICATION OF TOWN ORDINANCES; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT FOR CODIFICATION SERVICES TAB 2

THROUGH MUNICIPAL CODE CORPORATION; WAIVING COMPETITIVE BIDDING PURSUANT TO SECTION 3.10 OF THE TOWN CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.

- B. A RESOLUTION OF THE TOWN OF CUTLER BAY, FLORIDA, ESTABLISHING THE CUTLER BAY TOWN FOUNDATION, INC.; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING TOWN OFFICIALS TO TAKE ALL NECESSARY STEPS TO CREATE THE CUTLER BAY TOWN FOUNDATION, INC.; AUTHORIZING THE MAYOR AND APPROPRIATE TOWN PERSONNEL TO EXECUTE REQUIRED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 3

- C. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR PROFESSIONAL SERVICES: ARCHITECTURE, GENERAL CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE AND TRANSPORTATION PLANNING & ENGINEERING; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 4

RESOLUTIONS FOR DISCUSSION

- X. **QUASI-JUDICIAL CONSENT AGENDA (ANY ITEM MAY BE REMOVED FROM THE CONSENT AGENDA IF REQUESTED BY A MEMBER OF THE TOWN COUNCIL, THE TOWN STAFF, THE APPLICANT, OR ANY AFFECTED PARTY)**
[Voice Vote]

XI. **QUASI-JUDICIAL HEARINGS (Roll Call Vote)**

ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL BE SWORN-IN PRIOR TO GIVING TESTIMONY AND MAY BE SUBJECT TO CROSS EXAMINATION. ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL STATE THEIR NAME AND ADDRESS FOR THE RECORD.

- A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING THE OLD CUTLER ROAD OVERLAY ZONING DISTRICT AND REGULATIONS; REZONING PROPERTIES ALONG OLD CUTLER ROAD FROM S.W. 184TH STREET SOUTH TO THE TOWN LIMITS, AS SHOWN ON EXHIBIT "A" AND LEGALLY DESCRIBED IN EXHIBIT "B," TO THE OLD CUTLER ROAD OVERLAY ZONING DISTRICT; AMENDING THE LIST OF PERMITTED, CONDITIONAL, AND PROHIBITED USES FOR PROPERTIES ALONG OLD CUTLER ROAD FROM S.W. 184TH STREET SOUTH TO THE TOWN LIMITS, AS SHOWN ON EXHIBIT "A" AND LEGALLY DESCRIBED IN EXHIBIT "B;" AND PROVIDING FOR AN EFFECTIVE DATE. **(SECOND READING)**

TAB 5

XII. PUBLIC HEARINGS

A. RESOLUTIONS (Voice Vote)

B. ORDINANCES (Roll Call Vote)

1. FIRST READING

- a. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ARTICLE I "IN GENERAL," SECTION 33-11 "FENCES, WALLS, BUS SHELTERS AND HEDGES" OF THE TOWN CODE OF ORDINANCES, TO PROVIDE THAT ALL FENCES BE ERECTED WITH THE FINISHED SIDE OUTWARD; PROVIDING THAT CHAIN LINK FENCES SHALL NOT BE LOCATED BEYOND THE FRONT FAÇADE OF THE BUILDING OR 25 FEET FROM THE FRONT PROPERTY LINE, WHICHEVER IS GREATER, AND SHALL BE PERMITTED ONLY ALONG INTERIOR SIDE PROPERTY LINES AND REAR PROPERTY LINES THAT ARE NOT ADJACENT TO A RIGHT-OF-WAY; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 6

2. SECOND READING

- a. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA , CREATING REGULATIONS RELATED TO LOBBYISTS AND PRINCIPALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.
- b. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING REGULATIONS RELATED TO DISCLOSURE OF PAYMENTS OR MATERIAL CONSIDERATION PAID OR REQUESTED BY PERSONS IN EXCHANGE FOR SUPPORT OR NON-OPPOSITION ON MATTERS UNDER CONSIDERATION BY THE TOWN COUNCIL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.
- c. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA CREATING SITE PLAN APPLICATION REQUIREMENTS AND PROCEDURES FOR SITE PLAN APPROVAL; AMENDING CHAPTER 33 "ZONING" OF THE TOWN CODE TO REQUIRE SITE PLAN APPROVAL BY THE TOWN COUNCIL AFTER A

TAB 7

TAB 8

TAB 9

PUBLIC HEARING; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

- d. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AMENDING SECTION 33-13 "UNUSUAL USES" OF CHAPTER 33 "ZONING" OF THE TOWN CODE; PROVIDING FOR REGULATIONS RELATING TO CIRCUSES OR CARNIVALS; PROVIDING FOR ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 10

XIII. PUBLIC COMMENTS

XIV. MAYOR AND COUNCIL MEMBER COMMENTS

XV. OTHER BUSINESS

XVI. NEXT MEETING ANNOUNCEMENT AND ADJOURNMENT

- A. Regular Town Council Meeting
Wednesday, February 21, 2007, 7:00 P.M.
South Dade Regional Library – 2nd Floor

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TAB 1

**TOWN OF CUTLER BAY
TOWN COUNCIL MEETING
MINUTES**

Wednesday, December 20, 2006
7:00 PM

South Dade Regional Library
10750 SW 211 Street, 2ND Floor
Cutler Bay, Florida 33189

I. CALL TO ORDER/ROLL CALL OF MEMBERS: The meeting was called to order by the mayor at 7:10 PM. Present were the following:

Councilmember Peggy R. Bell
Councilmember Timothy J. Meerbott
Councilmember Ernest N. Sochin
Vice Mayor Edward P. MacDougall
Mayor Paul S. Vrooman

Town Manager Steven J. Alexander
Interim Town Attorney Mitchell Bierman
Interim Town Attorney Chad Friedman
Town Clerk Erika Gonzalez-Santamaria

Mayor Vrooman led the pledge of allegiance.

II. INVOCATION: Mayor Vrooman asked all to join him in a moment of silence.

III. PROCLAMATIONS, AWARDS, PRESENTATIONS:

- A. Amy Condon from the Trust of Public Lands discussed the process of obtaining and funding purchased lands for public entities such as local governments.
- B. Hadriam Vega of Best Buy was presented with a Certificate of Recognition for the store's participation on our ongoing efforts to enhance the Town's image.
- C. The County Assistant Manager Roger Carlton addressed Council in reference to the Watershed Study and Plan.

IV. APPROVAL OF MINUTES:

- A. Councilmember Bell made a motion approving the minutes of the meeting of November 15, 2006. The motion was seconded by Councilmember Meerbott and adopted by a unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

V. ADDITIONS, DELETIONS, AND DEFFERALS:

- E. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INCORPORATED FOR THE DEVELOPMENT OF THE TOWN'S STORMWATER MASTER PLAN; PROVIDING FOR A DETERMINATION OF IMPRACTICALITY AS TO COMPETITIVE BIDDING AND PROVIDING FOR AN EFFECTIVE DATE.

The Town Manager advised the Town Council that Item E was to be deleted from the agenda.

Vice Mayor MacDougall made a motion to approve the deleted item from the Consent Agenda. The motion was seconded by Councilmember Bell and approved by unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

VI. TOWN MANAGER'S REPORT:

The Manager discussed the Town's participation in the holiday boat parade event and its great success; he also thanked the Parks and Recreation Director, Alan Ricke, for his support and participation. He explained that reconciliations on payments made to Miami-Dade County for services rendered for the start-up operation of the Town are underway. The parks transition is slowly progressing. Park permits will be signed shortly, that way the Town may take over the operation of the parks. Both the Senior Transportation committee and Parks committee have met on various occasions. The Police office space is almost completed and it is anticipated that the Police department moving in at the beginning of the year. Representative Bullard informed the Manager that the bill in reference to the Turnpike designation in honor of John Cosgrove, would be going to the State House floor for voting.

VII. TOWN ATTORNEY'S REPORT: None at this time.

VIII. BOARD AND COMMITTEE REPORTS:

Councilmember Bell indicated that the Parks Committee has met on several occasions and it is successfully making progress. Vice Mayor MacDougall commented that the Senior Transportation Committee has met on two occasions and much progress is being made, recommendations will be made promptly.

IX. CONSENT AGENDA:

- A. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE STATEWIDE MUTUAL AID AGREEMENT BETWEEN THE DEPARTMENT OF COMMUNITY AFFAIRS, THE TOWN OF CUTLER BAY AND OTHER PARTICIPATING LOCAL GOVERNMENTS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AUTHORIZING THE TOWN MANAGER AND THE TOWN ATTORNEY TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

- B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO MEMBERSHIP INTO THE FLORIDA RETIREMENT SYSTEM; AND PROVIDING FOR AN EFFECTIVE DATE.
- C. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, DESIGNATING ITS ELECTED POSITIONS FOR INCLUSION IN THE ELECTED OFFICERS' CLASS OF THE FLORIDA RETIREMENT SYSTEM; AND PROVIDING FOR AN EFFECTIVE DATE.
- D. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE ICMA DEFERRED COMPENSATION PLAN; DECLARING A TRUST OF THE VANTAGE TRUST COMPANY; DECLARING A TRUSTEE; DETERMINING TERMS OF THE PLAN; ACCEPTING TRUSTEE STATUS; ELECTING A COORDINATOR; AND PROVIDING FOR AN EFFECTIVE DATE.
- F. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, WAIVING COMPETITIVE BIDDING PURSUANT TO SECTION 3.10 OF THE TOWN CHARTER AND ORDINANCE NO.06-22 TO THE EXTENT APPLICABLE AND AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT WITH PRO SOUND AND VIDEO FOR SOUND EQUIPMENT; AND PROVIDING FOR AN EFFECTIVE DATE.
- G. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, SUPPORTING THE ENCLAVE AT ISLES BAYSHORE HOMEOWNER'S ASSOCIATION EFFORTS TO PETITION MIAMI-DADE COUNTY'S PUBLIC WORKS DEPARTMENT, RELATING TO THE STREET CLOSURE LOCATED AT S.W. 93 PATH AND SW 224 TERRACE AND PROVIDING FOR AN EFFECTIVE DATE.
- H. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, URGING CITIZENS INSURANCE AND THE STATE LEGISLATURE TO CANCEL THE SCHEDULED 2007 RATE INCREASE, FURTHER URGING THE STATE LEGISLATURE TO DEVELOP CREATIVE SOLUTIONS AND PROVIDE MEANINGFULL RATE REDUCTIONS DURING THE UPCOMING JANUARY 2007 SPECIAL LEGISLATIVE SESSION, URGING THE STATE TO ELIMINATE THE ARBITRARY WINDSTORM LINE AND THE SURCHARGE ON OLDER HOMES, AND SEEKING SUPPORT FROM ALL AFFECTED COMMUNITIES WITH THESE INITIATIVES; AND PROVIDING FOR AN EFFECTIVE DATE.
- I. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO LEGISLATIVE

BUDGET REQUESTS, APPROVING THE TOWN'S LIST OF LEGISLATIVE ITEMS, AUTHORIZING THE TOWN MANAGER TO PRESENT THE APPROVED LIST TO THE MIAMI-DADE COUNTY LEGISLATIVE DELEGATION FOR INCLUSION IN THE 2007 LEGISLATIVE SESSION; AND PROVIDING FOR AN EFFECTIVE DATE.

- J.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO THE SOUTH MIAMI-DADE WATERSHED STUDY AND PLAN; EXPRESSING STRONG CONCERNS WITH THE SOUTH MIAMI-DADE WATERSHED STUDY AND PLAN PROJECT TEAM'S RECOMMENDATIONS AND CONCLUSIONS, WHICH APPEAR TO ENDORSE HIGH DENSITY LAND USE WITHIN A LINE DRAWN FOR ZONE "A" AND ZONE "B" THAT EXTENDS ½ MILE FROM THE US 1 AND OTHER CORRIDORS; URGING THE MIAMI-DADE COUNTY COMMISSION TO NOT ACCEPT THIS RECOMMENDATION AND TO MODIFY THE PLAN TO CLEARLY STATE THAT THERE SHALL BE NO IMPOSITION OF HIGH DENSITY LAND USE IN EXISTING SINGLE FAMILY AREAS; SEEKING SUPORT FROM ALL AFFECTED MUNICIPALITIES; AND PROVIDING FOR AN EFFECTIVE DATE.

The Mayor passed the gavel to Vice Mayor MacDougall and pulled Item J from the Consent Agenda. Mayor Vrooman made a motion to approve the resolution. The motion was seconded by Councilmember Sochin and Resolution 06-124 was adopted by unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Councilmember Meerbott made a motion to approve the consent agenda as amended. The motion was seconded Councilmember Bell and Resolutions 06-116 – 06-123 was approved by unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

RESOLUTIONS FOR DISCUSSION

X. QUASI-JUDICIAL CONSENT AGENDA PUBLIC HEARING: None at this time.

XI. QUASI-JUDICIAL HEARINGS: The following quasi-judicial hearing was held by Council.

All witnesses giving testimony were sworn-in by the clerk. The clerk read the following ordinance on second reading, by title:

- A.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING THE OLD CUTLER ROAD OVERLAY ZONING DISTRICT AND REGULATIONS; REZONING PROPERTIES ALONG OLD CUTLER ROAD FROM S.W. 184TH STREET SOUTH TO THE TOWN LIMITS, AS SHOWN ON EXHIBIT "A" AND LEGALLY DESCRIBED IN EXHIBIT "B," TO THE OLD CUTLER ROAD

OVERLAY ZONING DISTRICT; AMENDING THE LIST OF PERMITTED, CONDITIONAL, AND PROHIBITED USES FOR PROPERTIES ALONG OLD CUTLER ROAD FROM S.W. 184TH STREET SOUTH TO THE TOWN LIMITS, AS SHOWN ON EXHIBIT "A" AND LEGALLY DESCRIBED IN EXHIBIT "B;" AND PROVIDING FOR AN EFFECTIVE DATE.

Alex David, Planning Consultant, gave a PowerPoint presentation describing the ordinance in detail.

Don O'Donilley, the Planning Director, gave an oral report and based on the Planning his memorandum on December 20, 2006, recommended approval of the ordinance.

The mayor opened the public hearing. Octavio Mendizabal, 21801 Southwest 98 Place, Rudy Castellano, no address stated, Richard Ramirez, 20601 Gulfstream Road, Laura Coiner, 7950 Southwest 184 Street, Amy Roda, 9221 Neptune Drive, George Morales, 212 Southwest 80 Avenue, John Jessup, 6921 Caribbean Boulevard, addressed the Council.

Councilmember Bell made a motion to approve the ordinance. The motion was seconded by Vice Mayor MacDougall and was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

This ordinance is on second reading January 17, 2007.

- B.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING THE REQUEST OF SS FALLS INVESTMENTS LLC FOR A REZONING FROM EU-1 (ONE-ACRE ESTATE DISTRICT) TO EU-M (MODIFIED ESTATE DISTRICT) FOR TWO ADJOINING PROPERTIES LOCATED AT 8201 S.W. 188TH STREET AND 8295 S.W. 188TH STREET, AS LEGALLY DESCRIBED IN EXHIBIT "A," CONSISTING OF APPROXIMATELY 4.38 ACRES; AND PROVIDING FOR AN EFFECTIVE DATE.

The clerk announced that this item is on second reading.

Mr. Javier Vazquez, 8061 Northwest 155 Street, representing the applicant, addressed the Council.

Don O'Donniley, the Planning Director, gave an oral report and based on his memorandum on December 14, 2006, recommended approval of the request.

The mayor opened the public hearing. There were no speakers present.

Vice Mayor MacDougall made a motion to approve the ordinance. The motion was seconded by Councilmember Bell and was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

- C. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING THE REQUEST OF CUTLER RIDGE EVANGELICAL LUTHERAN CHURCH FOR A REZONING FROM AU (AGRICULTURAL DISTRICT) TO RU-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) FOR THE PROPERTY LOCATED AT 20851 S.W. 97TH AVENUE, AS LEGALLY DESCRIBED IN EXHIBIT "A," CONSISTING OF APPROXIMATELY 4.28 ACRES; AND PROVIDING FOR AN EFFECTIVE DATE.

The clerk announced that this item is on second reading.

Mr. Javier Vazquez, 8061 Northwest 155 Street, representing the applicant, addressed the Council.

Don O'Donniley, the Planning Director, gave an oral report and based on his memorandum on December 12, 2006, recommended approval of the request.

The mayor opened the public hearing. Richard Ramirez, 20601 Gulfstream Road, Louise Lockwood, 9071 Richmond Drive, Alfie Sergio, 9261 Caribbean Boulevard, addressed the Council.

Councilmember Meerbott made a motion to approve the ordinance. The motion was seconded by Councilmember Bell and was approved by a 4-1 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes; Councilmember Sochin voting No.

XII. PUBLIC HEARINGS:

A. RESOLUTIONS: None at this time.

B. ORDINANCES:

1. FIRST READING: The clerk read the following ordinance, on first reading, by title:

- a. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA , CREATING REGULATIONS RELATED TO LOBBYISTS AND PRINCIPALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The Town Attorney gave a brief report on the ordinance to the Council.

Vice Mayor MacDougall made a motion to adopt the ordinance on first reading. The motion was seconded by Councilmember Bell and adopted by unanimous 5-0 roll call vote. The vote was as

follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

This ordinance will be on second reading January 17, 2007.

- b. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING REGULATIONS RELATED TO DISCLOSURE OF PAYMENTS OR MATERIAL CONSIDERATION PAID OR REQUESTED BY PERSONS IN EXCHANGE FOR SUPPORT OR NON-OPPOSITION ON MATTERS UNDER CONSIDERATION BY THE TOWN COUNCIL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The Mayor of Palmetto Bay, Eugene Flinn, addressed Council.

Councilmember Meerbott made a motion to adopt the ordinance on first reading. The motion was seconded by Councilmember Bell and adopted by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

This ordinance will be on second reading January 17, 2007.

- c. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA CREATING SITE PLAN APPLICATION REQUIREMENTS AND PROCEDURES FOR SITE PLAN APPROVAL; AMENDING CHAPTER 33 "ZONING" OF THE TOWN CODE TO REQUIRE SITE PLAN APPROVAL BY THE TOWN COUNCIL AFTER A PUBLIC HEARING; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

Town Staff discussed the ordinance briefly.

Councilmember Meerbott made a motion to adopt the ordinance on first reading. The motion was seconded by Councilmember Bell and adopted by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

This ordinance will be on second reading January 17, 2007.

- d. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AMENDING SECTION 33-13 "UNUSUAL USES" OF CHAPTER 33 "ZONING" OF THE TOWN CODE; PROVIDING FOR REGULATIONS RELATING TO CIRCUSES OR CARNIVALS; PROVIDING FOR ORDINANCES IN CONFLICT; PROVIDING

FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Don O' Donniley, the Planning Director, addressed the Council.

Councilmember Sochin made a motion to adopt the ordinance on first reading. The motion was seconded by Councilmember Meerbott and adopted by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

This ordinance will be on second reading January 17, 2007.

2. SECOND READING: The clerk read the following ordinance, on second reading, by title:

- a. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA , AMENDING SECTION 26-33 "THE SHANNON MELENDI ACT" OF THE MIAMI DADE COUNTY CODE MADE APPLICABLE IN THE TOWN PURSUANT TO SECTION 8.3 OF THE TOWN CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Staff provided information on the changes made to the ordinance. Member Meerbott addressed Council.

The mayor opened the public hearing. There were no speakers.

Councilmember Meerbott made a motion adopting the ordinance on second reading. The motion was seconded by Councilmember Sochin and Ordinance 06-33 was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

XIII. PUBLIC COMMENTS: The following individuals spoke: Louise Lockwood, 9071 Richmond Drive, Alfie Sergio, 9261 Caribbean Boulevard, Richard Ramirez, 20601 Gulfstream Road, Joy Cooper, 9365 Nassau Drive, Bill Mickeljohn, 9311 Stirling Drive.

XIV. MAYOR AND COUNCIL MEMBER COMMENTS:

Councilmember Meerbott thanked Town Staff for their participation and support during the annual local boat parade.

Councilmember Bell gratefully thanked Town Staff for their ongoing efforts to respond to overgrown grass and debris around her area and within the Town.

Councilmember Sochin also expressed his gratitude to Staff for their continuing efforts and response to issues within the Town.

Vice Mayor MacDougall requested a briefing on Old Cutler Road referendum from the legislative delegation resolution. He also discussed the preservation of the historical road and requested to be informed in all aspects of any projects for Old Cutler Road.

Mayor Vrooman expressed his gratitude to Staff for their endless efforts and their accomplishments.

XV. OTHER BUSINESS: None at this time.

XVI. NEXT MEETING ANNOUNCEMENT AND ADJOURNMENT:

The next council meeting will be held on January 17, 2007, at the South Dade Government Center in Room 203.

The meeting was officially adjourned at 10:35 P.M.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Council on
this 17th day of January, 2007.*

Paul S. Vrooman, Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TAB 2



Office of the Town Manager

Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor & Town Council
From: Steven J. Alexander, Town Manager
Date: January 11, 2007
Re: Codification of Town Ordinances

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO CODIFICATION OF TOWN ORDINANCES; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT FOR CODIFICATION SERVICES THROUGH MUNICIPAL CODE CORPORATION; WAIVING COMPETITIVE BIDDING PURSUANT TO SECTION 3.10 OF THE TOWN CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

The Town is currently in the process of creating its own code of ordinances. It is important to facilitate the manner that those ordinances can be easily read and interpreted for day-to-day use by the town personnel as well as the general public. Staff has determined that it is prudent to procure services from Municipal Code Corporation due to its high level of experience in the public sector and its reasonable cost for services pursuant to the competitive bidding process undertaken by the Village of Palmetto Bay. Many other Florida municipalities and many more nationally have chosen this same highly regarded and easily accessible service.

Staff has determined that it would be neither practicable nor advantageous for the Town to solicit for services through a formal Request for Proposal.

RECOMMENDATION

I recommend waiving competitive bidding pursuant to section 3.10 of the Town Charter and the approval of this proposed resolution.

RESOLUTION NO. 07-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO CODIFICATION OF TOWN ORDINANCES; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT FOR CODIFICATION SERVICES THROUGH MUNICIPAL CODE CORPORATION; WAIVING COMPETITIVE BIDDING PURSUANT TO SECTION 3.10 OF THE TOWN CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") has adopted and is in the process of finalizing several important ordinances; and

WHEREAS, codification of the Town's ordinances is important in order to facilitate the manner in which laws can be read and interpreted; and

WHEREAS, the Town of Cutler Bay has taken the necessary steps to retain the services of a publisher to assist in the codification and publication of a Town Code, utilizing prices quoted through the competitive bidding process performed by the Village of Palmetto Bay (Dated: 09/30/2004), a copy of which is attached as Exhibit "A;" and has otherwise determined that the Municipal Code Corporation is uniquely qualified to provide the services sought by the Town, and

WHEREAS, in accordance with Section 3.10 of the Town Charter, the Town Manager has made a written recommendation to the Town Council and the Town Council has determined that it is impracticable to competitively bid these items because they are available from only one vendor, and the Town Council finds that approval of the Vendor for the purchase of the goods is in the best interest of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Authorization. The Town Manager is authorized to enter into an agreement with Municipal Code Corporation for codification services that is substantially similar in its terms and conditions as the proposal submitted by Municipal Code Corporation to the Village of Palmetto Bay, which proposal is attached to this resolution and incorporated herein by reference, and the competitive bidding requirements of Section 3.10 of the Town Charter are hereby waived to the extent they would require a competitive process for the selection of a codification provider.

Section 3. Effective Date. This resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Interim Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edwards P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

**CONTRACT BETWEEN VILLAGE OF PALMETTO BAY
AND MUNICIPAL CODE CORPORATION**

This contract is made and entered into this 30 day of September, 2004 between the Village of Palmetto Bay (village), a Florida municipal corporation, located at 8950 SW 152nd Street, Palmetto Bay, Florida 33157 and Municipal Code Corporation, a Florida corporation, located at P.O. Box 2235, Tallahassee, Florida 32316 (contractor).

WITNESSETH:

WHEREAS, the village competitively bid for code codification services and contractor is the lowest price bidder and qualified candidate which was selected by the village council.

WHEREAS, the village desires to engage and retain the services of the contractor to perform the codification of the village's ordinances and affiliated work as described in this contract and the contractor desires to accept the engagement; and,

NOW THEREFORE, in consideration of the sum of \$10.00, the mutual promises and covenants contained in this contract, and for other good and valuable consideration, the receipt and legal sufficiency of which is acknowledged by both parties, the parties agree as follows.

1. WHEREAS CLAUSES

1.1. The above whereas clauses are incorporated and made a part of this contract.

2. STATEMENT OF WORK

2.1 The statement of work for this project shall be as provided in the attached exhibit 1, which is incorporated and made a part of this contract. In the event of any conflict, the terms of this contract will govern over the provisions of any incorporated documents.



village
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3. COMMENCEMENT DATE AND TERM

3.1 The term shall commence upon the date of the execution of this contract and expire in three years as provided for in exhibit 1, section 16, page 9.

3.2 Work shall commence upon the issuance of a written task order by the village. Work shall proceed in substantial compliance with the schedule of services contained in the statement of work.

4. PAYMENT

4.1 The village shall pay the contractor the contract amount(s) provided in the statement of work under the "quotation sheet," page 10 of exhibit 1.

4.2 The village shall not be liable to pay, and shall not pay, charges for extra work, delay charges, or additional work, unless the village's contract officer specifically authorizes the extra or additional work, in a written task order before the commencement of the work.

5. TRANSFER AND ASSIGNMENT

5.1 None of the work or services under this contract shall be subcontracted unless contractor obtains prior written consent from the village. Approved subcontractors shall be subject to each provision of this contract and contractor shall be responsible and indemnify the village for all subcontractors' acts, errors or omissions.

5.2 The contractor shall not assign, transfer or pledge any interest in this contract without the prior written consent of the village; provided, however, that claims for money by the contractor from the village under this contract may be assigned, transferred or pledged to a bank, trust company, or other financial institution without the village's approval. Written notice of any assignment, transfer or pledge of funds shall be furnished within 10 days by the contractor to the village.

6. MODIFICATIONS – CHANGE ORDERS

6.1 The village may, at any time, by written change order make changes to the scope of work, and to the means and methods of performing the work. The village may order temporary stoppage of the work or delay in performance that does not alter the scope of work. Changes, including any increase or decrease in the amount of the contractor's compensation, shall be incorporated in written amendments to this contract.

6.2 If any change causes an increase or decrease in the price charged, the maximum amount of the contract, or the time required for performance of any part of the work under this contract, or otherwise affects the conditions of this contract, the village shall make an equitable adjustment to the maximum amount, the price(s), the delivery schedule, or other affected terms, and shall modify the contract with a written change order.

7. TERMINATION FOR DEFAULT

7.1 Either party may terminate this contract prior to the expiration of the initial term or any subsequent renewal term on account of a material breach of this contract by the other party, which has not been cured within 30 days from the date of receipt of written notice of breach from the party seeking termination.

7.2 Termination shall be effective as of the end of the notice period in the case of any uncured material breach.

7.3 Contractor may terminate this contract prior to the expiration of the initial term or any subsequent renewal term upon not less than 60 days prior written notice to the village in the event that contractor is unable to complete the services identified in paragraph 2.1 due to causes beyond contractor's control.

7.4 The village shall have no liability to the contractor for future profits or losses in the event of termination for default; however, contractor shall be compensated for work actually performed.

7.5 The rights and remedies of the village provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

8. TERMINATION FOR DELAY

8.1 If the project is suspended or the contractor's services are delayed by the village for more than 60 consecutive days, the contractor may terminate this contract by giving not less than 10 days written notice.

8.2 The liability of the village upon termination by the contractor for suspension or delay of the project shall be for the value of services performed pursuant to the schedule contained in the statement of work rendered by contractor to the time of termination by contractor. The village shall not be liable for future profits or losses.

9. TERMINATION FOR CONVENIENCE

9.1 The village may terminate this contract for convenience at any time by giving 60 days notice in writing to the contractor. The contractor will be paid for the value of services performed pursuant to the schedule contained in the statement of work, up to and including the termination date. Contractor will be permitted to complete on-going assignments and shall be paid for all satisfactory work completed. The village shall not be liable for future profits or losses.

9.2 In the event that the village improperly terminates the contract for default under paragraph 7, the termination shall be deemed a termination for convenience under this paragraph.

10. TERMINATION FOR LACK OF FUNDS

10.1 Notwithstanding any other provisions of the contract, if the funds anticipated by the village for the for the payment of work under this contract are at any time not forthcoming, through the failure of the village to appropriate funds, the failure of Miami-Dade County, the Florida Legislature, or the U.S. Congress to appropriate funds, or the refusal of the administrative branch of the federal or county government to release funds, or due to any other reason for the unavailability of funds in succeeding fiscal years, or the discontinuance or material alteration of the program under which funds are to be provided, the village shall have the right to terminate the contract without penalty by giving not less than 10 days written notice of the lack of available funding.

10.2 In the event the village declines to appropriate funds for payment of the contract for future fiscal years, contractor shall be paid for work performed under the contract with funds that are appropriated for the current fiscal


village

contractor

year. The liability of the village to contractor shall be limited to the obligation to budget and appropriate funds for work performed during the current fiscal year.

10.3. For any portion of the work that is funded by county, state or federal appropriations or grants, the liability of the village to contractor shall be limited to payment for services when payment is received by the village from the county, state or federal authority. The village shall submit all required documents requesting payment within a reasonable time. The village shall not be liable to contractor for work performed in the event that payment is not received by the village from a county, state or federal funding authority. This is a pay-when-paid clause.

11. NO DAMAGES FOR DELAY CLAUSE

11.1 No claim for damages or any claim other than for an extension of time shall be made or asserted against the village by reason of any delays. The contractor shall not be entitled to an increase in the contract sum or payment of compensation of any kind from the village for direct, indirect, consequential, impact, mobilization, demobilization, or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever; provided, however, that this provision shall not preclude recovery or damages by the contractor for hindrances or delays due solely to fraud, bad faith or active interference on the part of the village or its agents. Otherwise, the contractor shall be entitled only to extension of the contract time as the sole and exclusive remedy for a resulting delay, in accordance with and to the extent specifically provided above.

12. RIGHT TO WITHHOLD

12.1 If work under this contract is not performed in accordance with the terms hereof, the village has the right to withhold any payment due to the contractor, of any sums as the village may deem sufficient to protect it against loss, or to ensure payment of claims, and, at its option, the village may apply the sums in the manner as the village may deem proper to secure itself or to satisfy the claims. The village will provide contractor with 10 days prior written notice in the event that it elects to exercise its right to withhold under this paragraph.


village

contractor

13. INTEREST PAYMENTS DUE TO LATE PAYMENT

13.1 The village shall make payment to contractor within 30 days of receipt of the original written invoice and sufficient backup documentation and acceptance of the work by the village. Interest shall accrue on unpaid invoices as provided by Section 218.74, Florida Statutes.

13.2 Contractor shall not be entitled to any carrying charges or finance fees due to late payment by the village.

14. LIENS

14.1 The Contractor, subcontractors, suppliers and laborers are prohibited from placing a lien on village's property.

15. INDEPENDENT CONTRACTOR

15.1 The contractor is furnishing its services as an independent contractor and nothing in this contract shall create any association, partnership or joint venture between the parties, or any employer-employee relationships.

16. INSURANCE AND INDEMNIFICATION

16.1 The village shall not be held liable or responsible for any claims which may result from acts, errors or omissions of the contractor or its subcontractors, suppliers or laborers. In reviewing, approving or rejecting any submissions or acts of the contractor, the village in no way assumes responsibility or liability for the acts, errors or omissions of the contractor or subcontractors.

16.2 The contractor shall not commence work under this contract until it has obtained all insurance required by the village. The contractor shall defend, indemnify and hold the village harmless from any and all claims, liability, losses, expenses and causes of action arising solely out of a negligent act, error, or omission or misconduct of the contractor, or the contractor's subcontractors, suppliers and laborers incident to the performance of the contractor's services under this contract. The contractor shall pay all claims, losses, fines, penalties, costs and expenses of any nature whatsoever resulting from its intentional misconduct or negligence.


village

contractor

16.3 The contractor shall maintain during the term of this contract the following insurance:

A. Comprehensive general liability insurance with broad form endorsement, including automobile liability, completed operations and products liability, contractual liability, severability of interest with cross liability provision, and personal injury and property damage liability with limits of \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage. The policy or policies shall name village as additional insured and shall reflect the hold harmless provision contained herein.

B. The policies shall contain waiver of subrogation against the village where applicable and shall expressly provide that the policy or policies are primary over any other insurance that the village may have. The village reserves the right to request a copy of the required policies for review. All policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the village.


C. All of the insurance is to be placed with Best rated A-8 or better insurance companies qualified to do business under the laws of the State of Florida.

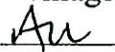
16.4 The contractor shall furnish certificates of insurance to the village prior to the commencement of operations. The certificates shall clearly indicate that the contractor has obtained insurance in the type, amount, and classification as required for strict compliance with this paragraph and that no reduction in limits by endorsement during the policy term, or cancellation of this insurance shall be effective without 30 days prior written notice to the village.

16.5 Compliance with the foregoing requirements shall not relieve the contractor of its liability and obligations under this contract.

17. MEDIATION

17.1 Any claim or dispute arising out of or related to this contract shall be subject to informal mediation as a condition precedent to the institution of legal or equitable proceedings by either party. Both parties waive any right to arbitration.



village


contractor

17.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Miami-Dade County, Florida, unless another location is mutually agreed upon.

17.3 Contracts reached in mediation shall be enforceable as settlement contracts in the circuit court for the 11th judicial circuit for the State of Florida.

18. JURISDICTION AND VENUE

18.1 For the purposes of this contract, Florida law shall govern the terms of this contract. Venue shall be in Miami-Dade County, Florida.

19. SOVEREIGN IMMUNITY AND ATTORNEY'S FEES

19.1 The village does not waive sovereign immunity for any claim for breach of contract or for an award of prejudgment interest; provided, however, that in any action arising out of or to enforce this contract, the prevailing party shall be entitled to its reasonable attorney's fees and costs.

20. NOTICES

20.1 All notices given or required under this contract shall be deemed sufficient if sent by certified mail, return receipt requested, to the addresses of the contractor and to the village specified in this contract, unless either party shall specify to the other party a different address for the giving of the notices.

21. CONTRACTING OFFICER REPRESENTATION

21.1 For the purposes of this contract, the contracting officers are as follows:

To the Village: Village of Palmetto Bay
8950 SW 152nd Street
Palmetto Bay, Florida 33157
Attention: Village Manager


village

contractor

To Contractor: Municipal Code Corporation
P.O. Box 2235
Tallahassee, Florida 32316
Attention: A. Lawton Langford, President/CEO

22. EXAMINATION AND RETENTION OF CONTRACTOR'S RECORDS

22.1 The village, or any of their duly authorized representatives, shall, until 3 years after final payment under this contract, have access to and the right to examine any of the contractor's books, ledgers, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

22.2 The contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as subparagraph 22.1 above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.

22.3 The right to access and examination of records in subparagraph 22.1 shall continue until disposition of any mediation, claims, litigation or appeals.

23. OWNERSHIP OF DOCUMENTS

23.1 All documents, reports, plans, specifications or other records, including electronic records, resulting from the professional services rendered by the contractor under this contract shall be deemed the property of the village and the village shall have all rights incident to this ownership. The contractor acknowledges that all documents prepared under this contract shall be public records, and shall be subject to public inspection and copying, as provided by Florida Statutes chapter 119. Upon conclusion of this contract and any extensions, all documents shall be delivered by the contractor to the village. The contractor shall have the right to retain copies of the documents at the contractor's expense.

24. SEVERABILITY

24.1 Should any paragraph or any part of any paragraph of this contract be rendered void, invalid or unenforceable by any court of law, for any



village


contractor

reason, the determination shall not render void, invalid or unenforceable any other section or part of any section of this contract.

25. ENTIRE CONTRACT

25.1 The contract, when signed by all of the parties, constitutes the full and complete understanding and contract of all parties and may not be in any manner interpreted or fulfilled in contradiction of its express terms. This contract and the incorporated attachments constitute the entire understanding between the parties and integrates by its terms all previous contracts or understandings, oral or written, between the parties.

26. CONTINGENCY FEE AND CODE OF ETHICS WARRANTY

26.1 Contractor warrants that neither it, nor any principal, employee, agent, representative or family member has promised to pay, and contractor has not, and will not, pay a fee the amount of which is contingent upon the village awarding this contract to contractor.

26.2 Contractor warrants that neither it, nor any principal, employee, agent, representative or family member has procured, or attempted to procure, this contract in violation of any of the provisions of the Miami-Dade County or the Village of Palmetto Bay conflict of interest and code of ethics ordinances.

26.3 A violation of this paragraph will result in the termination of the contract and forfeiture of funds paid, or to be paid, to the contractor.

27. WARRANTY OF AUTHORITY

27.1 The signatories to this contract warrant that they are duly authorized by action of their respective village commission, board of directors or other authority to execute this contract and to bind the parties to the promises, terms, conditions and warranties contained in this contract.

28. MISCELLANEOUS

28.1 In the event a court must interpret any word or provision of this agreement, the word or provision shall not be construed against either party by reason of drafting or negotiating this agreement.



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IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized officers, have executed this contract as of the date first above written.

The Village of Palmetto Bay

Contractor

By: Charles D. Scurr
Charles D. Scurr,
Village Manager

By: A. Lawton Langford
A. Lawton Langford,
President/CEO

ATTEST:

VILLAGE CLERK

By: Meighan J. Pier
Meighan J. Pier

Approved as to form:

By: Eve A. Boutsis
Eve A. Boutsis, Village Attorney's Office
The Village of Palmetto Bay

PROFESSIONAL SERVICES PROPOSAL

The **MUNICIPAL CODE CORPORATION**, a corporation duly authorized and existing under the laws of the State of Florida, hereinafter referred to as MCC, hereby offers to publish a Code of Ordinances for the **VILLAGE OF PALMETTO BAY, FLORIDA**, a municipal corporation duly organized and existing under state law, hereinafter referred to as the Municipality, according to the following terms and conditions.

PART ONE PUBLICATION OF ORDINANCES

(1) **ORDINANCES INCLUDED.** Classify and edit the ordinances of a general and permanent nature passed in final form (subsequent to the adoption of the Miami-Dade County Code of Ordinances) by the Municipality as of the date of any contract entered into pursuant to this agreement; provided that the Municipality may forward to MCC all ordinances passed subsequent to said date for inclusion in the new Code until notice is received that editorial work has been completed. We request the ordinances be furnished electronically (diskettes, e-mail, CD-ROM, etc.), though they may be furnished in printed form.

(2) **EDITORIAL WORK.** The editorial work on the Code will include the following:

- a) **Chapter Arrangement.** Each chapter of the new Code shall embrace all ordinances dealing with the subject matter of that chapter, and within the chapter itself the ordinances shall be arranged in an orderly and logical fashion. Chapters and sections will be reserved for future expansion.

Title arrangement is also available and will be discussed, if desired.

- b) **History Notes.** History notes will be prepared for each section of the new Code. The note will indicate the source from which the section is derived.
- c) **Chapter Analysis.** Each chapter of the new Code will be preceded by a detailed analysis listing the articles, divisions, and sections contained therein.
- d) **Catchlines.** Each section will be preceded by a catchline describing the content of the section.

(3) **INDEX.** A comprehensive, legal and factual general index for the entire Code will be prepared. All sections are indexed under major subjects with appropriate section citations. Columnar citations are used to enhance the ease of reference.

(4) **TABLES.** The following Tables will be prepared for the new Code:

- a) **Table of Contents.** This Table will list the chapters, articles or divisions of the Code, with appropriate page numbers.

- b) **Comparative Table.** If feasible, prepare a Comparative Table, listing the ordinances included in the Code, in chronological sequence and setting out the location of such ordinances in the Code.
-

(5) **TYPESETTING AND PROOFS.** After typesetting has been completed, MCC will submit one set of proofs to the Municipality for review. The Municipality may make word changes on the proofs without charge. However, the Municipality will be charged for changes or deletions constituting more than one page of type.

It shall be the duty of the Municipality to return the proofs, with the changes indicated thereon, within forty-five (45) days from the date of their receipt. If proofs are not returned within forty-five (45) days and no notice to the contrary is received by MCC, it will be assumed that no changes are to be made. MCC will then proceed to print the Code and no changes shall thereafter be allowed.

Should the Municipality request to review the proofs beyond forty-five (45) days but fails to return them within five (5) months, the contract balance shall become due and payable. Upon mutual agreement regarding time and compensation, MCC shall update the proofs with subsequent enactments before delivery of the printed Code.

MCC guarantees typographical correctness. Errors attributable to MCC will be corrected throughout the term of the contract without charge to the Municipality. MCC's liability for all services shall extend only to the correcting of errors in the Code or future supplements, not to any acts or occurrences as a result of such errors and only so long as the contract is in effect.

(6) **PRINTING AND BINDING.** When the Municipality returns the proofs, MCC will proceed with printing and binding the Code in accordance with the following:

- a) **Copies.** The number of copies desired by the Municipality will be printed on 50 lb. premium multi-purpose paper.
- b) **Page format.** MCC's page format is designed for consistency and readability. The page size will be consistent with the format chosen by the Municipality: 8 ½ x 11 inches, single column. We provide two different page headers, chapter and Code name, to allow better navigation within the Code. We also provide ears to designate the section the page contains. Our page numbering allows for growth within the volume, as does our reserved chapter options.
- c) **Type size.** Various type sizes are available for text. MCC will publish the Code in ten-point type unless otherwise specified. Notice of such font change must be given prior to the completion of the editorial work so that the impact upon cost can be determined and discussed. MCC provides many different font sizes. We recommend a ten-point size to reduce the size of the volume. The ten-point size is legible and also provides for minimizing the volume size. We also offer eleven- and twelve-point size.
- d) **Tables and graphics.** Tables, drawings, designs, Algebra formulae, graphics, or other material that require special methods of reproduction or modification, will be charged as set out on the Quotation Sheet. MCC will require an electronic file of the tables and graphics included in the Code and/or a clean printed copy.

- e) **Binding.** MCC will bind copies of the completed Code in expandable post binders with slide lock fasteners. Covers will be imitation leather and available colors are black, burgundy, blue, or green, with gold lettering. Other binder choices are available (D-ring and three-ring). Cost may vary. Additional binders can be ordered at any time at the then-current prices.
- f) **Separator tabs.** MCC will furnish separator tab sheets (Mylar tabs, printed both sides) for the bound Codes. The tabs will reflect the major divisions or chapters of the Code volume.

(7) **TIME SCHEDULE.** The following is a tentative time schedule in the preparation of the new Code:

- a) Submission of proofs to Municipality after receipt of material and contract. 3 months
- b) Delivery of completed Codes to Municipality after return of proofs. 2 months

The above time schedule provides for completion of the Code within five (5) months, excluding time required for review of the proofs and any delays occasioned by the Municipality.

(8) **ADOPTING ORDINANCE.** MCC will furnish the Municipality with a suggested form of an ordinance adopting the new Code. Once the Code has been adopted, a copy of the ordinance should be sent to MCC so that it can be included in the Code.

PART TWO
ADDITIONAL SERVICES AVAILABLE

(1) **LEGAL REVIEW OF ORDINANCES.** MCC offers, under the direction of the Municipal Attorney, to review, against state law, the ordinances adopted by the municipality subsequent to the municipality adopting the Miami-Dade County Code of Ordinances. The legal review does not include a legal review of the Miami-Dade County Code of Ordinances. MCC's attorney assigned will submit an editorial memorandum to the Municipal Attorney outlining all recommendations for eliminating duplications, inconsistencies and obsolete provisions. All recommendations are intended for use by the Municipal Attorney, and as such are not to be considered legal advice to a non-attorney. Appropriate state statute references will be included in the Code as deemed necessary. A Statutory Reference Table will be prepared, listing by statutory citation all sections carrying a reference.

Recommended provisions desired to be included as a result of the legal review will be incorporated in the Code upon specific instructions from the Municipality. Amendatory ordinances may be included in the future through the Supplement Service as provided in Part Three.

(2) **STATE LAW REFERENCES.** In the event the Municipality does not choose the option for a complete legal review of the ordinances, MCC offers to add state law references as a part of the editorial process.

(3) **REPRINT PAMPHLETS.** Additional copies of specific chapters or any portion of the Code may be printed and bound in paper covers for separate sale or distribution by the Municipality. Quotations for specific chapters in pamphlet format will be furnished upon request.

(4) **CODE FURNISHED ELECTRONICALLY.** The Code can be furnished in a variety of electronic formats as described below. All formats will be updated through the most recently published ordinance in the printed Code.

- a) ***Folio BoundVIEWS.*** This is a full text search engine that supports standard Boolean logic, phrase searching, proximity searching and word stemming to include word variations and synonyms in searches. Every word of the Code is electronically indexed so queries are performed on the entire Code. A powerful context-sensitive, on-line help system is included within ***Folio BoundVIEWS,*** though the software is sufficiently intuitive to use without consulting the help library.
- b) **Code on the web.** The Code may also be included on MCC's web site (www.municode.com). The site contains a collection of more than 1,000 local government Codes and is available to anyone with Internet access. All Codes on the site are integrated with Folio web search engine and amendments to the Code are incorporated as the book is updated. A link to the Municipality's web site can also be provided.

- c) **Word processing format.** The master database of the Code can easily be converted into an RTF format that is useable in most of today's popular word processing formats, e.g., WORD or WordPerfect. Alternatively, the Code can be provided in a generic text format such as ASCII or HTML.

- d) **Code in Adobe PDF Format.** MCC can provide the Code in PDF format. MCC will apply bookmarks for the chapters and, if available, the PDF version will contain a minor search tool. MCC may not be able to provide the Municipality a search tool in certain instances. The Municipality will need a copy of the Adobe Viewer (available for download for free from adobe.com). The PDF format matches the printed page and MCC provides a complete updated PDF each time the Code has been supplemented. Should the Municipality desire to also receive just the Supplement, an additional update fee applies. There is no licensing that applies to this format, but there are not the search capabilities built into Adobe as there are in the above Folio product.

- e) **Support and training.** Telephone support for all of the above-mentioned programs is available during working hours by calling our toll-free number (800-262-CODE). Most problems are resolved in one call and this support is free of charge. Installing software is easily accomplished by the Municipal IT staff, although MCC's support is available during installation, if needed. All of the above-mentioned programs are very intuitive and typically do not require separate training, however, on-site training is available. A written quotation will be provided upon request.

**PART THREE
SUPPLEMENT SERVICE**

(1) **ORDINANCES TO BE FURNISHED BY MUNICIPALITY.** The Municipality shall forward to MCC copies of the ordinances upon final enactment by the Municipality. We request that the ordinances be furnished electronically and have established a special e-mail address (ords@mail.municode.com) to receive e-mailed ordinances. Printed copies are accepted.

(2) **SCHEDULE.** After shipment of the new Code, MCC will keep the Code up-to-date by the publication of Supplements that will contain the new ordinances of a general and permanent nature enacted by the governing body. The Supplements can be published on a schedule to meet the requirements of the Municipality. A minimum of thirty (30) working days will be required for delivery of a Supplement.

(3) **ELECTRONIC SUPPLEMENTATION.** If the Municipality has chosen to receive the Code in electronic media as set out in Part Two of this agreement, MCC can provide the Supplements electronically on a schedule to meet the Municipality's needs, e.g., monthly or bimonthly. The Municipality may choose to have printed Supplements published less frequently. The electronic media will reflect the entire Code as updated through the most recent Supplement.

(4) **NEW ORDINANCES on the WEB (N.O.W.)** MCC can post your ordinances on the web between supplements so that anyone searching your Code will find the most current legislation. To view this service, go to the Jacksonville, FL Code of Ordinances - See "Ordinances Enacted/Not yet Codified" located at the bottom of the Table of Contents.

Although your ordinances will be a part of your Code database, MCC will not edit the Code to include the new ordinances - we will simply post the ordinances in their original form.

The Code on the Web is maintained through the supplement Service. Once ordinances posted through the N.O.W. service are included in a supplement to the Code, they will be removed from the web.

If you would like ordinances incorporated into the electronic version of the Code more often than your printed Code is updated, please consider our Electronic Supplementation service.

(5) **EDITORIAL SCRUTINY.** A member of MCC's editorial staff will study new ordinances in conjunction with the existing provisions of the Code. Pages of the Code containing provisions that are specifically repealed or amended by ordinance shall be reprinted to remove such repealed or amended provisions and to insert the new ordinances. Should MCC detect conflicts, inconsistencies or duplications in the Code as the new ordinances are included, the Municipality will be notified so that remedial action may be taken.

(6) **EDITORIAL NOTES.** Appropriate editorial notes will be prepared and appended as deemed necessary by MCC.

(7) **INDEX AND TABLES.** When the inclusion of new material necessitates changes in the index, appropriate entries will be prepared and the necessary pages of the index will be printed or reprinted to include the new entries.

The Comparative and State Law Reference Tables will be kept up-to-date to reflect the new ordinances and state law citations, if any, included in each Supplement. The Table of Contents will also be kept current to reflect changes in the Code.

(8) **INSTRUCTION SHEET.** Each Supplement will contain a page of instructions for removal of the obsolete pages and insertion of the new pages. The latest ordinance included in the published Supplement will be noted in boldface type on the Instruction Sheet.

(9) **CHECKLIST.** A checklist of up-to-date pages will be prepared and kept current for the benefit of the user. The checklist of up-to-date pages will allow instant determination of whether the user is relying on a page reflecting current ordinances.

(10) **GRAPHICS.** Should the Supplement contain tables, drawings or graphics for which special methods of reproduction or modification are required, the costs will be as set out on the Quotation Sheet.

(11) **REPRINTS.** The looseleaf reprint pamphlets, which contain certain portions of the Code, including appropriate index pages, will be kept up-to-date at the same time the Code volume is supplemented, if desired.

(12) **SAMPLE ORDINANCE SERVICE.** Sample provisions of specific subjects will be furnished upon request. A sample ordinance index will be furnished for use in requesting the desired sample provisions.

(13) **UPDATE STATE LAW REFERENCES.** Due to the nature of Supplementation, the state law references in a Code become outdated. MCC offers to update and add state law references at any time during this contract. MCC would also update the State Law Reference Table. Accordingly, a more complete legal review can be provided. See paragraph (14) below.

The cost for the state law reference updating would be on an hourly basis, not to exceed a specific number of hours as agreed upon by MCC and the Municipality.

(14) **LEGAL REVIEW OF CODE.** At any time the Municipality may request information and a cost for MCC to review the Code on a chapter-by-chapter basis against the current state law. Written recommendations will be submitted to the Municipal Attorney as to any Code changes deemed necessary or desirable as a result of such legal review. MCC's attorney will work with the Municipal Attorney in drafting legislation as deemed necessary.

The cost for the legal review and drafting services would be on an hourly basis, not to exceed a specific number of hours as agreed upon by MCC and the Municipality.

(15) **SHIPMENT; DISTRIBUTION.** Supplements will be shipped to the Municipality for distribution to the holders of the Codes. However, storage, distribution and billing services for outside users are available through MCC's Distribution Services. Prices will be furnished upon request. The Municipality will have the exclusive right to sell the Codes and Supplements unless otherwise agreed to by the parties.

(16) **TERMINATION.** The Supplement Service as provided herein shall be in full force and effect for a period of three (3) years from the date of shipment of the completed Code to the Municipality. Thereafter, the Supplement Service will be automatically renewed from year to year, provided that either party may alter or cancel the terms of this Part Three upon sixty (60) days' written notice.

QUOTATION SHEET

PART ONE – PUBLICATION OF CODE

(1)	Base cost, includes	\$4,795
	a) Editorial work	
	b) Typesetting and proofs	
	c) Indexing	
	d) Printing and binding	
	i. Number of copies	10
	ii. Number of binders	10
	iii. Number of sets of special order tabs	10
	iv. Estimated pages ¹	
	8 ½ x 11 inches, single column	300
(2)	Base cost does not include:	
	a) Pages in excess of those listed above will be billed as follows:	
	8 ½ x 11 inches, single column	\$15
	b) Pages less than those listed above will be deducted as follows:	
	8 ½ x 11 inches, single column	\$15
	c) Graphics, additional charge each ²	\$10
	d) Freight charges (invoiced upon shipment)	Prepaid
	e) State sales tax, if applicable	

PART TWO – ADDITIONAL SERVICES AVAILABLE

(1)	Legal Review of ordinances ³ Not to exceed 5 hours at \$100/hour	\$500
(2)	Updating state law references	Quotation upon request
(3)	Reprints	Quotation upon request
(4)	Electronic Code:	
	a) Data integrated with <i>Folio BoundVIEWS</i> , three licenses	No charge
	b) Each additional license	\$75
	c) Site license for up to 15 users	\$1,000
	d) Code on the Internet, per year (Includes up to four updates)	\$295
	e) Code formatted for word processing	Quotation upon request
	f) Code in Adobe PDF	\$495

¹ A page is defined as the area on one side of a sheet of paper. A sheet contains two (2) pages.

² If a graphic is larger than one page, the charge is then per page.

³ See Part Two, Additional Services, paragraph (1), Legal Review of Ordinances.

PART THREE – SUPPLEMENT SERVICE

(1)	Annual fee for Supplements	None
(2)	Number of copies	10
(3)	Cost per page	
	a) 8 ½ x 11 inches, single column	\$18
	b) Graphics, additional charge each ¹	\$10
	c) One set of updated electronic media, per Supplement (cost in addition to regular Supplement per page charge)	\$75
	d) Additional sets of updated electronic media, per set	\$75
(4)	Electronic Supplementation (Costs include printed Supplements on a semiannual or annual basis.)	
	a) Quarterly or bimonthly schedule, cost per page: 8 ½ x 11 inches, single column	\$18
	b) Monthly schedule cost per page: 8 ½ x 11 inches, single column	\$23
(5)	Sample Ordinance Service - during the first year following shipment of the Code	No charge

PAYMENT

(1)	Upon signing of the contract	\$2,000
(2)	<u>(Optional)</u> Upon submission of editorial memorandum, if legal review of ordinances is chosen, Part Two	Entire amount
(3)	Upon receipt of proofs	\$2,000
(4)	Balance upon delivery of Code.	
(5)	Payment for the Supplement Service will be due upon receipt of an invoice. Supplements will be invoiced when shipped.	
(6)	Freight charges will be prepaid and invoiced at time of final billing.	

¹If a graphic is larger than one page, the charge is then per page.

This proposal shall be valid for a period of ninety (90) days from the date appearing below.

Submitted by:

MUNICIPAL CODE CORPORATION

James B. Stiner
Witness

Alan S. Long
President/CEO

August 16, 2004

Accepted by:

PALMETTO BAY, FLORIDA

Melissa J. Fu
Witness

Village manager
Title

September 10, 2004
Date

Charles Seun



Municipal Code Corporation

PO Box 2235 Tallahassee, FL 32316

800-262-2633 • Fax: 850-575-8852 • info@municode.com

Municode.com

August 8, 2006

Ms. Erika Gonzalez-Santamaria
Town Clerk
Town of Cutler Bay
Suite 105
10720 Caribbean Blvd
Cutler Bay, FL 33189

Dear Ms. Gonzalez-Santamaria:

Thank you for your recent emails. We are pleased to enclose our professional services proposal for publishing the Cutler Bay Code of Ordinances.

While the proposal accurately describes what we do, it is difficult to convey our enthusiasm and attitude - which is indicative of the service you will receive - in the written word. However, we feel strongly that the service received from MCC is unsurpassed in every aspect. Consider, for instance:

- * **Our experience.** MCC has published Codes for over 3000 municipalities and counties in 49 states over a period of 53 years. Our 16 attorneys have an average tenure of over 17 years with the company.
- * **Our legal expertise.** One of our attorneys is available to perform a legal review of your Code, if desired. You cannot find more thorough research and analysis.
- * **Our personal touch.** No one makes more helpful suggestions nor spends more time working on solutions to problems.
- * **Our commitment to technology.** We are the only codifier with full Internet access, a home page containing hundreds of Codes, a municipal attorney list service, a clerk's list service and e-mail capability between you and all MCC employees.

The enclosed materials include, in addition to our proposal, a list of our clients and several brochures. If you have any questions concerning our proposal or desire additional information, please contact Danielle Galvin or me.

We have recently signed contracts or published Codes for Edgewater, Oak Hill, Gulf Breeze, Fort Walton Beach, Pinellas Park, Juno Beach, and Southwest Ranches. We appreciate your interest and hope that we will have the pleasure of working with you and serving the City of Cutler Bay.

Sincerely,

A. Lawton Langford
President/CEO

ALL/sgg
e-mail: info@municode.com
enc.

PROFESSIONAL SERVICES PROPOSAL

The **MUNICIPAL CODE CORPORATION**, a corporation duly authorized and existing under the laws of the State of Florida, hereinafter referred to as MCC, hereby offers to publish a Code of Ordinances for the **CITY OF CUTLER BAY, FLORIDA**, a municipal corporation duly organized and existing under state law, hereinafter referred to as the Municipality, according to the following terms and conditions.

<p style="text-align: center;">PART ONE PUBLICATION OF ORDINANCES</p>

(1) **ORDINANCES INCLUDED.** Classify and edit the ordinances of a general and permanent nature passed in final form (subsequent to the adoption of the Broward County Code of Ordinances) by the Municipality as of the date of any contract entered into pursuant to this agreement; provided that the Municipality may forward to MCC all ordinances passed subsequent to said date for inclusion in the new Code until notice is received that editorial work has been completed. We request the ordinances be furnished electronically (diskettes, e-mail, CD-ROM, etc.), though they may be furnished in printed form.

(2) **EDITORIAL WORK.** The editorial work on the Code will include the following:

- a) **Chapter Arrangement.** Each chapter of the new Code shall embrace all ordinances dealing with the subject matter of that chapter, and within the chapter itself the ordinances shall be arranged in an orderly and logical fashion. Chapters and sections will be reserved for future expansion.

Title arrangement is also available and will be discussed, if desired.
- b) **History Notes.** History notes will be prepared for each section of the new Code. The note will indicate the source from which the section is derived.
- c) **Chapter Analysis.** Each chapter of the new Code will be preceded by a detailed analysis listing the articles, divisions, and sections contained therein.
- d) **Catchlines.** Each section will be preceded by a catchline describing the content of the section.

(3) **INDEX.** A comprehensive, legal and factual general index for the entire Code will be prepared. All sections are indexed under major subjects with appropriate section citations. Columnar citations are used to enhance the ease of reference.

(4) **TABLES.** The following Tables will be prepared for the new Code:

- a) **Table of Contents.** This Table will list the chapters, articles or divisions of the Code, with appropriate page numbers.

- b) **Comparative Table.** If feasible, prepare a Comparative Table, listing the ordinances included in the Code, in chronological sequence and setting out the location of such ordinances in the Code.
-

(5) **PAGE COMPOSITION AND PROOFS.** After generic coding has been inserted into the text, the pages will be composed and MCC will submit one set of proofs to the Municipality for review. The Municipality may make word changes on the proofs without charge. However, the Municipality will be charged for changes or deletions constituting more than one page of type.

It shall be the duty of the Municipality to return the proofs, with the changes indicated thereon, within forty-five (45) days from the date of their receipt. If proofs are not returned within forty-five (45) days and no notice to the contrary is received by MCC, it will be assumed that no changes are to be made. MCC will then proceed to print the Code and no changes shall thereafter be allowed.

Should the Municipality request to review the proofs beyond forty-five (45) days but fails to return them within five (5) months, the contract balance shall become due and payable. Upon mutual agreement regarding time and compensation, MCC shall update the proofs with subsequent enactments before delivery of the printed Code.

MCC will rely upon data supplied by the Municipality; however, errors attributable to MCC will be corrected throughout the term of the contract without charge to the Municipality. MCC's liability for all services shall extend only to the correcting of errors in the Code or future supplements, not to any acts or occurrences as a result of such errors and only so long as the contract is in effect.

(6) **PRINTING AND BINDING.** When the Municipality returns the proofs, MCC will proceed with printing and binding the Code in accordance with the following:

- a) **Copies.** The number of copies desired by the Municipality will be printed on 50 lb. premium multi-purpose paper.
- b) **Page format.** MCC's page format is designed for consistency and readability. The page size will be consistent with the format chosen by the Municipality: 8 ½ x 11 inches, single column or 8 ½ x 11 inches, double column (samples attached). We provide two different page headers, chapter and Code name, to allow better navigation within the Code. We also provide ears to designate the section the page contains. Our page numbering allows for growth within the volume, as does our reserved chapter options.
- c) **Type size.** Various type sizes are available for text. MCC will publish the Code in ten-point type unless otherwise specified. Notice of such font change must be given prior to the completion of the editorial work so that the impact upon cost can be determined and discussed. MCC provides many different font sizes. We recommend a ten-point size to reduce the size of the volume. The ten-point size is legible and also provides for minimizing the volume size. We also offer eleven- and twelve-point size.

- d) **Tables and graphics.** Tables, drawings, designs, Algebra formulae, graphics, or other material that require special methods of reproduction or modification, will be charged as set out on the Quotation Sheet. MCC will require an electronic file of the tables and graphics included in the Code and/or a clean printed copy.
 - e) **Binding.** MCC will bind copies of the completed Code in expandable post binders with slide lock fasteners. Covers will be imitation leather and available colors are black, burgundy, blue, red, or green, with gold lettering. Other binder choices are available (D-ring and three-ring). Cost may vary. Additional binders can be ordered at any time at the then-current prices.
 - f) **Separator tabs.** MCC will furnish separator tab sheets (Mylar tabs) for the bound Codes. The tabs will reflect the major divisions or chapters of the Code volume.
-

(7) **ADOPTING ORDINANCE.** MCC will furnish the Municipality with a suggested form of an ordinance adopting the new Code. Once the Code has been adopted, a copy of the ordinance should be sent to MCC so that it can be included in the Code.

**PART TWO
SUPPLEMENT SERVICE**

(1) **ORDINANCES TO BE FURNISHED BY MUNICIPALITY.** The Municipality shall forward to MCC copies of the ordinances upon final enactment by the Municipality. We request that the ordinances be furnished electronically and have established a special e-mail address (ords@municode.com) to receive e-mailed ordinances. Printed copies are accepted.

(2) **SCHEDULE.** After shipment of the new Code, MCC will keep the Code up-to-date by the publication of Supplements that will contain the new ordinances of a general and permanent nature enacted by the governing body. The Supplements can be published on a schedule to meet the requirements of the Municipality. A minimum of thirty (30) working days will be required for delivery of a Supplement.

(3) **ELECTRONIC SUPPLEMENTATION.** If the Municipality has chosen to receive the Code in electronic media as set out in Part Two of this agreement, MCC can provide the Supplements electronically on a schedule to meet the Municipality's needs, e.g., monthly or bimonthly. The Municipality may choose to have printed Supplements published less frequently. The electronic media will reflect the entire Code as updated through the most recent Supplement.

(4) **NEW ORDINANCES on the WEB (N.O.W.).** MCC can post your ordinances on the web between supplements so that anyone searching your Code will find the most current legislation. To view this service, go to the Jacksonville, FL Code of Ordinances - See "Ordinances Enacted/Not yet Codified" located at the beginning of the Table of Contents.

Although your ordinances will be a part of your Code database, MCC will not edit the Code to include the new ordinances - we will simply post the ordinances in their original form.

The Code on the Web is maintained through the supplement Service. Once ordinances posted through the N.O.W. service are included in a supplement to the Code, they will be removed from the web.

If you would like ordinances incorporated into the electronic version of the Code more often than your printed Code is updated, please consider our Electronic Supplementation service.

(5) **EDITORIAL SCRUTINY.** A member of MCC's editorial staff will study new ordinances in conjunction with the existing provisions of the Code. Pages of the Code containing provisions that are specifically repealed or amended by ordinance shall be reprinted to remove such repealed or amended provisions and to insert the new ordinances. Should MCC detect conflicts, inconsistencies or duplications in the Code as the new ordinances are included, the Municipality will be notified so that remedial action may be taken.

(6) **EDITORIAL NOTES.** Appropriate editorial notes will be prepared and appended as deemed necessary by MCC.

(7) **INDEX AND TABLES.** When the inclusion of new material necessitates changes in the index, appropriate entries will be prepared and the necessary pages of the index will be printed or reprinted to include the new entries.

The Comparative and State Law Reference Tables will be kept up-to-date to reflect the new ordinances and state law citations, if any, included in each Supplement. The Table of Contents will also be kept current to reflect changes in the Code.

(8) **INSTRUCTION SHEET.** Each Supplement will contain a page of instructions for removal of the obsolete pages and insertion of the new pages. The latest ordinance included in the published Supplement will be noted in boldface type on the Instruction Sheet.

(9) **CHECKLIST.** A checklist of up-to-date pages will be prepared and kept current for the benefit of the user. The checklist of up-to-date pages will allow instant determination of whether the user is relying on a page reflecting current ordinances.

(10) **GRAPHICS.** Should the Supplement contain tables, drawings or graphics for which special methods of reproduction or modification are required, the costs will be as set out on the Quotation Sheet.

(11) **REPRINTS.** Should the Supplement contain tables, drawings and graphics for which special methods of reproduction or modification are required, the costs will be as set out on the Quotation Sheet.

(12) **SAMPLE ORDINANCE SERVICE.** Sample provisions of specific subjects will be furnished upon request. A sample ordinance index will be furnished for use in requesting the desired sample provisions.

(13) **MCC AS TOTAL CODE ADMINISTRATOR.** MCC will maintain an inventory of Codes and Supplements for sale to the public, over and above the number specified in this agreement for Municipality use. MCC will be responsible for having available up-to-date copies of the Code for purchase by current and future subscribers. MCC will be responsible for marketing the Code to existing or potential subscribers.

All handling expenses and risk of future sales of the Code will be incurred by MCC. MCC will set the sale price for the Code and future Supplements, as approved by the Municipality.

Should the Municipality need additional copies of the Code, MCC will provide the desired number of copies at a discounted price.

(14) **UPDATE STATE LAW REFERENCES.** Due to the nature of Supplementation, the state law references in a Code become outdated. MCC offers to update and add state law references at any time during this contract. MCC would also update the State Law Reference Table. Accordingly, a more complete legal review can be provided. See paragraph (14) below.

The cost for the state law reference updating would be on an hourly basis, not to exceed a specific number of hours as agreed upon by MCC and the Municipality.

(15) **LEGAL REVIEW OF CODE.** At any time the Municipality may request information and a cost for MCC to review the Code on a chapter-by-chapter basis against the current state law. Written recommendations will be submitted to the Municipal Attorney as to any Code changes deemed necessary or desirable as a result of such legal review. MCC's attorney will work with the Municipal Attorney in drafting legislation as deemed necessary.

The cost for the legal review and drafting services would be on an hourly basis, not to exceed a specific number of hours as agreed upon by MCC and the Municipality.

(16) **SHIPMENT.** Supplements will be shipped to the Municipality for distribution to the holders of the Codes. The Municipality will have the exclusive right to sell the Codes and Supplements unless otherwise agreed to by the parties.

(17) **TERMINATION.** The Supplement Service as provided herein shall be in full force and effect for a period of three (3) years from the date of shipment of the completed Code to the Municipality. Thereafter, the Supplement Service will be automatically renewed from year to year, provided that either party may alter or cancel the terms of this Part Three upon sixty (60) days' written notice.

**PART THREE
ADDITIONAL SERVICES**

(1) **LEGAL REVIEW OF ORDINANCES.** MCC offers, under the direction of the Municipal Attorney, to review the ordinances against state law. MCC's attorney assigned will submit an editorial memorandum to the Municipal Attorney outlining all recommendations for eliminating duplications, inconsistencies and obsolete provisions. All recommendations are intended for use by the Municipal Attorney, and as such are not to be considered legal advice to a layperson. Appropriate state statute references will be included in the Code as deemed necessary. A Statutory Reference Table will be prepared, listing by statutory citation all sections carrying a reference.

Recommended provisions desired to be included as a result of the legal review will be incorporated in the Code upon specific instructions from the Municipality. Amendatory ordinances may be included in the future through the Supplement Service as provided in Part Three.

(2) **CONFERENCE WITH ATTORNEY (Optional).** MCC's attorney, who performed the legal research of the Code, will travel to the Municipality for a conference with the Municipality's attorney and other interested officials. The following will occur at the conference:

- a) **Issues.** Issues discussed will include all inconsistencies and conflicts discovered during research, as well as obsolete provisions.
- b) **Solutions.** Recommendations will be made regarding solutions to the issues discussed.
- c) **Implementation.** Agreed upon solutions will be implemented with the help of MCC's attorney. The Municipality's attorney has the ultimate decision making authority for solutions and implementation.
- d) **Sample Ordinances.** MCC has an extensive collection of Sample Ordinances. Recommendations will be made regarding new legislation on specific subjects where there is an obvious need. To facilitate this, the Municipality should request recommendations on subjects of specific concern. This service can be continued through the Supplement Service, see Sample Ordinance Service under Part Two of this proposal.
- e) **Organization.** Organization can be reviewed with the Municipality providing comments, criticisms or suggestions.

If an on-site conference is not desired, MCC's attorney will conduct a teleconference or webinar.

(3) **STATE LAW REFERENCES.** In the event the Municipality does not choose the option for a complete legal review of the ordinances, MCC offers to add state law references as a part of the editorial process.

(4) **REPRINT PAMPHLETS.** Additional copies of specific chapters or any portion of the Code may be printed and bound in paper covers for separate sale or distribution by the Municipality. Quotations for specific chapters in pamphlet format will be furnished upon request.

(5) **CODE FURNISHED ELECTRONICALLY.** The Code can be furnished in a variety of electronic formats as described below. All formats will be updated through the most recently published ordinance in the printed Code.

- a) **Folio BoundVIEWS.** This is a full text search engine that supports standard Boolean logic, phrase searching, proximity searching and word stemming to include word variations and synonyms in searches. Every word of the Code is electronically indexed so queries are performed on the entire Code. A powerful context-sensitive, on-line help system is included within **Folio BoundVIEWS**, though the software is sufficiently intuitive to use without consulting the help library.
- b) **Code on the web.** The Code may also be included on MCC's web site (www.municode.com). The site contains a collection of more than 1,600 local government Codes and is available to anyone with Internet access. All Codes on the site are integrated with a search engine and amendments to the Code are incorporated as the book is updated. A link to the Municipality's web site can also be provided.
- c) **Word processing format.** The master database of the Code can easily be converted into an RTF format that is useable in most of today's popular word processing formats, e.g., WORD or WordPerfect. Alternatively, the Code can be provided in a generic text format such as ASCII or HTML.
- d) **Code in Adobe PDF Format.** MCC can provide the Code in PDF format. MCC will apply bookmarks for the chapters and, if available, the PDF version will contain a minor search tool. MCC may not be able to provide the Municipality a search tool in certain instances. The Municipality will need a copy of the Adobe Viewer (available for download for free from adobe.com). The PDF format matches the printed page and MCC provides a complete updated PDF each time the Code has been supplemented. Should the Municipality desire to also receive just the Supplement, an additional update fee applies. There is no licensing that applies to this format, but there are not the search capabilities built into Adobe as there are in the above Folio product.
- e) **Support and training.** Telephone support for all of the above-mentioned programs is available during working hours by calling our toll-free number (800-262-CODE). Most problems are resolved in one call and this support is free of charge. Installing software is easily accomplished by the Municipal IT staff, although MCC's support is available during installation, if needed. All of the above-mentioned programs are very intuitive and typically do not require separate training, however, on-site training is available. A written quotation will be provided upon request.

(6) **ELECTRONIC RECORDS MANAGEMENT SOFTWARE.** As an additional service/product under this contract, MCCi can provide the Municipality with electronic records management software installation and training services. This software will allow for storage, retrieval and imaging of documents.

(7) **DOCUMENT SCANNING SERVICES.** As an additional service under this contract, MCCi can scan and/or integrate the Municipality's documents with an Electronic Records Management software. MCCi provides a 99.9% data capture guarantee on all service work.

(8) **PAPERLESS AGENDA SOFTWARE.** As an additional service under this contract, MCCi can provide the client with a paperless agenda software. This is an agenda management solution designed specifically for Government organizations and will save time and money by streamlining the process of Agenda item creation, workflow, and Agenda publishing.

QUOTATION SHEET

PART ONE – PUBLICATION OF CODE

(1)	Base cost, includes	\$4,845 ¹
	a) Editorial work	
	b) Page Composition and proofs	
	c) Indexing	
	d) 10 bound copies of the Code with divider tabs	
	e) Estimated pages ²	
	8 ½ x 11 inches, single column, 10-point type	250
(2)	Base cost does not include:	
	a) Pages in excess of those listed above will be billed as follows:	
	8 ½ x 11 inches, single column	\$18
	b) Graphics, additional charge each ³	\$10
	c) Freight charges (invoiced upon shipment)	Prepaid
	d) State sales tax, if applicable	

PART TWO – SUPPLEMENT SERVICE

(1)	Annual fee for Supplements	None
(2)	Number of copies	10
(3)	Cost per page	
	a) 8 ½ x 11 inches, single column	\$20
	b) Graphics, additional charge each ⁴	\$10
	c) One set of updated electronic media, per Supplement (cost in addition to regular Supplement per page charge)	\$75
	d) Additional sets of updated electronic media, per set	\$75
(4)	Electronic Supplementation (Costs include printed supplements on a semiannual or annual basis.) These costs are in lieu of costs above.	
	a) Quarterly or bimonthly schedule, cost per page: 8 ½ x 11 inches, single column	\$20
	b) Monthly schedule cost per page: 8 ½ x 11 inches, single column	\$25

¹ This includes the ordinances as adopted by Cutler Bay. If total sections from the Miami-Dade County Code are included, expect a considerable increase in the number of pages – perhaps to as many as 1,000.

² A page is defined as the area on one side of a sheet of paper. A sheet contains two (2) pages.

³ If a graphic is larger than one page, the charge is then per page.

⁴ If a graphic is larger than one page, the charge is then per page.

- | | | |
|-----|--|-----------|
| (5) | NEW ORDINANCES on the WEB (N.O.W.)
Cost per ordinance, posted within 5 working days | \$25 |
| (6) | Sample Ordinance Service - during the first year following shipment of the Code | No charge |

PART THREE – ADDITIONAL SERVICES AVAILABLE

- | | | |
|-----|---|------------------------|
| (1) | Legal Review of ordinances | Quotation upon request |
| (2) | Conference with MCC Attorney, (Optional) | Quotation upon request |
| (3) | Teleconference or webinar, per 3 hour session | Quotation upon request |
| (4) | Updating state law references | Quotation upon request |
| (5) | Reprints | Quotation upon request |
| (6) | Electronic Code: | |
| | a) Data integrated with Folio BoundVIEWS , one license | \$495 |
| | b) Each additional license | \$75 |
| | c) Site license for up to 15 users | \$1,000 |
| | d) Code on the Internet, per year | \$400 |
| | e) Code formatted for word processing | \$150 |
| | f) Code in Adobe PDF Format, includes the search function | \$295 |
| (7) | Electronic Records Management Software | Quotation upon request |
| (8) | Document Scanning Services | Quotation upon request |
| (9) | Paperless Agenda Software | Quotation upon request |

PAYMENT

- | | | |
|-----|---|---------------|
| (1) | Upon signing of the contract | \$1,900 |
| (2) | <u>(Optional)</u> Upon submission of editorial memorandum, if legal review of ordinances is chosen. | Entire amount |
| (3) | Upon receipt of proofs | \$1,400 |
| (4) | Upon delivery of Code | Balance |
| (5) | Payment for the Supplement Service will be due upon receipt of an invoice. Supplements will be invoiced when shipped. | |
| (6) | Freight charges will be prepaid and invoiced at time of final billing. | |

This proposal shall be valid for a period of ninety (90) days from the date appearing below.

Submitted by:

MUNICIPAL CODE CORPORATION

Witness

President/CEO

August 8, 2006

Accepted by:

CUTLER BAY, FLORIDA

Witness

Title:

Date

TAB 3

RESOLUTION NO. 07-_____

A RESOLUTION OF THE TOWN OF CUTLER BAY, FLORIDA, ESTABLISHING THE CUTLER BAY TOWN FOUNDATION, INC.; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING TOWN OFFICIALS TO TAKE ALL NECESSARY STEPS TO CREATE THE CUTLER BAY TOWN FOUNDATION, INC.; AUTHORIZING THE MAYOR AND APPROPRIATE TOWN PERSONNEL TO EXECUTE REQUIRED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") has a need for the establishment of a non-profit organization to fund community improvements in the Town; and

WHEREAS, the Town Council has directed staff to create an organization to begin raising funds for community improvements.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated herein by this reference.

Section 2. Creation of Cutler Bay Town Foundation.
The Town Council hereby authorizes the Town Manager and Town Attorney to create a "Cutler Bay Town Foundation" in order to raise money to fund community improvements in the Town of Cutler Bay.

Section 3. Expenditure of Funds. The Town Manager is authorized to expend budgeted funds to prepare the required documents and begin the fundraising process.

Section 4. Authorization of Town Officials. The Town Manager and Town Attorney are authorized to create a corporation, apply for the appropriate tax-exempt status, open up a bank account and take all other steps necessary for the creation of the Cutler Bay Town Foundation, Inc.

Section 5. Execution of Documents. The Town Manager and other appropriate Town personnel are authorized to execute any required documents on behalf of the Cutler Bay Town Foundation, Inc.

Section 4. Effective Date. This resolution shall become effective immediately upon its adoption.

PASSED and ADOPTED this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Interim Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____
Vice Mayor Edwards P. MacDougall _____
Councilmember Peggy R. Bell _____
Councilmember Timothy J. Meerbott _____
Councilmember Ernest N. Sochin _____

**ARTICLES OF INCORPORATION
FOR
CUTLER BAY TOWN FOUNDATION, INC.,
a Florida not for profit corporation**

The undersigned, pursuant to Chapter 617 of the Florida Statutes, hereby submits the following Articles of Incorporation:

ARTICLE I

The name of the Corporation shall be **CUTLER BAY TOWN FOUNDATION, INC.**, (hereinafter referred to as "Corporation").

ARTICLE II

The principal office address and mailing address of the Corporation is: 10720 Caribbean Boulevard, Cutler Bay, Florida 33189.

ARTICLE III

1. No Stock. The Corporation is organized upon a non stock basis.
2. No Members. The Corporation shall not have any members.

ARTICLE IV

The Corporation shall have perpetual existence.

ARTICLE V

The Corporation is organized and shall be operated exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. In furtherance of such purposes, the Corporation shall be authorized:

1. To raise funds and other monies for community improvements for the benefit of the community in the Town of Cutler Bay, Florida.
2. To solicit and accept contributions of money and property and to accept devises and bequests and all other monies and property made available by virtue of trusts, endowments, deeds of gift, annuities, policies of insurance, or otherwise, and to use and administer such monies or property for the furtherance of the Corporation's purposes.
3. To do all acts and things requisite, necessary, proper, and desirable to carry out and further the objects for which this Corporation is formed; and, in general, to

have all rights, privileges, and immunities, and enjoy all the benefits of the laws of the State of Florida applicable to corporations of this character, including, but not limited to, the powers described in Section 617.0302 of the Florida Statutes, subject however to the requirements of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and to the other limitations provided in these Articles of Incorporation.

ARTICLE VI

The street address of the Corporation's registered office is: 10720 Caribbean Boulevard, Cutler Bay, Florida 33189. The name of the Corporation's registered agent is: Mitchell A. Bierman.

ARTICLE VII

The number of directors may be changed, from time to time, in accordance with the Bylaws, provided that there shall at all times be at least _____ () directors. The names and addresses of the persons who shall serve as the initial board of directors until the first annual meeting of the directors or until their successors are elected and qualified are as follows:

_____	_____
_____	_____
_____	_____
_____	_____

The method of election of directors and their term of office shall be in accordance with the Bylaws.

ARTICLE VIII

No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to its directors, officers or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article V hereof. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation (i) exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future federal tax code; or (ii) contributions

to which are deductible under Section 170(c)(2) of the Internal Revenue code of 1986, or the corresponding section of any future federal tax code.

ARTICLE IX

1. Distribution of Income. The Corporation shall distribute its income for each tax year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future federal tax code.

2. Self-Dealing. The Corporation shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future federal tax code.

3. Excess Business Holdings. The Corporation shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future federal tax code.

4. Investments Jeopardizing Charitable Purpose. The Corporation will not make any investment in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future federal tax code.

5. Taxable Expenditures. The Corporation shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future federal tax code.

ARTICLE X

Upon the dissolution of the Corporation, assets shall be distributed for one or more exempt purposes within the meaning of (or distributed to any one or more organizations operated exclusively for charitable purposes and which qualifies as tax exempt under) Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future federal tax code.

ARTICLE XI

To the maximum extent permitted by Florida law, the Corporation shall:

1. Indemnify any person who was or is a party to any proceeding (other than an action by, or in the right of the Corporation), by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against liability incurred in connection with such proceeding, including any appeal thereof, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the

best interests of the Corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that a person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

2. Indemnify any person who was or is a party to any proceeding by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses and amounts paid in settlement not exceeding, in the judgment of the board of directors, the estimated expense of litigating the proceeding to conclusion, actually and reasonable incurred in connection with the defense or settlement of such proceeding, including any appeal thereof.

Expenses incurred by an officer or director in defending a civil or criminal proceeding shall be paid by the Corporation in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if he or she is ultimately found not to be entitled to indemnification by the Corporation.

The indemnification and advancement of expenses provided pursuant to this Article are not exclusive, and the Corporation may make any other or further indemnification or advancement of expenses of any of its directors, officers, employees, or agents, under any Bylaw, agreement, vote of disinterested director, or otherwise both as to action in his or her official capacity and as to action in another capacity while holding such office.

ARTICLE XII

The name and address of the incorporator is:

Mitchell A. Bierman
Weiss Serota Helfman
2525 Ponce de Leon Blvd.
Coral Gables, Florida 33134

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation this _____ day of January, 2007.

Mitchell A. Bierman, Incorporator

ACCEPTANCE BY REGISTERED AGENT

Pursuant to the provisions of Section 617.0501 of the Florida Not For Profit Corporation Act, the undersigned submits the following statement in accepting the designation as registered agent and registered office of Cutler Bay Town Foundation, Inc., a Florida not for profit corporation (the "Corporation"), in the Corporation's Articles of Incorporation:

Having been named as registered agent and to accept service of process for the Corporation at the designated registered office, the undersigned accepts the appointment as registered agent and agrees to act in this capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of its duties, and the undersigned is familiar with and accepts the obligations of its position as registered agent.

IN WITNESS WHEREOF, the undersigned has executed this Certificate this _____ day of January, 2007.

Mitchell A. Bierman

**BY-LAWS
OF
CUTLER BAY TOWN FOUNDATION, INC.,
a Florida not for profit corporation**

Adopted as of _____

The following are the by-laws of the CUTLER BAY TOWN FOUNDATION, INC., a corporation not for profit under the laws of the State of Florida (the "Corporation").

ARTICLE I. CORPORATE OFFICE.

The office and principal place of business of the corporation shall be located at: 10720 Caribbean Boulevard, Cutler Bay, Florida 33189.

ARTICLE II. BOARD OF DIRECTORS.

Section 2.01. General Powers. Subject to the limitations of the articles of incorporation, these by-laws, and the Florida Not For Profit Business Corporation Act, all corporate powers shall be exercised by or under the authority of the board of directors, and the business and affairs of the corporation shall be managed under the direction of the board of directors.

Section 2.02. Initial Directors, Number, Tenure, and Election. For the purpose of adopting these by-laws, the board of directors shall initially consist of _____ () persons as set forth in the articles of incorporation (hereafter, the "Initial Board").

Section 2.03. Board of Directors. Subsequent to the adoption of these by-laws, the number of directors shall be remain a total of _____ () and the individual directors of the Initial Board shall either step down or shall remain and be appointed to take such office. The directors appointed shall be appointed for a term of either two (2) or four (4) years at the discretion of the Initial Board. Notwithstanding anything provided for herein or in the articles of incorporation, only one (1) member of the board of directors may serve concurrently as a member of the Town Council of the Town of Cutler Bay, Florida.

Section 2.04. Tenure. The new board of directors and each board thereafter shall serve for either two (2) or four (4) years, depending upon their appointment to the board of directors or the term of the prior director they are replacing, until the second succeeding annual meeting of election and until their successors have been elected or appointed and qualified.

Section 2.05. Number. The number of the board of directors may be increased or decreased from time to time by amendment to these by-laws, but shall consist of a minimum of three (3) directors.

Section 2.06. Acceptance of Nomination and Annual Meetings. The board of directors shall hold an annual meeting for the purpose of electing new members to the board and transacting such other business as may be properly brought before the meeting. If there is a vacancy on the board of directors or the board wishes to remove one of the directors, the remaining board members may submit a written nomination for a new board member, the new board member shall thereafter be confirmed and the board member holding the respective seat shall step down and the replacement member shall begin its term of office.

Section 2.07. Meetings and Telephonic Conferencing. Regular meetings of the board of directors shall be held at such times as shall be fixed from time to time by resolution of the board. Special meetings of the board may be called at any time by the president, or, if the president is absent or is unable or refuses to act, by any two members of the board. Notice need not be given of regular meetings of the board, nor need notice be given of adjourned meetings. Notice of special meetings shall be in writing, delivered in person or by first-class mail or telegram or cablegram at least two (2) days prior to the date of the meeting. Neither the business to be transacted nor the purpose of any such meeting need be specified in the notice. Attendance of a director at a meeting shall constitute a waiver of notice and a waiver of all objection to the place, time, and manner of calling the same, except where the director states, at the beginning of the meeting, any objection to the transaction of business because the meeting is not lawfully called or convened. Individual directors may participate in any meeting of the board by means of a conference telephone or similar communications equipment by which all persons participating can hear each other at the same time, and attendance by such means shall constitute presence in person at a meeting.

Section 2.08. Quorum and Voting. A simple majority of directors in office shall constitute a quorum for the transaction of business, and the acts of a majority of directors present at a meeting at which a quorum is present shall constitute the acts of the board of directors. If, at any meeting of the board of directors, less than a quorum is present, a majority of those present may adjourn the meeting, from time to time, until a quorum is present. In the event of a tie vote, the vote shall be considered a “no vote” and the item under consideration shall be deemed denied.

Section 2.09 Vacancies. A vacancy in the board of directors shall exist on the happening of any of the following events:

- (1) A director dies, resigns, abandons or is removed from office.

(2) The authorized number of directors is increased without the simultaneous election of a director or directors to fill the newly authorized position.

(3) The board of directors declares vacant the office of a director who has been adjudicated of unsound mind or has been finally convicted of a felony, or who, within three (3) business days after notice of his or her election to the board, neither accepts the office in writing nor attends a meeting of the board of directors.

A reduction in the authorized number of directors does not remove any director from office prior to the expiration of his or her term of office.

Section 2.10. Filling of a Vacancy. A vacancy in the board of directors shall be filled by the board by majority vote of the remaining directors (even though a quorum is not present). Such replacement directors shall have all of the powers of a director and shall serve until their replacements election and qualification.

Section 2.11. Removal. At any regular meeting of the board of directors or any special meeting called for such purpose, any director or directors may be removed from office, with or without cause, by majority vote of the remaining board of directors. Removal of a board member shall not affect the qualifications for board membership set forth in Section 2.06 above.

Section 2.12. Compensation. Directors shall not receive compensation for serving on the board. However, the board shall be entitled to reimbursements for any reasonable expenses incurred in attending board meetings.

Section 2.13. Indemnification. The corporation shall indemnify any person who was or is a party or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was a director or officer of the corporation, or is or was serving at the request of the corporation as a director or officer of any other corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlements, actually and reasonably incurred by him or her in connection with such action, suit, or proceeding, including any appeal of such action, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. However, no indemnification shall be provided in any action or suit by or in the right of the corporation to procure a judgment in its favor, with respect to any claim, issue, or matter as to which such person is adjudged to be liable for negligence or misconduct in the performance of his or her duty to the corporation. Indemnification under this section shall be made by the corporation only as authorized in the specific case on a determination by a simple majority of

disinterested directors, that such individual met the applicable standard of conduct set forth above. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or on a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not meet the applicable standard of conduct. Indemnification shall continue as to a person who has ceased to be a director or officer, and shall inure to the benefit of the heirs, executors, and administrators of such a person.

Section 2.14. Committees. The board of directors may, by resolution adopted by a majority of the board, appoint two or more directors to constitute an executive committee which, to the extent provided in such resolution, shall have and may exercise all of the authority of the board of directors in the management of the corporation, except that such committee shall have no authority to fill vacancies on the board of directors or remove members of the board of directors or of any committee; or adopt, amend, or repeal these by-laws. The board of directors shall have the power at any time to fill vacancies in, to change the size or membership of, and to discharge any such committee. Any such executive committee shall keep a written record of its proceedings and shall submit such record to the whole board at each regular meeting and at such other times as may be requested by the board. However, failure to submit the record, or failure of the board to approve any action indicated in the record shall not invalidate such action (provided such action was within such committee's authority) to the extent such action has been carried out by the corporation prior to the time the record was or should have been submitted to the board as provided.

ARTICLE III. OFFICERS.

Section 3.01. Enumeration of Offices. The corporation shall have as officers a president, a secretary, and a treasurer. The board of directors, in its discretion, may appoint one or more additional vice-presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as the business of the corporation may require.

Section 3.02. Election and Term of Office. The principal officers of the corporation shall be elected by a majority vote of the board of directors at the annual meeting, or as soon afterward as is reasonably possible. Subordinate officers may be elected from time to time as the board may see fit. Each officer shall hold office until his or her successor is elected and qualified or until his or her resignation, death, or removal. The term of office for each officer shall be one (1) years from appointment.

Section 3.03. Removal. Any officer may be removed from office at any time, with or without cause, on the affirmative vote of the majority of the board of directors.

Section 3.04. Vacancies. Vacancies in offices, however occasioned, may be filled by election by the board of directors at any time for the unexpired terms of such offices.

Section 3.05. President; Powers and Duties. Subject to any supervisory duties that may be given by the board of directors to any chairman of the board, the president shall be the principal executive officer of the corporation. Subject to the control of the board of directors, the president shall supervise and direct generally all the business and affairs of the corporation. The president shall preside at all meetings of the board of directors at which he or she is present. The president may sign, with the secretary or any other officer of the corporation so authorized by the board of directors, any deeds, mortgages, bonds, contracts, or other instruments that the board of directors has authorized for execution, except when the signing and execution has been expressly delegated by the board of directors or these by-laws to some other officer or agent of the corporation or is required by law to be otherwise signed or executed. The president shall also make reports to the board of directors and in general shall perform all duties incident to the office of president and such other duties as may be prescribed from time to time by the board of directors.

Section 3.06. Treasurer; Powers and Duties. The treasurer of the corporation shall have the following powers and duties:

- (a) To be custodian and take charge of and be responsible for all funds and securities of the corporation;
- (b) To receive and give receipts for money due and paid to the corporation from any source;
- (c) To deposit all such monies paid to the corporation in the name of the corporation in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of these by-laws;
- (d) To perform all of the duties incidental to the office of treasurer and such other duties as may be assigned to the treasurer, from time to time, by the president or the board of directors; and
- (e) To give a bond for faithful discharge of his or her duties when required to do so by the board of directors.

Section 3.07. Secretary; Powers and Duties. The secretary of the corporation shall have the following powers and duties:

- (a) To keep the minutes for the meetings of the board of directors, in one or more books provided for that purpose;
- (b) To see that all notices are duly given, in accordance with these by-laws or as required by law;

- (c) To be custodian of the corporate records and the seal of the corporation;
- (d) To see that the seal of the corporation is affixed to all documents duly authorized for execution under seal on behalf of the corporation; and
- (e) To perform all duties incidental to the office of secretary and such other duties as may be assigned to the secretary, from time to time, by the president or the board of directors.

Section 3.08. Optional Subordinate Officers. Other subordinate officers, including without limitation an assistant treasurer or treasurers and an assistant secretary or secretaries may be appointed by the board of directors from time to time, and shall exercise such powers and perform such duties as may be delegated to them by the resolutions appointing them, or by subsequent resolutions adopted by the board of directors from time to time.

Section 3.09. Absence or Disability of Officers. In the case of the absence or disability of any officer of the corporation and of any person authorized to act in his or her place during such absence or disability, the board of directors may by resolution delegate the powers and duties of such officer to any other officer, or to any director, or to any other person whom it may select.

ARTICLE IV. CORPORATE ACTIONS.

Section 4.01. Contracts. The board of directors may authorize any officer or officers, or any agent or agents of the corporation to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances subject to the requirements set forth in Section 4.02 below.

Section 4.02. Loans. No loans shall be made or contracted on behalf of the corporation, and no evidences of indebtedness shall be issued in its name, unless authorized by resolution of the board of directors. Such authority may be general or confined to specific instances.

Section 4.03. Checks, Drafts, or Orders. All checks, drafts, or other orders for the payment of money by or to the corporation, and all notes and other evidence of indebtedness issued in the name of the corporation shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the board of directors.

Section 4.04. Bank Deposits. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the board of directors may select.

ARTICLE V. MISC.

Section 5.01. Fiscal Year. The fiscal year of the corporation shall be the fiscal calendar year or begin on the first day of October of each year and end at midnight on the thirtieth day of September of the following year.

Section 5.02. Corporate Seal. The board of directors shall adopt an official seal for the corporation, which shall be circular in form and be inscribed with the name of the corporation, the state of incorporation, and the words Corporate Seal.

Section 5.03. Majority Vote. For the purpose of these by-laws, a majority vote of the board shall mean a simple majority vote from those board members present at a meeting where a quorum has been established.

Section 5.04. Unanimous Vote. For the purpose of these by-laws, a unanimous vote of the board shall mean a unanimous vote from the board of directors present at a meeting where a quorum has been established.

ARTICLE VI. AMENDMENTS.

Any amendment to the articles of incorporation or these by-laws including, but not limited to, an amendment to the stated purpose of the corporation or an increase or decrease in the number and/or composition of the board of directors, shall require a unanimous vote of the board of directors.

ARTICLE VII. DISSOLUTION.

This Corporation may be dissolved only after a unanimous vote of the board of directors.

Part VIII. Section 5. Affiliated Governmental Unit.

Cutler Bay Town Foundation, Inc. is “affiliated” with The Town of Cutler Bay, a Florida municipal corporation (the “Town”). It was originally created by the Town, but operates independently of the Town and is organized solely for its stated charitable purposes.

Part IV. Narrative Description of Activities.

CUTLER BAY TOWN FOUNDATION, INC.

It is planned that CUTLER BAY TOWN FOUNDATION INC., (the "Foundation") will be involved in the raising funds and other monies for the funding of community improvements for the benefit of the community, in the Town of Cutler Bay, Florida. It is anticipated that these activities will include various fundraising events along with campaigns within the community. It is anticipated that these activities will be conducted year round. It is anticipated that these activities will be funded through a combination of private donations and governmental grants. It is anticipated that 100% of total time will be dedicated to these activities.

CONFLICT OF INTEREST POLICY

of

CUTLER BAY TOWN FOUNDATION, INC., a Florida not for profit corporation

Adopted by Resolution of the Board of Directors as of _____

Article I Purpose

The purpose of the conflict of interest policy is to protect this tax-exempt organization's (the "Organization") interest when it is contemplation entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Organization or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

Article II Definitions

1. Interested Persons

Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

2. Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- a. An ownership or investment interest in any entity with which the Organization has a transaction or arrangement,
- b. A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Organization is negotiation a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

Article III
Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

3. Procedure for Addressing the Conflict of Interest

a. An Interested person may make a presentation at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

b. The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

c. After exercising due diligence, the governing board or committee shall determine whether the Organization can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of disinterested directors whether the transaction or arrangement is in the Organization's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts of Interest Policy

a. If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

b. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Article IV
Records of proceedings

The minutes of the governing board and all committees with board delegated powers shall contain:

a. The names of the persons who disclosed or otherwise were found to have financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.

b. The names of the persons who were present for discussion and votes relation to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Article V
Compensation

a. A voting member of the governing board who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.

b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.

c. No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI
Annual Statements

Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

a. Has received a copy of the conflicts of interest policy.

- b. Has read and understands the policy.
- c. Has agreed to comply with the policy, and
- d. Understands the Organization is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Article VII
Periodic Reviews

To ensure the Organization operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

Article VIII
Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

TAB 4



Office of the Town Manager

Steven J. Alexander
Town Manager

MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: January 10, 2007

Re: RFQ Professional Services

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR PROFESSIONAL SERVICES: ARCHITECTURE, GENERAL CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE AND TRANSPORTATION PLANNING & ENGINEERING; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

The Public Works Department is responsible for overseeing various Capital Improvement Projects and conducting various studies. The Department desires and it is in the best interest of the Town to contract with the most qualified and experienced Consultants to provide Professional Services to the Town's Public Works Department utilizing funding provided for in the Town's 2006-07 Fiscal Year budget.

A Request For Qualifications has been prepared to identify the best available consultants to provide Professional Services: Architecture, General Civil Engineering, Landscape Architecture, and Transportation Planning & Engineering services for an initial period of three years. The selected consultants will be assisting the Town with various projects such as, but not limited to: Entry feature monument signs, Stormwater Master Plan (funded through South Florida Water Management District), Transportation Master Plan grant application in progress through MPO), Streetscape Master Plan, and Roadway Assessment Report.

Town Ordinance # 06-22 requires the Town Manager to obtain authorization from the Town Council in order to advertise solicitations for bids and proposals, prior to advertising the public notice. Additionally, pursuant to Chapter 287.055, Florida Statutes, the Town intends to retain consultants to provide professional services. In order to fulfill the needs of quick response and professional expertise, the Town intends to retain two (2) Consultants in each Service Area.

RECOMMENDATION

We recommend that the attached resolution be adopted.

RESOLUTION NO. ____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS (RFQ) FOR PROFESSIONAL SERVICES: ARCHITECTURE, GENERAL CIVIL ENGINEERING, LANDSCAPE ARCHITECTURE AND TRANSPORTATION PLANNING & ENGINEERING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay, (the "Town") Public Works Department ("Department") will be responsible for overseeing various capital improvement projects and conducting various studies; and

WHEREAS, the Department desires and it is in the best interest of the Town to contract with the most qualified and experienced consultants to provide professional services to the Town's Public Works Department utilizing funding provided for in the Town's 2006-07 Fiscal Year budget; and

WHEREAS, a request for qualifications ("RFQ") has been prepared to identify the best available consultants to provide professional services in the fields of: architecture, general civil engineering, landscape architecture, and transportation planning and engineering services on an as needed basis for an initial period of three years; and

WHEREAS, a municipality is authorized under Florida Statutes § 287.055 to acquire professional services under a continuing contract to provide professional services for projects in which construction costs do not exceed \$1 Million and study activities for which the fee does not exceed \$50,000.

WHEREAS, Town Ordinance Number 06-22 requires the Town Manager to obtain authorization from the Town Council to advertise solicitations for bids and proposals prior to advertising the solicitation.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, THAT:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Request For Proposals Advertising Approved. The Town Manager is hereby authorized to advertise and issue a RFQ for a continuing contract as defined in Florida Statutes §287.055(2)(g) for professional services in the fields of architecture, general civil engineering, landscape architecture, and transportation planning and engineering, substantially the form attached hereto as Exhibit "A."

Section 3. **Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this _____ day of _____, 2006.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Interim Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____



**REQUEST FOR QUALIFICATIONS
PROFESSIONAL SERVICES: RFQ#: 2007-01**

INFORMATION FOR THE PROPOSERS

1.0 INTRODUCTION

The Town of Cutler Bay (the Town), a municipality located in Miami-Dade County, Florida, wants to engage qualified firms or teams of firms (the Consultants) to obtain Professional Services (the Services) in four (4) service areas (the Service Areas):

- Architecture
- General Civil Engineering
- Landscape Architecture
- Transportation Planning and Engineering

The Town intends to execute an agreement with selected Consultants for providing on-call services. The Consultants will provide these Services on a non-exclusive basis. The Town does not guarantee that any or all of the services identified in this Request for Qualifications (RFQ) will be assigned to the Consultants during the term of their Agreement.

1.1 PURPOSE

The purpose of this document is to provide information on the Services needed by the Town, requirements and guidelines for submitting Response to this RFQ (the Response or the Qualifications package), Consultant selection process and the schedule.

1.2 SCHEDULE OF EVENTS

No	Event	Date*	Time* (EST)
1	Advertisement/ Distribution of RFQ & Cone of silence begins	TBA	9:00 AM
2	Mandatory Pre-RFQ-Response Meeting	TBA	10:00 AM
3	Deadline to Submit Questions	TBA	4:00 PM
4	Deadline for Town Responses to Questions	TBA	4:00 PM
5	Deadline to Submit RFQ-Response	TBA	4:00 PM
6	Announcement of short-listed Consultants	TBA	3:00 PM
7	Oral presentations	TBA	TBA
8	Announcement of selected Consultants/ Cone of silence ends	TBA	TBA

*The Town reserves the right to change the scheduled dates and time.



1.3 ELIGIBILITY

In addition to other requirements stated in this document, to be eligible to respond to this RFQ, the Consultant must have successfully provided within the past five (5) years services similar to those in Section 2.2 of this RFQ. Each Consultant shall meet all legal, technical and professional requirements for providing the requested Services.

The respondents shall furnish such additional information as the Town may reasonably require. This includes information that indicates financial resources as well as ability to provide and maintain the system and/or services. The Town reserves the right to make investigations of the respondents' qualifications or any of its agents, as it deems appropriate

1.4 MANDATORY PRE-RFQ-RESPONSE MEETING

The Town will conduct a Pre-RFQ-Response Meeting (the Meeting), on **TBA** at 10 AM Eastern Standard Time (EST) at the following address:

Town Hall
Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189

ATTENDANCE AT THIS MEETING IS MANDATORY. Failure by a Prime Consultant to attend and/or be represented at the Meeting shall result in its Response being deemed non-responsive, if submitted. Each attendee shall identify specifically only one firm he/she is representing. For persons with disabilities, auxiliary aids or services will be provided upon request with at least five (5) days notice prior to the date of the Meeting by calling the Town Clerk's Office at (305) 234-4262.

The purpose of this Meeting is to provide an open forum for the Town to review this document and respond to questions regarding this RFQ. The Consultants are encouraged to submit their questions in writing at least three (3) days before the meeting. Questions arising before and after the Meeting will be addressed per the schedule given in Section 1.2 of this document. For submission of questions, please refer Section 1.9 of this RFQ.

1.5 CONE OF SILENCE

COMMUNICATIONS BETWEEN ANY PROPOSER OR ITS REPRESENTATIVES AND ANY TOWN COUNCIL MEMBER, TOWN OFFICIALS, STAFF, AND CONSULTANTS; AND/OR TECHNICAL EVALUATION COMMITTEE MEMBERS ON THE SUBJECT OF THIS RFQ ARE STRICTLY PROHIBITED FROM THE DATE AND TIME OF THE ADVERTISEMENT OF THIS RFQ THROUGH THE DATE OF SELECTION ANNOUNCEMENT (See Section 1.2 for the time and dates), with the following exceptions.



- A. Written requests regarding information or clarification made to the Town Clerk, Attn: Ms. Lorraine Savoureux, Administrative Assistant, Public Works Department, in reference to this RFQ within the timeframe identified in #3 of Section 1.2.
- B. Any official, recorded communication during the mandatory Meeting (see Section 1.4).

1.6 ADDENDA

If the Town finds it necessary to add to, or amend this document prior to the Response submittal deadline, the Town will issue written addenda/addendum after the Meeting and distribute it to all the persons attending the Meeting. Each Consultant must acknowledge receipt of each addendum by signing the acknowledgement (Appendix A) and providing it with its Response.

1.7 PRESENTATION COSTS

The Town shall not be liable for any costs, fees, or expenses incurred by any Consultant in responding to this RFQ, subsequent inquiries or presentations relating to its response.

1.8 CERTIFICATION

The signer of the Response (to this RFQ) must declare by signing Appendices A and B that the person(s), firm (s) and parties identified in the Response are interested in and available for providing the services; that the Response is made without collusion with any other person(s), firm(s) and parties; that the Response is fair in all respects and is made in good faith without fraud; and that the signer of the cover letter of the Response has full authority to bind the person(s), firm(s) and parties identified in the Response.

1.9 PUBLIC RECORDS

Florida law provides that municipal records should be open for inspection by any person under Section 119, F.S. Public Records law. All information and materials received by the Town in connection with responses shall become property of the Town and shall be deemed to be public records subject to public inspection.

1.10 RETENTION OF RESPONSES

The Town reserves the right to retain all Responses submitted and to use any information or data contained in any Response, regardless of whether that Consultant is selected.



1.11 QUESTIONS AND CLARIFICATIONS:

All requests for information and/or clarification should be submitted in writing to:

Erika Santamaria, Town Clerk
Attn: Ms. Lorraine Savoureux, Administrative Assistant
Public Works Department
Town of Cutler Bay
10720 Caribbean Blvd., Suite 105
Cutler Bay, FL 33189
Phone: (305) 234-4262 / Fax: (305) 234-4251
Email: esantamaria@cutlerbay-fl.gov

1.12 TOWN AUTHORITY

Proposals will be selected at the sole discretion of the Town. The Town reserves the right to waive any irregularities in the request process, to reject any or all proposals, or to reject a proposal which is in any way incomplete or irregular. Proposals received after the deadline will not be considered.

2.0 SERVICES NEEDED BY THE TOWN

2.1 GENERAL BACKGROUND

The Town is committed to efficient government administration. A small core of the Town staff has been serving its residents, businesses and visitors exceptionally well through their dedication and with the help of consultants, contractors, and service providers who also have been committed to providing quality products at competitive prices. We expect to continue this tradition.

Pursuant to Chapter 287.055, Florida Statutes, the Town intends to retain consultants to provide professional services in the Service Areas identified in Section 1.0 and described further in the Section 2.2. In order to fulfill the needs of quick response and professional expertise, the Town intends to retain two (2) Consultants in each Service Area.

The Town reserves the right to award contracts to Consultants who will best serve the interests of the Town and whose Responses are considered by the Town to be the most responsive and most responsible.

The Town reserves the right to accept or reject any or all Responses based upon its deliberations and opinions. In making such determination, the Town reserves the right to investigate the financial capability, integrity, experience and quality of performance of each Consultant, including officers, principals, senior management and supervisors as well as the staff identified in the Response.



The Town also reserves the right to waive minor variations or irregularities in the Responses.

2.2 SCOPE OF SERVICES

The Consultants can expect to provide services including, but not limited to the tasks identified below:

2.2.1 General Civil Engineering:

Roadway, parking lots, parking spaces and intersection design; storm water facility design and management, specifications preparation, cost estimating; engineering construction management and inspections, and GIS support.

2.2.2 Transportation Planning and Engineering Services:

Transportation planning and traffic engineering, traffic-impact and safety studies, parking studies; neighborhood traffic management; multi-modal traffic planning and design, bicycle and pedestrian paths and integrated mobility options; traffic calming; collection of traffic counts and reports; signal timing analysis and warrant studies; signs and pavement markings and GIS support.

2.2.3 Landscape Architecture:

Landscape design; updating of park facility master plan; phase design of park and recreational facilities within the framework of existing master plan, bicycle and pedestrian path design; integration of parks, landscaped and open spaces and recreational facilities with the Town's residential and commercial districts and GIS support.

2.2.4 Architecture:

Planning and design of building renovations and/or alterations; historic preservation, environment friendly facility design, specifications preparation; space planning and reconfiguration; cost estimating; construction inspection and architectural construction management; and review of developers' plans for the Town, and Geographical Information System (GIS) support.

3.0 RESPONSE SUBMISSION REQUIREMENTS AND EVALUATION

Only one firm shall be identified as the Prime Consultant for each Response. If other firms are part of the same Response, they shall be identified as subconsultants. A Prime Consultant shall submit only one Response for each Service Area and a separate Response is required for each Service Area, identified in Section 1.0.

A Prime Consultant shall not be a part of any other team as a subconsultant in the same Service Area. Subconsultants can join any number of Prime consultants submitting a Response to this RFQ.



Nine signed (one original and eight photo copies) Responses for each Service Area shall be submitted in one sealed package, clearly marked on the outside "RFQ #2007-01, PROFESSIONAL SERVICES: The Name of the Service Area". The outside of the sealed envelope shall also show the name of the Prime Consultant and those of the subconsultants, if any.

All sealed Qualification packages must be received at the receptionist's desk in the Town Hall located at 10720 Caribbean Blvd., Suite 105, Cutler Bay, FL 33189, by 4:00 PM on TBA, at which time their receipt will be publicly documented by the Town Clerk or her designee(s).

All Responses must be received by the Town clerk by the due date and time. All Responses received after the due date and time will be returned to the proposer unopened.

3.1 RESPONSE /(QUALIFICATION PACKAGE) PREPARATION

Each consultant shall submit one (1) original and eight (8) bound photocopies of each Response. Each Response shall be limited to twenty (20) pages (paper size 8.5"x11,"printed on only one side of the paper, single or the larger spacing, font size not less than 11) excluding the Certificates and Appendices A, B and C. The sections shall follow the order given on the next page. The twenty-(20)-page limit is for items 1 to 9 on the next page. No material other than that listed in this Section shall be included in the Response.

1. A **one-page** cover letter indicating the Consultants' interest in providing the services to the Town and a statement on why the consultant should be selected for the award. The letter shall include the name of the Prime Consultant and those of the subconsultants, explanation of the type of contractual agreement between them, if different from that of Prime and subconsultant. A representative who is authorized to contractually bind the Consultant shall sign this letter.
2. A **one-page** table of contents identifying the sections and page numbers.
3. A **one-page**, proposed organization chart identifying key professionals, their area(s) of responsibility and extent of their availability.
4. A **one-page** history of all the consultant(s).
5. **Up to four (4), one-page** resumes of the persons, including the Project Manager that will be assigned to the Town projects, if the Town selects the Consultant.



6. **Up to two (2) pages**, a table showing all current and recent (since 1/1/2002) private and public (local municipal, county, regional and state) sector clients of all the consultants. The table shall include for each contract: (a) the length of the contract; (b) the scope of services provided; (c) the type of contract (pro bono, retainer, project based fee, other); (d) specific accomplishments, if any; and (e) a contact name, phone number and e-mail address for each client. If the Consultant team includes subconsultant, there must be at least one project for each subconsultant. The Consultant may select suitable clients/projects, if the list exceeds two-page limit.
7. **Up to a two (2) pages**, a narrative on projects completed on time and in budget after 1/1/2002.
8. **Up to five (5) pages**, a description of projects providing services similar to those identified in the scope of services over the last five years. The emphasis shall be given to the projects in Florida AND the tasks performed by the four persons identified in the Response
9. **Up to three (3) pages**, copies of any press articles, profiles, commendations, awards etc. The emphasis shall be given to the projects completed in Florida AND the projects of the four persons identified in the Response
10. **Six (6) pages**, completed Appendices A, B and C
11. Proofs of authorization to transact business in the State from the Florida Secretary of State for prime as well as supporting firms

3.2 RESPONSE EVALUATION CRITERIA

The selection committee will evaluate the Responses based on the criteria listed below. The points assigned to each criterion are also given:

1. Credentials and accomplishments of the other (up to 3) members **(25 Points)**
2. Quality of the projects and accomplishments of the Consultant(s) in providing these services to entities comparable to the Town **(25 Points)**
3. Consultant's track record of on time and within budget project performance **(20 Points)**
4. Credentials and accomplishments of the Consultant Project Manager **(15 Points)**
5. Credentials and accomplishments of the Consultant in general **(10 Points)**
6. Compliance with the Response preparation and submission requirements **(5 Points)**.

3.3 SHORT-LIST FOR ORAL PRESENTATIONS AND FINAL SELECTION

Up to four (4) consultants in each Service Area will be short-listed by whom on the basis of the Responses and will be called for oral presentations. All Prime Consultants and subconsultants in their teams shall be present at the assigned time for a 20-minute presentation followed by up to a ten (10)-minute questions-and-answer session. The Consultants are encouraged to be represented only by the Project Manager and the staff identified in the Response. Additional details on the oral presentations may be provided to the short-listed Consultants. [The oral presentation shall count for 25% of the evaluation and the written response shall count for the other 75%] The shortlisted firms



shall be ranked and shall be invited to negotiate a contract with the Town in the order in which they are ranked.

4.0 OTHER CONDITIONS

4.1 TERM OF ENGAGEMENT

An agreement is contemplated for three (3) years with the option to extend the contract for an additional two one-year (1) terms. The Town or the Consultant may terminate the agreement with thirty-days (30-days) notice without giving any reason.

4.2 PERMITS, TAXES, LICENSES

The Consultant shall, at its own expense, obtain all necessary permits, pay all licenses, fees and taxes required to comply with all local ordinances, state and federal laws, rules, regulations and professional standards that would apply to this contract.

4.3 LAWS, ORDINANCES

The Consultant shall observe and comply with all federal, state and local laws, ordinances, rules, regulations and professional standards that would apply to this contract.

4.4 INSURANCE

Prior to execution of an agreement with the Town, the successful Consultant shall provide certificates evidencing insurance coverage as required hereunder. Companies authorized to do business under the laws of the State of Florida shall issue all insurance policies. The Certificates shall clearly indicate that the successful Consultant has obtained insurance of the type, amount, and classification as required and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the Town's representative. Compliance with the foregoing requirements shall not relieve the successful Consultant of its liability and obligations under the agreement.

The successful Consultant shall maintain during the term of the agreement, standard Professional Liability insurance in the minimum amount of one-million-dollars (\$1,000,000) per occurrence.

The successful Consultant shall maintain during the life of the agreement, commercial general liability, including contractual liability insurance in the amount of one-million-dollars (\$1,000,000) per occurrence to protect it and the Town from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under the agreement, whether such operations be by the successful Consultant or by anyone directly employed by or contracting with the successful Consultant.



The successful Consultant shall maintain, during the life of the agreement, comprehensive automobile liability insurance in the minimum amount of five-hundred-thousand-dollars (\$500,000) combined single limit for bodily injury and property damage liability to protect it from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non owned automobiles, including rented automobiles whether such operations be by the successful Consultant or by anyone directly or indirectly employed by the successful Consultant.

The successful Consultant shall maintain, during the life of the agreement, as law requires adequate Worker's Compensation Insurance and Employer's Liability insurance in at least such amounts as for all of its employees per Florida Statute 440.02.

The Consultant shall also maintain other required insurance coverage specific to the services to be provided.

4.5 NEGOTIATIONS

Fees negotiated will be for the underlying contracts and will be negotiated in accordance with Florida Statutes and Section 3.3 above.

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APPENDIX A

ACKNOWLEDGEMENT, WARRANTY AND ACCEPTANCE

A. Consultant warrants that it is willing and able to comply with all applicable State of Florida laws, rules and regulations.

B. Consultant warrants that they have read, understand and are willing to comply with all of the requirements of the RFQ and the addendum/ addenda nos.

C. Consultant warrants that it will not delegate or subcontract its responsibilities under an agreement without the prior written permission of the Council.

D. Consultant warrants that all information provided by it in connection with this proposal is true and accurate.

E. CONTINGENCY FEE AND CODE OF ETHICS WARRANTY:

Consultant warrants that neither it, nor any principal, employee, agent, representative or family member has promised to pay, and Consultant has not, and will not, pay a fee the amount of which is contingent upon the Town of Cutler Bay awarding this contract. Consultant warrants that neither it, nor any principal, employee, agent, representative has procured, or attempted to procure, this contract in violation of any of the provisions of the Miami-Dade County conflict of interest and code of ethics ordinances. Further, Consultant acknowledges that a violation of this warranty will result in the termination of the contract and forfeiture of funds paid, or to be paid, to the Consultant, if the Consultant is chosen for performance of the contract.

Signature of Official: _____

Name (typed): _____

Title: _____

Consultant: _____

Date: _____



APPENDIX B

NON-COLLUSIVE AFFIDAVIT

State of _____

SS:

County of _____

_____ being first duly sworn, deposes and says

that:

(1) He/she is the, (Owner, Partner, Officer, Representative or Agent) of:

_____ the Consultant that has submitted the attached Proposal;

(2) He/she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;

(3) Such Proposal is genuine and is not a collusive or a sham Proposal;

(4) Neither the said Consultant nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Consultant or person to submit a collusive or sham response in connection with the work for which the attached Proposal has been submitted, or to refrain from responding in connection with such work, or have in any manner, directly or indirectly, sought by agreement or collusion, communication, or conference with any Consultant or person to fix this Proposal or to secure through any collusion, conspiracy, connivance, or unlawful agreement, any advantage against the Town of Cutler Bay, or any person interested in the proposed Work;

Signed, sealed and delivered
In the presence of

_____ By: _____

(Printed Name)

(Title)



ACKNOWLEDGMENT

State of Florida

County of _____

On this _____ day of _____, 200 __, before me, the undersigned

Notary Public of the State of Florida personally appeared

and whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand and official seal

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp or Type as commissioned.)
 Personally known to me, or
 Produced identification:

(Type of Identification Produced)
 Did take an oath. or
 Did not take an oath.



APPENDIX C

**SWORN STATEMENT PURSUANT TO
SECTION 287.133 (3)(a) FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to the TOWN OF CUTLER BAY, FLORIDA

By _____

For _____

Whose business address is: _____

And (if applicable) its Federal Employer Identification Number (FEIN) is: _____

(if the entity has no FEIN, include the Social Security Number of the individual signing this

Sworn statement - S.S. # _____)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with any agency or political subdivision of any other State or of the United States, including, but not limited to, any Proposal or contract for goods or services to be provided to any public entity or an agency or any political subdivision of any other state or of the United States and involving antitrust fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non jury trial, or entry of a plea or guilty or nab contenders.



4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, and means:

- A. A predecessor or successor of a person convicted of a public entity crime; or
- B. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling Interest in another person, ore pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws or any state or of the United States with the legal power to enter into a binding contract and which Proposals or applies to Proposal on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of any entity.

Signed, sealed and delivered

In the presence:

By:

(Printed Name)

(Title)



ACKNOWLEDGMENT

State of Florida

County of _____

On this _____ day of, 200__, before me, the undersigned Notary Public of the State of Florida personally appeared _____ and whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand and official seal

NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC
SEAL OF OFFICE:

(Name of Notary Public: Print, Stamp or Type as commissioned.)
 Personally known to me, or
 Produced identification:

(Type of Identification Produced)
 Did take an oath. or
 Did not take an oath.

TAB 5



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

MEMORANDUM

To: Steven Alexander, Town Manager

From: Don O'Donniley, AICP, Planning Director *ROR*

Date: December 20, 2006

Re: **Creation of a New Section of the Town Code Entitled "Old Cutler Road Overlay District (OCRO)" along with the Implementing Regulations**

REQUEST:

Approval of the rezoning of certain properties along Old Cutler Road, as described in the attachments, to begin implementation of the architectural design standards envisioned in the Old Cutler Road Charrette Area Plan.

BACKGROUND AND ANALYSIS:

Background

In June 2002 residents of the now incorporated Town of Cutler Bay gathered to discuss the future of Old Cutler Road.

The goal of the Old Cutler Road Charrette Area Plan was to create a framework that preserved the heritage of this historic roadway, facilitated improvement in public infrastructure and the investment in private land, enhanced the livability and encouraged design quality, both architectural and urban, in a manner that achieved the following objectives:

- Preserve and enhance the historic and community character along Old Cutler Road
- Reintroduce pedestrian-scale improvements in lighting and landscaping and rebalance vehicular movement in the corridor
- Provide residents additional travel options by connecting the street network east of 87th Avenue to Old Cutler Road
- Enhance safety and lower travel speeds in the neighborhoods to the northwest of Old Cutler Road by implementing roundabouts in place of traffic signals wherever appropriate
- Create a civic district/town center and public gathering space for the surrounding area
- Provide residents better access to goods and services available along Old Cutler Road without having to travel on that same road
- Increase safety along Old Cutler Road through design modifications that reduce motorists' speeds and increase pedestrian and bicycle visibility and comfort.

10720 Caribbean Boulevard, Suite 105
Cutler Bay, FL 33189
(305) 234-4262 Office
(305) 234-4251 Fax
www.cutlerbay-fl.gov

Town staff held a series of meetings with County staff and in-house to develop the design standards to implement this vision. On December 20, 2006, the LPA reviewed the proposed Ordinance and recommended adoption. The Town Council conducted a Public Hearing at its December 20, 2006 meeting and adopted the Ordinance on 1st reading. The Ordinance is before the Town Council on 2nd reading.

Analysis

Town staff analyzed the existing condition of Old Cutler Road, data and input collected during the Charrette process and, the existing Town Zoning Code including: the current permitted, conditional and prohibited uses; building setbacks; open space and parking requirements. Based on the above, the new land development regulations for the overlay district were developed, as enumerated in the accompanying Ordinance.

Also, during this review process Town staff identified a series of Objectives for planning and zoning. Again – "Where do we want to go?" They are listed below.

Phase I – Short Term Objectives

Create new design standards for development along Old Cutler Road
Promote a common streetscape plan (branding) for Old Cutler Road
Relax parking requirements
Focus more attention on the retail section of Old Cutler Road
Make allowances for additional residential in Business Districts
Allow "urban villa" type units along the southerly area of Old Cutler Road on what are now scattered vacant lots.

Recognize that the majority of the northern segment of Old Cutler Road is walled off and that the residential development thereon is inward facing, meaning no short term chance of redevelopment.

Phase II – Intermediate Term Objectives

Assist applicants who had proposed future land use amendments in process with Miami-Dade County in revising their requests in order to better implement the intent of the Overlay District.

Propose new future land use amendments as needed.

Phase III – Long Term Objectives

Prepare a new Comprehensive Plan for the Town
Prepare new Land Development Regulations for the Town

1. Consistency with the Comprehensive Development Master Plan

The proposed Overlay District is consistent with the Town's Comprehensive Development Master Plan as it does not substantially increase the densities or intensities of uses along the corridor.

In the future, as the Town creates its own Comprehensive Plan land use designations may change in order to better incorporate the Town's Vision

2. Zoning

Except to the extent modified by the Old Cutler Road Overlay (OCRO) the development standards within the following underlying zoning districts shall remain the same: BU-2

(Special Business), EU-M (Estate Modified), RU-1Z (Zero Lot Line Development Single Family Residential), RU-1 (Single-Family Residential), EU-1C (Single-Family Two and One-Half Acre), EU-2 (Single-Family Five Acre Estate), GU (Interim), AU (Agricultural), RU-2

(Two-Family Residential), BU-1A (Limited Business), BU-1 (Neighborhood Business) and RU-1MA (Modified Single Family Residential).

RECOMMENDATION:

Approval

CONDITIONS:

N/A

Attachments:

Old Cutler Road Overlay District Boundary Map

Zoning Maps for Sections 56 40 3, 10, 9, 8 and 17

Old Cutler Road Executive Summary

Potential Improvement Phasing Series for Old Cutler Road

ORDINANCE NO. 06- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING THE OLD CUTLER ROAD OVERLAY ZONING DISTRICT AND REGULATIONS; REZONING PROPERTIES ALONG OLD CUTLER ROAD FROM S.W. 184TH STREET SOUTH TO THE TOWN LIMITS, AS SHOWN ON EXHIBIT "A" AND LEGALLY DESCRIBED IN EXHIBIT "B," TO THE OLD CUTLER ROAD OVERLAY ZONING DISTRICT; AMENDING THE LIST OF PERMITTED, CONDITIONAL, AND PROHIBITED USES FOR PROPERTIES ALONG OLD CUTLER ROAD FROM S.W. 184TH STREET SOUTH TO THE TOWN LIMITS, AS SHOWN ON EXHIBIT "A" AND LEGALLY DESCRIBED IN EXHIBIT "B;" AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in June of 2002, residents of the now incorporated Town of Cutler Bay (the "Town") participated in the Old Cutler Road Charrette Area Plan (the "Charrette"); and

WHEREAS, during this Charrette, residents of the Town envisioned architectural design standards for properties along the Old Cutler Road corridor; and

WHEREAS, on July 5, 2006, the Town Council adopted a moratorium on development orders and development permits for properties along the Old Cutler Road corridor in order to allow Town Staff to analyze and develop architectural design standards, types of uses, and land development regulations for the corridor; and

WHEREAS, Town staff has finished its review and has created such standards and regulations; and

WHEREAS, rezoning the properties shown on Exhibit "A" will allow for the implementation of these new regulations and standards; and

WHEREAS, staff recommended approval of the Old Cutler Road Zoning Overlay District and rezoning in its report dated December 20, 2006; and

WHEREAS, public notice was provided in accordance with law; and

WHEREAS, this Ordinance was heard and recommended by the Town Council, in its capacity as the Town's Local Planning Agency; and

WHEREAS, after due notice and hearing, the Town Council finds this Ordinance to be consistent with the Town Code and the Miami-Dade County Comprehensive Development Master Plan, which now functions as the Town's Comprehensive Plan; and

WHEREAS, the Town Council finds this Ordinance to be in the best interest and welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS:

Section 1. Findings. The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Old Cutler Road Overlay Zoning District. The Old Cutler Road Overlay Zoning district is hereby created as follows:

A. Purpose, Intent, Applicability.

1. Purpose and Intent. The purpose of this Ordinance is to establish design regulations and standards for development along Old Cutler Road in order to enhance the character of the road within the Town. It is intended that Old Cutler Road be a place where living, working, shopping, and civic activities can take place within a town center environment. Development along Old Cutler Road within the Town will consist of a variety of buildings and uses that will encourage pedestrian activity with wide sidewalks, balconies, outdoor cafes, squares, and plazas.
2. Applicability. The provisions of this Ordinance shall apply to all properties within the Old Cutler Road Zoning Overlay District as designated on the Town Zoning Map. The underlying zoning designations for properties subject to this Ordinance shall remain unchanged.

B. Permitted, Conditional, Prohibited Uses. The permitted, conditional, and prohibited uses in the underlying zoning designations for properties subject to this Ordinance shall remain unchanged, except as provided below:

1. Properties with an underlying Residential zoning designation.

Use	Permitted Use	Conditional Use	Prohibited Use
Attached single family homes with a maximum density as permitted by the property's underlying Land Use Designation.	X		
Bee hives or the breeding or raising of any insects, reptiles or animals other than customary pets			X

Golf Course			X
Keeping, breeding or maintaining horses, cattle or goats			X
Limited truck gardening and fruit growing (incidental to principal residence only)			X
Noncommercial pigeon lofts, raising of poultry, and fowl			X

2. Properties with an underlying zoning designation of Business.

Use	Permitted Use	Conditional Use	Prohibited Use
Amusement center		X	
Attended, non-motorized donation collection			X
Auditoriums		X	
Automobile and light truck, new sales agency or rental			X
Automobile new parts and equipment, sales only			X
Automobile parking garages			X
Automobile self-service gas stations		X	
Automobile service stations		X	
Automobile storage within a building			X
Automobile tires, batteries and accessories (new) retail only installation permitted			X
Automobile washing			X
Bait and tackle shops		X	
Banks, including drive-in teller service			X
Boats carrying passengers on excursion, sightseeing, pleasure or fishing trips			X
Bowling alleys			X
Convention halls			X
Dancing halls or dancing academies			X
Dog and pet hospitals in air-conditioned buildings			X
Donated goods centers			X
Dry cleaning establishments			X
Electrical appliance and fixtures stores including related repair shops		X	
Furniture stores			X
Gate house		X	

Grocery stores		X	
Health and exercise clubs			X
Home improvement centers			X
Hospitals			X
Hotel and motel uses		X	
Junior department stores			X
Lawn mowers, retail, sales and service			X
Liquor package stores		X	
Major department stores		X	
Marinas			X
Medical observation dormitory			X
Mortuaries or funeral homes			X
Motorcycles sales and repair			X
Natatoriums			X
Night clubs		X	
Office parks		X	
Open-air theaters		X	
Outdoor dining	X		
Pet shops, pet care centers and dog beauty parlors in air-conditioned buildings		X	
Printing shops		X	
Private clubs			X
Propagating and growing plants for sale			X
Pubs and bars		X	
Regional shopping centers			X
Rentals of trucks other than light trucks			X
Restaurants with an accessory cocktail lounge-bar use		X	
Sale of fruit or merchandise from trucks, wagons or other vehicles			X
Security station		X	
Self-service storage facility			X
Tailor shops	X		
Telephone exchange			X
Theaters for live stage production and motion pictures		X	
Variety stores		X	

3. Properties with an underlying zoning designation of GU (Interim District).

Use	Permitted Use	Conditional Use	Prohibited Use
Carnivals		X	
Cemeteries			X
Circuses			X
Crematories			X
Mausoleums			X

4. Properties with an underlying zoning designation of AU (Agriculture District).

Use	Permitted Use	Conditional Use	Prohibited Use
Barns and sheds used for cattle or stock and ancillary feed storage			X
Barns and sheds used for hogs			X
Barns, sheds or other buildings used for the storage of equipment, feed, fertilizer, produce or other items ancillary with an agricultural use			X
Carnivals		X	
Cattle or stock grazing (not including hog raising)			X
Cemeteries, mausoleums or crematories			X
Circuses			X
Dairy barns			X
Dude ranches and riding academies		X	
Fish pools			X
Hog farms and hog raising			X
Large packing facilities used for the packing of fruit and vegetables accessory to an agricultural use conducted on the entire property (with conditions)			X
One single-family permanent or temporary structure to house farm labor personnel			X
Outdoor storage of vehicles and equipment associated with agricultural, aquacultural or horticultural production occurring on property(ies) other than the property on which the storage is located, provided the storage is an accessory use			X
Raising one hundred (100) poultry, or more			X
Recreational vehicles as temporary			X

watchman's quarters			
Seed drying facilities			X
Small packing facilities used for the packing of fruit and vegetables accessory to an agricultural use conducted on the property (with conditions)			X
Temporary or permanent barracks or structures to house farm labor			X
Truck gardens			X
Wineries		X	

With regard to the uses permitted within any zoning classification, the Planning Director shall have the authority to make a determination that a proposed use is sufficiently similar to a specifically permitted use to be allowed as a “similar use.” In determining similarity between a proposed use and a use specifically described herein, the Planning Director shall be guided by the intent of the zoning classification and shall further consider common characteristics, the generation of pedestrian and vehicular traffic, and the compatibility of the proposed use with the uses specifically described and permitted within the underlying zoning classification.

C. Land Development Regulations.

It is the intent of the Town of Cutler Bay to substantially improve the streetscape of Old Cutler Road and implement a land use pattern conducive to good design standards. To that end, setback requirements are being implemented to result in featuring the actual use of the land and accommodating landscaping. The automobile will be returned to an accessory and subordinate use to be located to the rear and side of principal structures. Front facades will be articulated with fenestration, and windows. Horizontal and vertical elements will be required to prevent monotony.

The following graphics in this section illustrate the regulations and are provided as guidance as to the standard of review to be used by staff.

Potential Improvement Phasing Series for Old Cutler Road
Existing Condition



Phase I



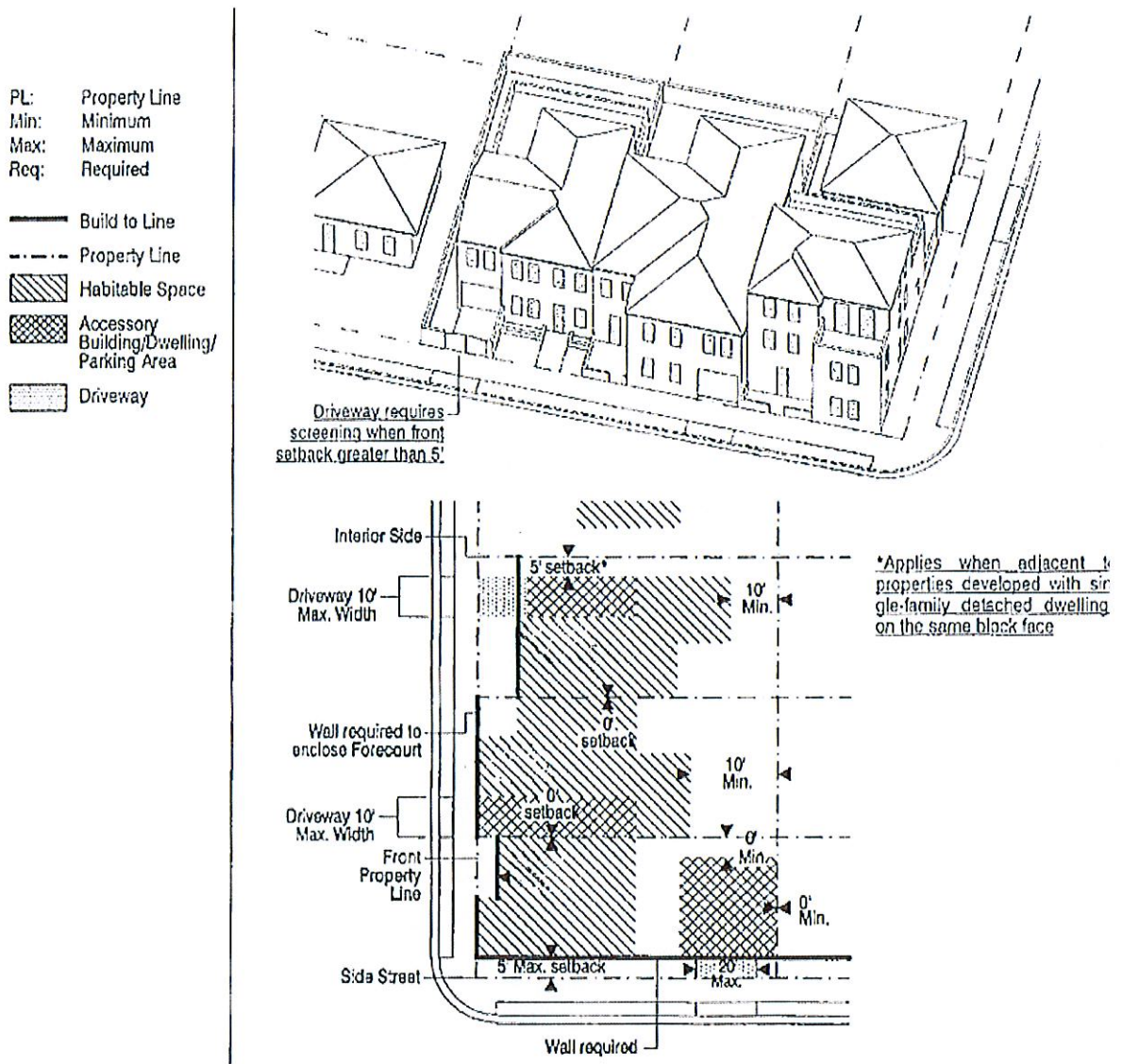
Phase II



1. **Minimum lot requirement.**

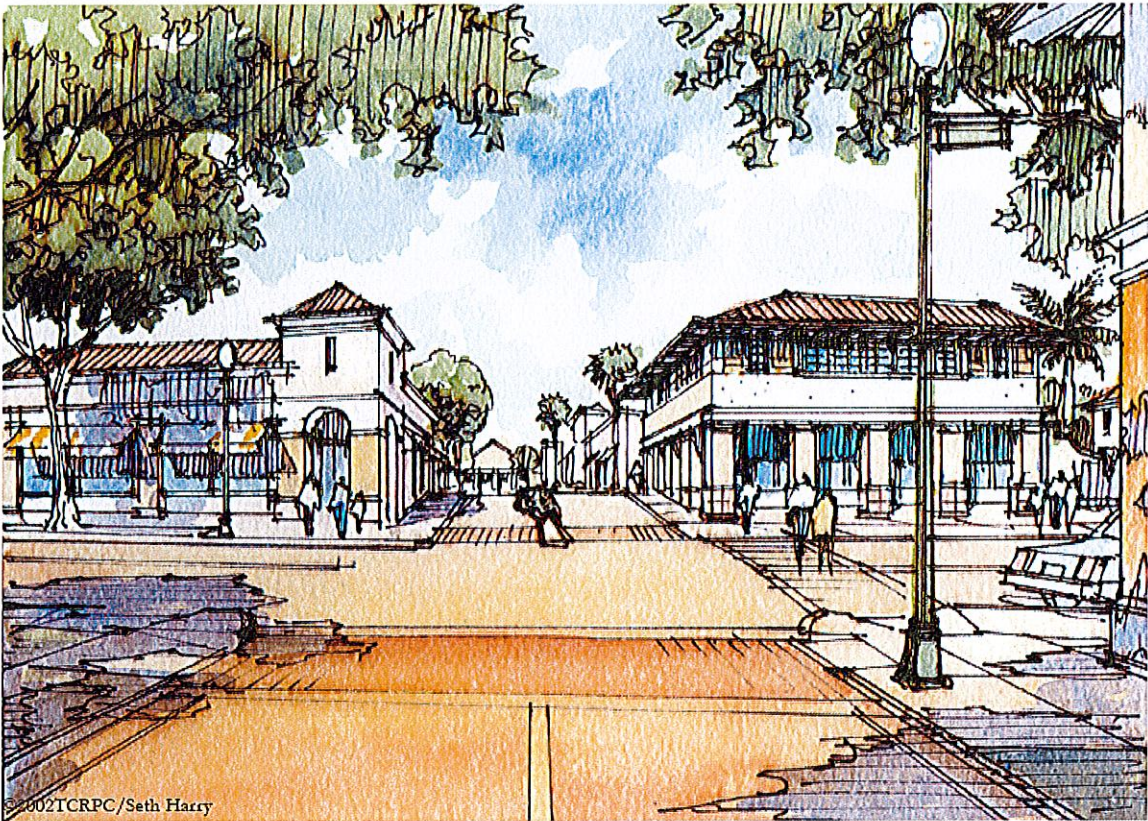
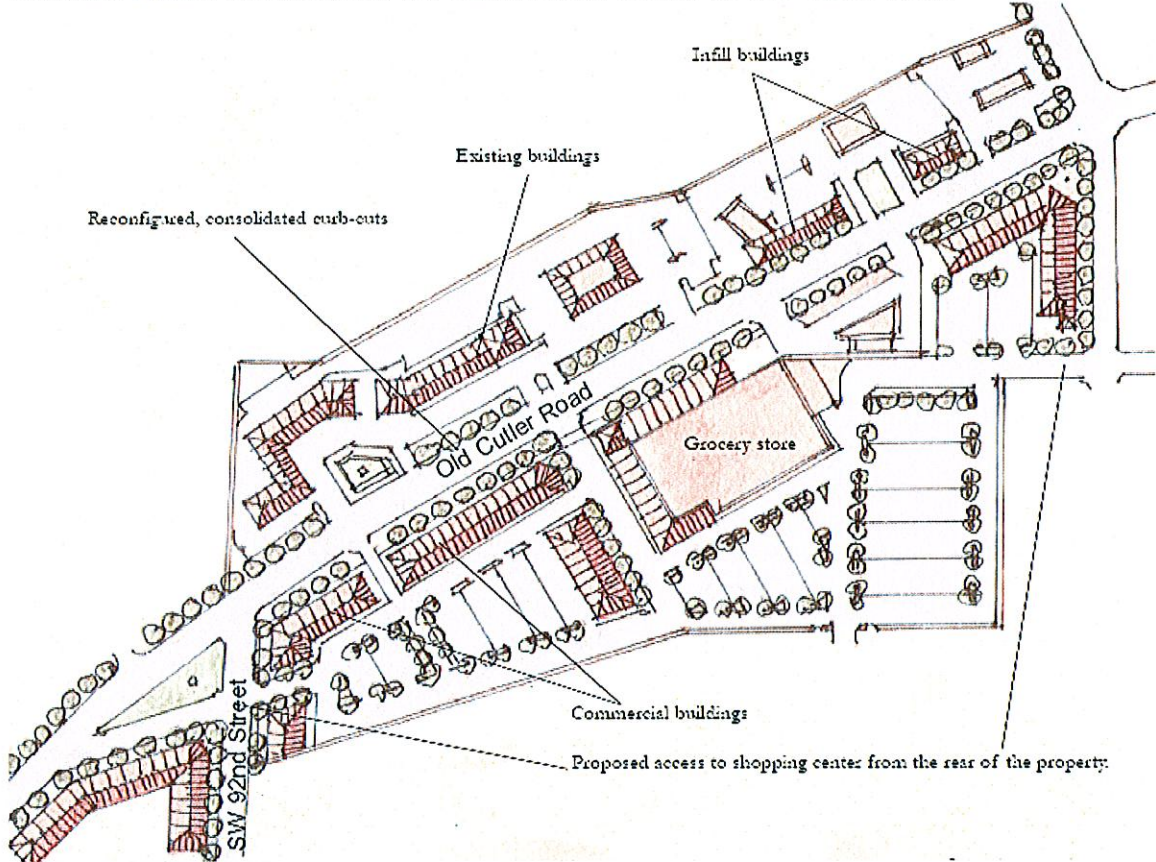
- a. Properties with an underlying Residential zoning designation. The minimum lot requirement shall be 6,000 square feet and the minimum frontage requirement shall be 35 feet.

Typical Urban Villas



- b. Properties with an underlying Business zoning designation. There shall be no minimum lot area or frontage required.

Potential Future Condition for the Commercial Center of Old Cutler Road



© 2002ICRPC/Seth Harry

2. **Floor Area.**

- a. Properties with an underlying Business zoning designation. The maximum floor area of a building shall be 2.0 times the net lot area.

3. **Lot Coverage.**

- a. Properties with an underlying Residential zoning designation. There shall be no limit on lot coverage provided that open space and landscaping requirements are met. However, there shall be no net increase in storm water runoff from the site post development.
- b. Properties with an underlying Business zoning designation. There shall be no limit on lot coverage provided that open space and landscaping requirements are met. However, there shall be no net increase in storm water runoff from the site post development.

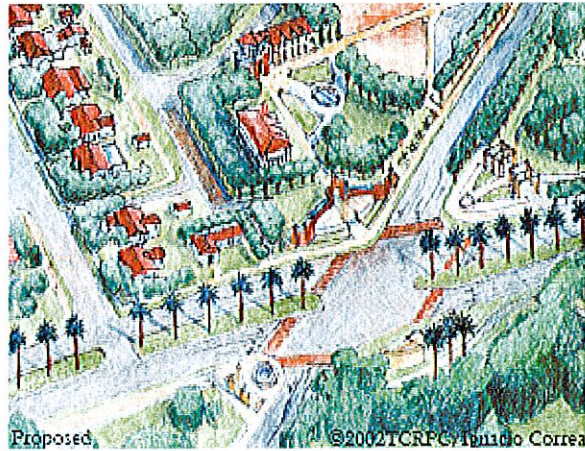
4. **Setbacks.**

Use	Front	Interior	Side	Rear	Awnings, balconies, and other cantilevered building elements
Properties with an underlying Residential zoning designation.	0 feet	0 feet or 5 feet when adjacent to properties developed with single-family detached dwellings on the same block face.	5 feet	25 feet	Awnings, balconies, and other cantilevered building elements shall be permitted to encroach into the front and side street setbacks up to 5 feet above 11 feet from the grade.
Properties with an underlying Business zoning designation.	0 feet	0 feet	5 feet	When adjoining a property with an underlying Business zoning designation the setback shall be 0 feet. When adjoining all other districts the setback shall be 25 feet.	Awnings, balconies, and other cantilevered building elements shall be permitted to encroach into the front and side street setbacks up to 5 feet above 11 feet from the grade.

5. **Open Space.**

- a. Properties with an underlying Residential zoning designation. A minimum of 25% landscaped open space shall be required for any development of properties. In addition, open space shall be provided in the form of balconies, terraces or porches or any combination thereof.
- b. Properties with an underlying Business zoning designation. A minimum of 10% open space shall be required for any development of properties with an underlying Business zoning designation within the Old Cutler Road Overlay Zoning District. In addition, open space shall be provided at-grade, above grade, in balconies, terraces, porches, colonnades or any combination of these thereof.

Existing and Potential Future Condition of Old Cutler Road and SW 216th Street



6. **Building Height.**

- a. Properties with an underlying Residential zoning designation. There shall be a maximum height of 35 feet for a principal building on property within an underlying Residential zoning district.
- b. Properties with an underlying Business zoning designation. There shall be a minimum of 24 feet and maximum of 48 feet in height for any building developed on property with an underlying Business zoning designation.



7. **Front Façade**

- a. Definition. For purposes of this section the term “Front Façade” shall be defined as that portion of the building facing Old Cutler Road and aligning with the property line adjoining the right-of-way of Old Cutler Road.
- b. Properties with an underlying Residential zoning designation. At least 50% of the residential units along a block face shall provide a forecourt. No security fences, burglar bars, or night shuttering of the Front Façade windows or doors shall be allowed.

- c. Properties with an underlying Business zoning designation. The following Front Façade requirements shall apply to properties with an underlying Business zoning designation:
 - i. The Front Façade shall occupy a minimum of 80 % of the frontage of the lot along Old cutler Road.
 - ii. The Front Façade shall be placed at the setback line.
 - iii. At least 50% of the Front Façade shall have windows that provide a view into activities within the building and shall not be mirror tinted.
 - iv. No security fences, burglar bars, or night shuttering of the Front Façade windows or doors shall be allowed.

D. Site Plan and Landscape Requirements.

- 1. Site Plan Approval. Site plan approval shall be required prior to any development of land within the Old Cutler Road Zoning Overlay District. All site plans shall be submitted and reviewed in accordance with the Town site plan requirements.
 - a. Site Plan Approval After A Public Hearing. Except as provided below, all site plans within the Old Cutler Road Zoning Overlay District shall be approved by the Town Council after a public hearing.
 - b. Administrative Site Plan Approvals. The following types of development shall be subject to administrative site plan approval:
 - i. Renovation and/or expansion of existing structures;
 - ii. Construction of one (1) singly family home on a single lot; and
 - iii. Duplex.
- 2. Landscape Requirements. The landscape regulations contained in Chapter 18A of the Town Code shall apply within the Old Cutler Road Zoning Overlay District, except as otherwise provided in this Ordinance.

E. Parking and Driveway Standards.

- 1. Parking Requirements. All parking shall be in the rear or side of buildings. Notwithstanding the foregoing, the parking requirements set forth in Chapter 33, Article VII, of the Town Code shall apply to all development within the Old Cutler Road Overlay Zoning District, except as provided in section 2 below.

2. Parking Requirement Reduction. The Old Cutler Road Zoning Overlay District encourages compact and accessible land-use patterns, minimizing development costs and encouraging alternative forms of transportation in order to reduce traffic problems. The following techniques may be utilized in order to allow for the reduction of parking within the Old Cutler Road Overlay Zoning District:
 - a. Valet parking. Valet parking can increase parking capacity by 20 to 40 % compared with self parking. Valet parking is encouraged and a reduction in required parking shall be allowed when utilized.
 - b. Tandem parking. Tandem parking is allowed to count towards required residential parking.
 - c. Mixed-Use developments. Mixed-Use developments shall be allowed to have a 5% reduction in the required parking and a 10% reduction if the parking facilities are shared.
 - d. Parking and Mobility Management Plan. A site specific parking and mobility management plan shall be submitted to and approved by the Town as part of the development application for any of the reduction techniques to be used.

In addition, parking spaces shall not be visible from Old Cutler Road and shall be designed in such a way as to be buffered (not visible) from other uses and the street.

3. Driveways. Driveways shall be controlled and access points shall be limited. Individual sites shall share limited access points.

F. Properties with an underlying GU (Interim District) zoning designation. Properties within the Old Cutler Road Overlay Zoning District with an underlying GU (Interim District) zoning designation shall be subject to the provisions of this Ordinance. If a neighborhood, as described in Section 33-196 of the Town Code, is predominantly characterized by Residential usage, the property shall be subject to the regulations that apply to properties with an underlying Residential zoning designation. If a neighborhood, as described in Section 33-196 of the Town Code, is predominantly characterized by Business usage, the property shall be subject to the regulations that apply to properties with an underlying Business zoning designation. The Planning Director's decision as to what constitutes a "trend of development" or neighborhood, as defined in Section 33-196 of the Town Code, may be appealed by the applicant to the Town Council.

G. Waiver from the Old Cutler Road Overlay Zoning District Regulations. A property owner with an underlying Residential zoning designation may apply for a waiver from the provisions of this Ordinance as follows:

1. Administrative approval. If 50% or more of the block frontage where the property is located has either: (a) received a development permit authorizing

construction of a new building or (b) has been developed prior to the effective date of this Ordinance, a waiver from the provisions of this Ordinance may be granted administratively by the Planning Director where the specific use or activity requested by the waiver application will be compatible with surrounding land uses and development. The denial of a waiver under this section may be appealed by the applicant to the Town Council.

2. Approval after a public hearing. If less than 50% of the block frontage where the property is located has: (a) received a development permit authorizing construction of a new building or (b) been developed prior to the effective date of this Ordinance, a waiver from the provisions of this Ordinance may be granted after a public hearing. The Town Council, after a public hearing, may grant a waiver from the provisions of this Ordinance, where the Town Council determines, based upon substantial competent evidence, that the specific use or activity requested by the waiver application will be compatible with the surrounding land uses and development, and will not impair the public health, safety, or welfare.
3. Application. A waiver application, on a form provided by the Town, shall be filed with the Department of Planning and Zoning as well as the waiver application fee.

H. Nonconforming Uses or Structures. As of the effective date of this Ordinance, any uses or structures located within the Old Cutler Road Overlay Zoning District, which are inconsistent with the provisions of this District, shall be considered legal nonconforming uses or structures and shall be subject to the provisions of Section 33-35 of the Town Code.

Section 3. Approval of Rezoning. The Town Council hereby approves the rezoning of the properties shown on Exhibit "A" and legally described in Exhibit B to the Old Cutler Road Overlay Zoning District.

Section 4. Termination of Moratorium. Upon the adoption of this Ordinance, the moratorium adopted on July 5, 2006, by Ordinance No. 06-15, and extended by Ordinance 06-21 shall be terminated.

Section 5. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 20th day of December, 2006.

PASSED AND ADOPTED on second reading this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Interim Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

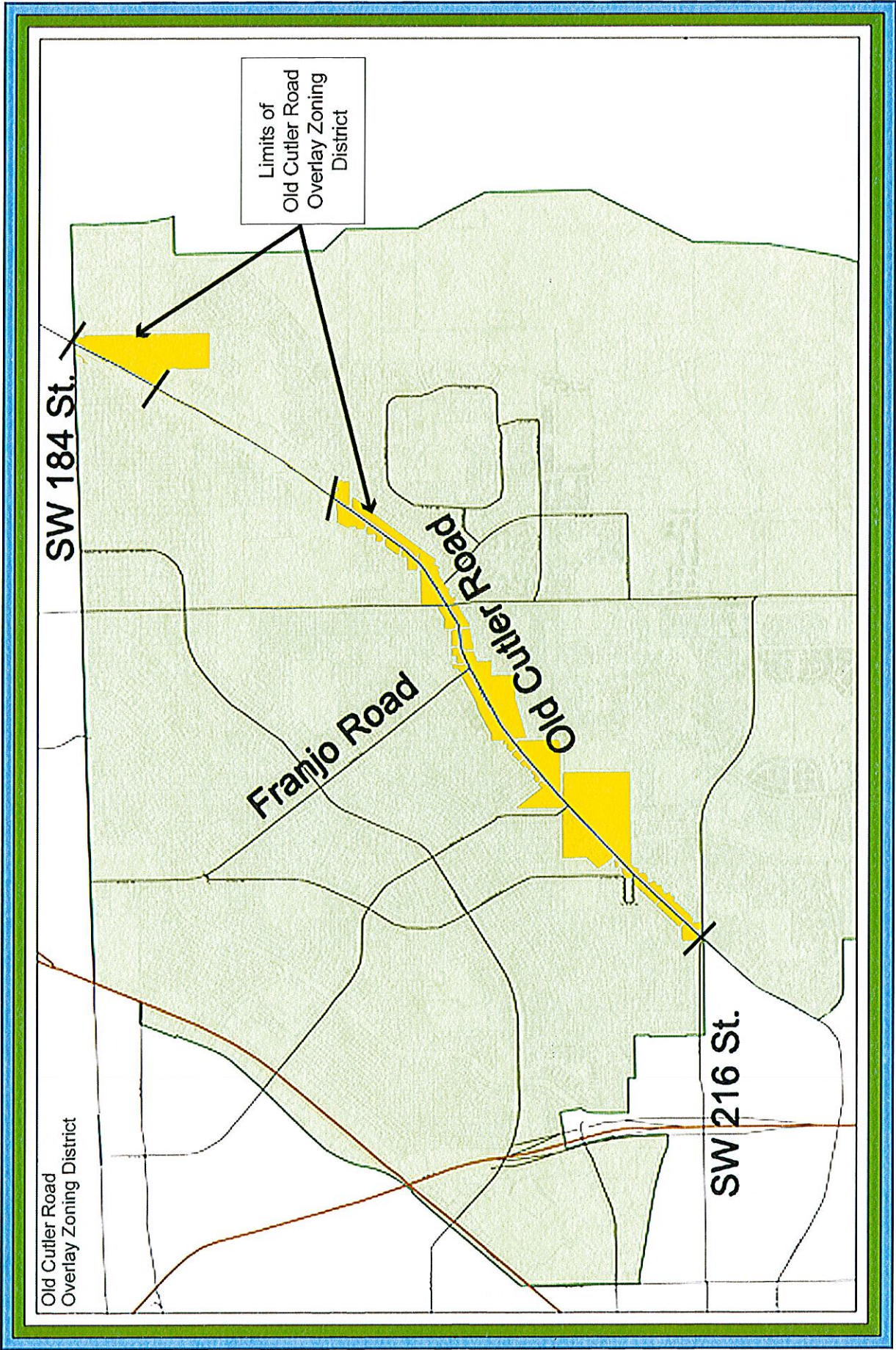


Exhibit A

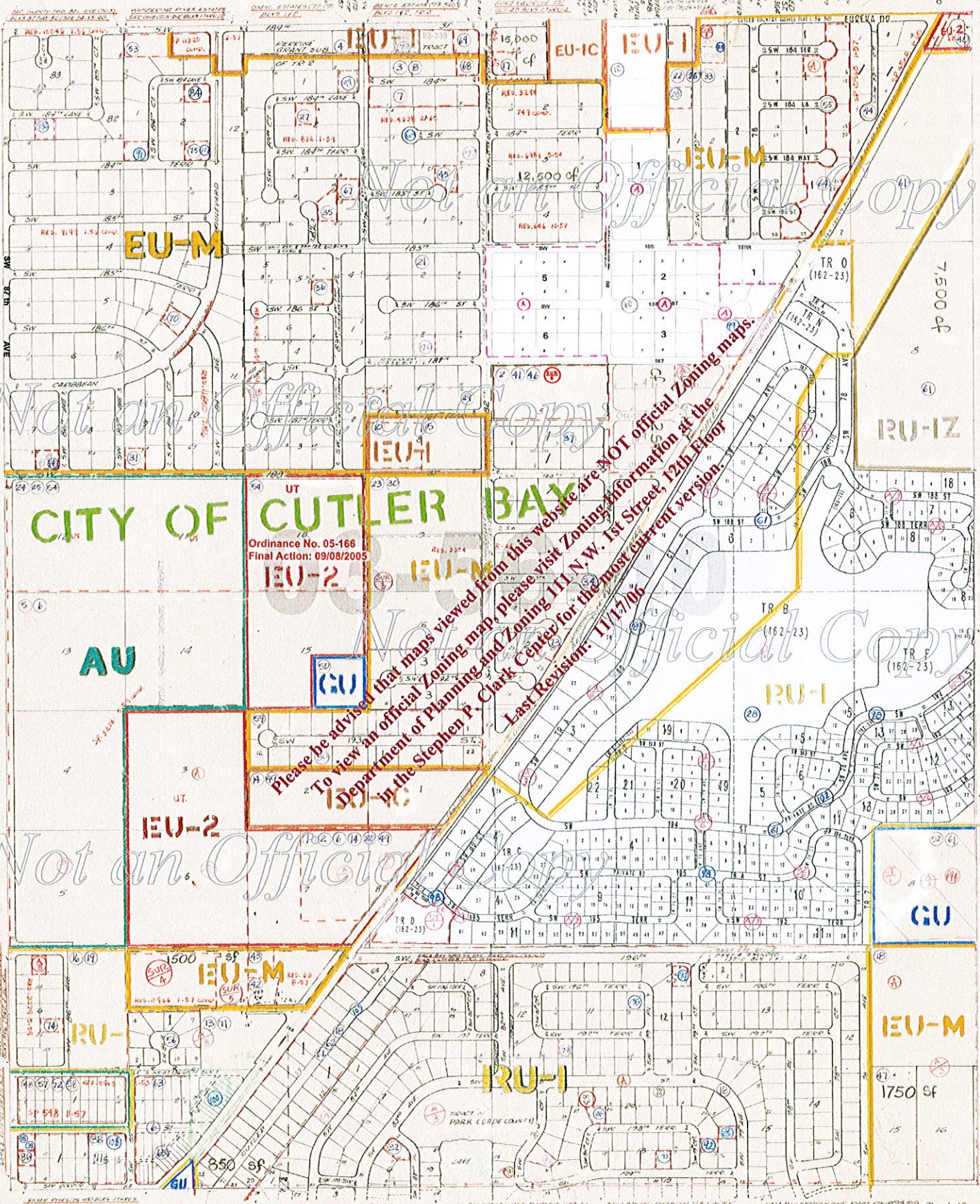
EXHIBIT "B"

Folio Numbers of Properties Abutting Old Cutler Road Cutler Bay, Florida

3660030010240 Limited to 300' from the right-of-way of Old Cutler Road

	3660090030500	3660090180010	3660080050570
	3660090030510	3660090150370	3660080170090
	3660090030520	3660090150360	3660080050560
	3660090030530	3660090010060	3660080170080
	3660090020050	3660090150010	3660080050550
3660030010280	3660100250480	3660090100210	3660080170070
3660030280640	3660100250420	3660090000141	3660080050540
3660030280630	3660100250410	3660090100100	3660080170060
3660030280620	3660100250400	3660090092500	3660080170050
3660030010272	3660090030210	3660090140910	3660080050620
3660030280610	3660090030220	3660090092510	3660080170040
3660030280600	3660090020460	3660090190480	3660080170030
3660030280590	3660090020170	3660090050010	3660080170020
3660030010231	3660090020160	3660090140910	3660080170010
3660030010250	3660090020320	3660090140850	3660030010080
3660030280580	3660090020330	3660090140840	3660030010190
3660030280570	3660090020340	3660090140830	
3660030280560	3660090030230	3660090190310	
3660030280550	3660090030240	3660090190320	
3660030010251	3660090020350	3660090190330	
3660030280540	3660090020370	3660090190340	
3660030280530	3660090030260	3660090190240	
3660030020020	3660090030270	3660090190250	
3660030280520	3660090030280	3660090190260	
3660030280510	3660090030130	3660090190270	
3660030280500	3660090160010	3660090190280	
3660030280490	3660090030080	3660090190290	
3660030280480	3660090030090	3660090190300	
3660030020060	3660090030100	3660090190480	
3660030020050	3660090030110	3660080150390	
3660030280470	3660090080012	3660090050020	
3660030280460	3660090080013	3660090210140	
3660030280450	3660090030010	3660080050130	
3660030280440	3660090080014	3660080190070	
3660030280430	3660090080021	3660080050120	
3660030280420	3660090030020	3660080050110	
3660030280410	3660090170010	3660080050100	
3660090030290	3660090030030	3660080050090	
3660090030310	3660090030040	3660080190060	
3660030280400	3660090030060	3660080050080	
3660030280390	3660090030070	3660080050070	
3660030280370	3660090180040	3660080190040	
3660030280360	3660090000090	3660080050610	
3660090030490	3660090000091	3660080190030	
	3660090180030	3660080050600	
	3660090180020	3660080190020	
	3660090150230	3660080050590	
	3660090150240	3660080190010	
	366009010020	3660080050580	
	3660090150290	3660080170100	

Not an Official Copy



Please be advised that maps viewed from this website are NOT official zoning maps.
To view an official zoning map, please visit Zoning information at the Department of Planning and Zoning 111 N.W. 1st Street, 12th Floor in the Stephen P. Clark Center for the most current version.
Last Revision: 11/17/06

COMM. DISTRICT NO. _____
SCHOOL _____
DRAINAGE _____

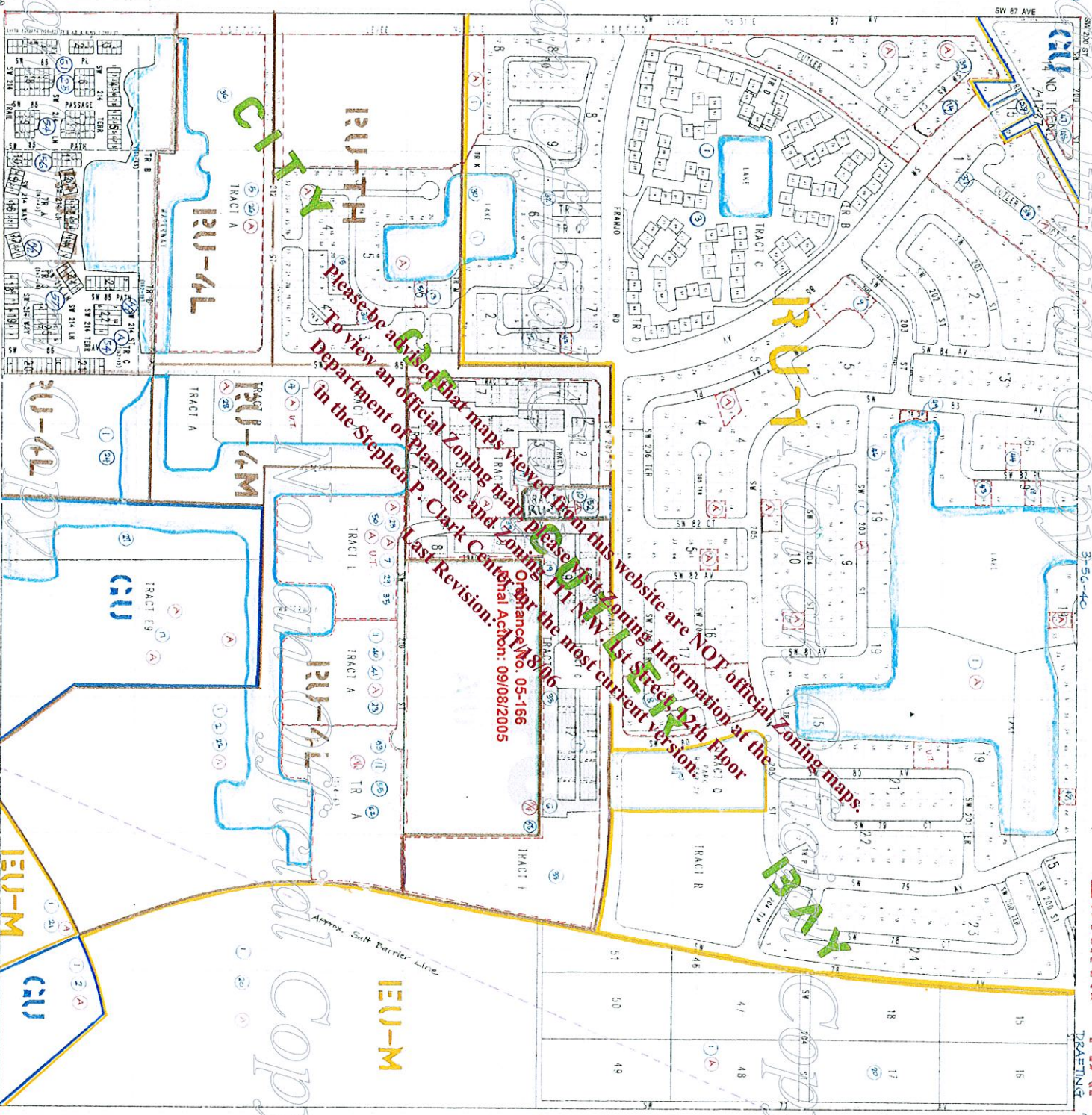
METROPOLITAN DADE COUNTY
PUBLIC WORKS DEPARTMENT
2-56-40

DRAFTING
ZONING MAP IV - 1133

SEC 3
TWP 56
RGE 40

11-56-40

Sec: 10
Twn: 56
Rng: 40



Red lines
Zone lines
Adjacent lots

77 Pp 0890
1-56

15-56-40

15-56-40

15-56-40

Not an Official Copy

Please be advised that maps viewed from this website are NOT official zoning maps.
To view an official zoning map please visit zoning information at the
Department of Planning and Zoning 111 NW 1st Street, 12th Floor
in the Stephen P. Clark Center
Last Revision: 09/08/2005
Ocala, FL 34456
Phone: 352-209-0516
Fax: 352-209-0506
Email: zoning@cityofocala.com



Old Cutler Road Charrette

CHARRETTE AREA PLAN REPORT EXECUTIVE SUMMARY

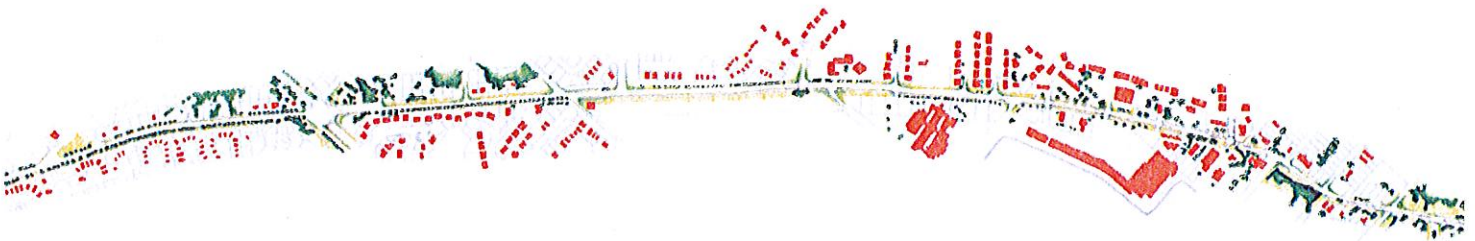
OLD CUTLER ROAD CHARRETTE, MIAMI-DADE COUNTY FLORIDA:
 The Old Cutler Road Charrette Area Plan is the citizens' vision for the enhancement of a two and a half mile segment of Old Cutler Road. It represents the ultimate growth and form of their community and the creation of a recognizable center for the south Old Cutler area, which stretches between SW 200th Street and SW 224th Street in south Miami-Dade County.

set up its studio in a storefront at the Old Cutler Town Center, where the doors remained open to the public all day. A presentation of the work in progress was held on Friday, June 28th where the community embraced the concepts included in the Charrette Area Plan. Work is documented in the form of a Charrette report and recommendations summary as a follow up to the initial public workshop.

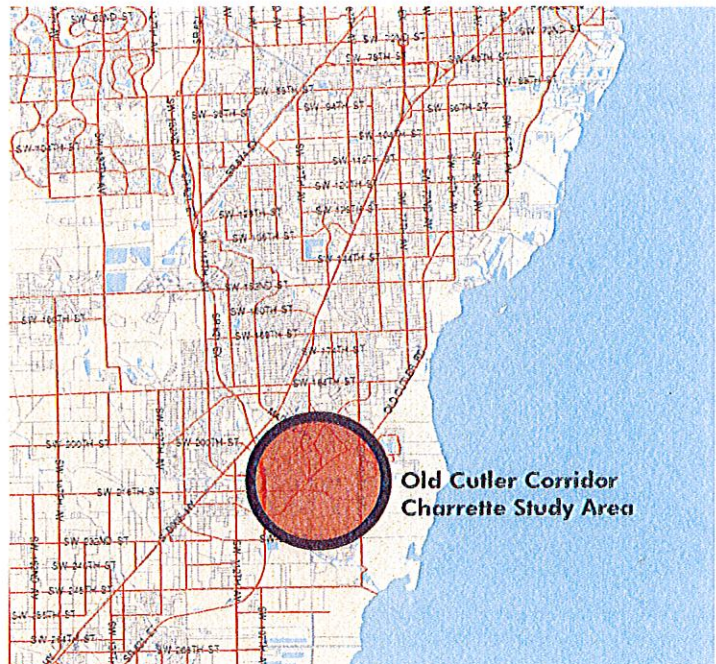
THE OLD CUTLER ROAD MASTER PLAN GREW OUT OF A DESIGN CHARRETTE HELD FROM JUNE 21st THROUGH JUNE 28th, 2002:
 The Charrette was held at the Edward Whigham Elementary School and was well attended by residents, property and business owners, representing a diverse cross-section of the community as well as County staff and elected officials, who all worked together to define the elements of this master plan. During the week, the design team

THE CITIZENS, WITH THE ASSISTANCE OF A PROFESSIONAL TEAM, STUDIED THE MANY CHALLENGES FACED BY THE COMMUNITY AND PROPOSED SPECIFIC SOLUTIONS:

A series of presentations by County Staff were held and during that time further citizen and professional input was taken into account. The Board of County Commissioners (BCC) passed a resolution (# R-439-04) on April 13th 2004, thereby accepting the Old Cutler Road Charrette Area Plan Report and it's recommendations.



Above: Plan of existing conditions in the study area. **Below left:** Scenes from the public design process on Saturday, June 21st, 2002. Numerous concerned citizens from the Old Cutler area participated in the charrette at Edward Whigham Elementary. **Below right:** The Old Cutler Road Charrette study area in the context of South Miami-Dade County



BEFORE AND AFTER:



Above: Pedestrian, lighting, and landscape improvements in the corridor.



Above: Entrance feature at SW 102 Avenue marks arrival into the Old Cutler civic district.

Old Cutler Road: “A Historic Path”

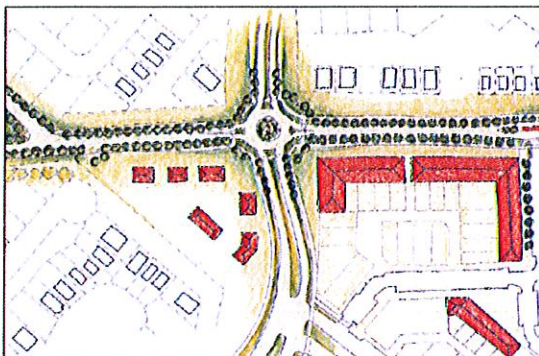
The Old Cutler Road Charrette Report contains detailed instructions that if followed, will reduce traffic congestion and allow development while restoring the historic ambiance of the road. Through the project corridor, the roadway serves commuters destined for points north as well as the retail core of the community.

The roadway was designated as historic by the State in 1974 and limits widening beyond its two-lane current condition. The proposals in this effort are focused on rebalancing the roadway toward all its users: motorists, pedestrians, transit users, and bicyclists.

Traffic volumes on Old Cutler Road currently number 12,000 to 16,000 vehicles per day (VPD) north of SW 184th Street, while the volumes to the south approach 22,000 VPD.

Approved development proposals in the area southeast of Old Cutler Road will add approximately 3,000 new homes within the area and will result in additional traffic volumes. As new neighborhoods are built, opportunities to provide alternate access should be maximized. Such potential connections include SW 212th Street, SW 97th Avenue, SW 92nd Avenue, SW 224th Street, Franjo Road, and SW 85th Avenue.

The extensive concentration of commercial uses within the study area is unique along Old Cutler Road and also marks the end of the historic corridor. The master plan proposes to announce the culmination of the road with a unique statement that is within the road’s historic parameters. A pair of roundabouts, at SW 87th Avenue and 97th Avenue will serve this function as gateways into the historic corridor.



Implementing Roundabouts:

Left: Connecting SW 97th Avenue and creating a roundabout at Old Cutler Road
Right: Improving the SW 87th Avenue and Old Cutler Road intersection with a roundabout
 These proposals create ‘bookends’ to the Old Cutler civic district and provide a mark of transition from the commercial core to the surrounding residential areas.

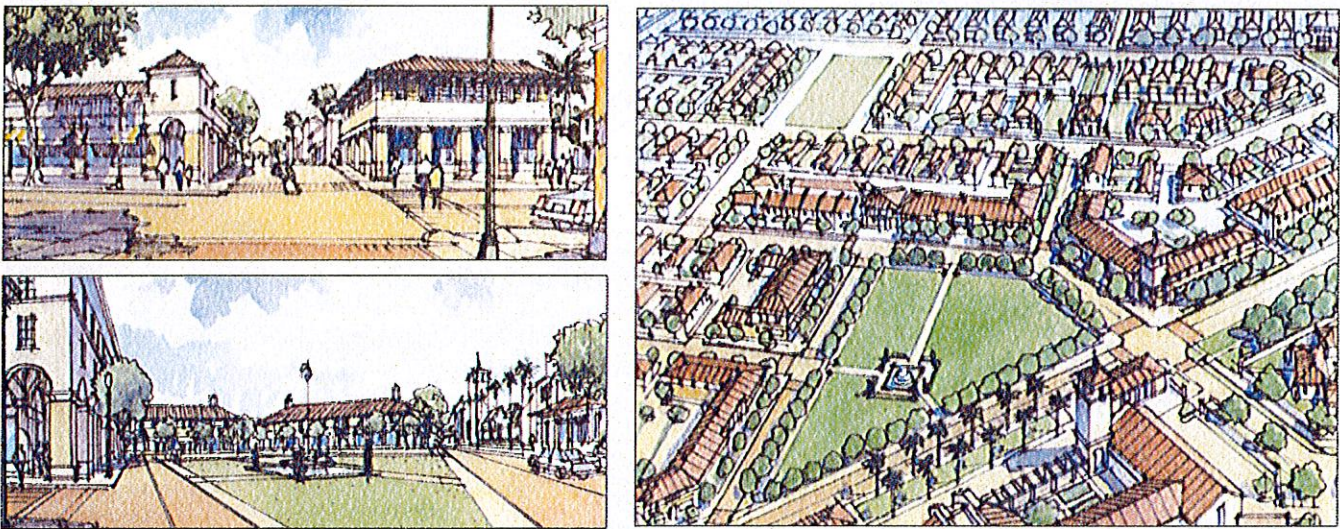


Above: Citizens’ Charrette Area Plan enhancements to the Old Cutler Road corridor from SW 200th Street to SW 224th Street

Citizens' Requests:

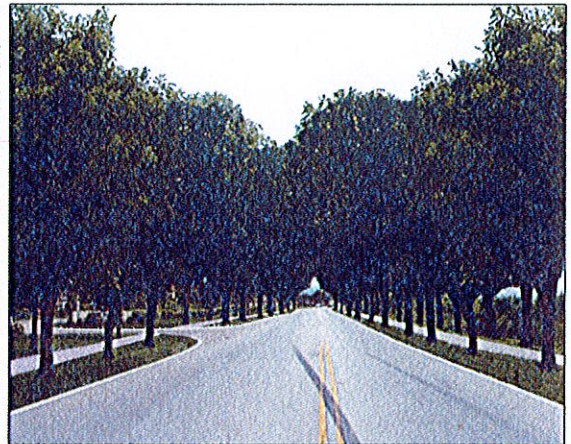
- Restore the historic character of Old Cutler Road
- Reduce congestion, improve traffic flow and safety
- Calm traffic along Old Cutler Road
- Improve intersections and build new streets
- Improve landscaping on Old Cutler Road
- Maintain and improve sidewalks and bike lanes
- Connect existing streets and parking lots
- Consolidate driveways
- Promote civic identity, create a civic district/town center
- Place an entrance feature at the start of the civic district
- Create a walkable, pedestrian-friendly environment
- Relocate Khoury League baseball fields
- Create a plaza surrounded by mixed-use buildings
- Improve drainage
- Establish architectural design guidelines

THE VISION



BEFORE AND AFTER:

From 'Potato Field' to Town Center
 The Citizens' Charrette Area Plan proposes the land east of Old Cutler Road and North of SW 212th Street become a center for the community. During the charrette, the need to define the area's identity and create a public gathering place was expressed. **Top left:** View across the triangular green along Old Cutler Road. **Above left:** View down a new street in the neighborhood that terminates on a civic building. **Above right:** View to the southeast over Old Cutler Road.



Above: Landscape and pedestrian improvements in the corridor- The Citizens' Charrette Area Plan proposes sidewalks and consistent tree planting on both sides of Old Cutler Road through the corridor to provide a comfortable environment for all users of the roadway.

Old Cutler Road Charrette

CHARRETTE AREA PLAN REPORT EXECUTIVE SUMMARY

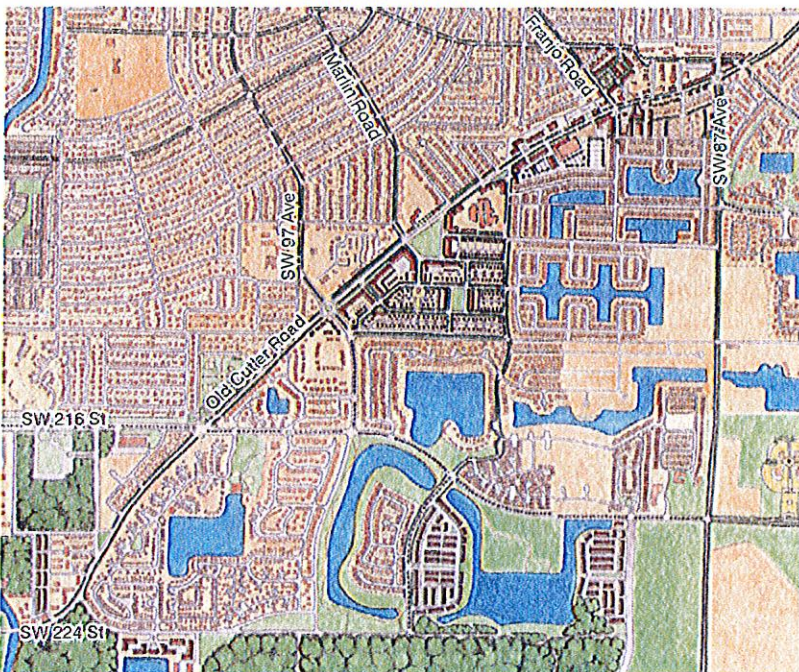
Project Goals and Objectives:


The goal of the Old Cutler Road Charrette Area Plan is to create a framework that will preserve the heritage of this historic roadway, facilitate improvement in public infrastructure and the investment in private land, enhance the livability and encourage design quality, both architectural and urban, in a manner that achieves the following objectives:

- To preserve and enhance the historic and community character along Old Cutler Road
- Reintroduce pedestrian-scale improvements in lighting and landscaping; rebalance vehicular movement in the corridor
- Providing residents additional travel options by connecting the street network east of 87th Avenue to Old Cutler Road

- To enhance safety and lower travel speeds in the neighborhoods to the northwest of Old Cutler Road by implementing roundabouts in place of traffic signals wherever appropriate
- To create a civic district/town center and public gathering space for the surrounding area
- Provide residents better access to goods and services available along Old Cutler Road without having to travel on that same road
- To increase safety along Old Cutler Road through design modifications that reduce motorists' speeds and increase pedestrian and bicycle visibility and comfort

THE CHARRETTE AREA PLAN: A COMMUNITY'S VISION





Carlos Alvarez, Mayor

BOARD OF COUNTY COMMISSIONERS

Joe A. Martinez, Chairman
Dennis C. Moss, Vice-Chairman

Barbara J. Jordan District 1	Carlos A. Gimenez District 7
Dorrian D. Rolle District 2	Katy Sorenson District 8
Audrey M. Edmonson District 3	Dennis C. Moss District 9
Sally A. Heyman District 4	Sen. Javier D. Souto District 10
Bruno A. Barreiro District 5	Joe A. Martinez District 11
Rebeca Sosa District 6	José "Pepe" Diaz District 12

Natacha Seijas
District 13

Harvey Ruvin, Clerk of Courts
George M. Burgess, County Manager
Murray Greenberg, County Attorney
Diane O'Quinn Williams, Director
Department of Planning and Zoning

Old Cutler Road Charrette Report prepared with the assistance of: Chamber South and Treasure Coast Regional Planning Council. For more information contact Miami-Dade County Department of Planning and Zoning at 305-375-2842



Special Thanks:
Commissioner
Katy Sorenson
District 8

TAB 6



Planning & Zoning Department

R. Don O'Donniley, AICP
Planning Director

MEMORANDUM

To: Steven Alexander, Town Manager

From: Don O'Donniley, AICP, Planning Director *DDO*

Date: January 17, 2006

Re: **An Ordinance establishing revised standards prohibiting the use chain link fencing along the right of ways within the Town of Cutler Bay.**

REQUEST:

Adoption of the attached ordinance prohibiting the use of chain link fencing along the right of ways within the Town of Cutler Bay.

BACKGROUND AND ANALYSIS:

The Town Council has requested staff to review existing standards for fencing in general and chain link fencing in particular.

The strategic Plan, goal 5.1, states as a "Strategic Initiative" that the town should develop and implement a Town beatification program'. Staff has inquired how nearby jurisdictions address chain link and found that South Miami prohibits chain link fencing in front set backs and Palmetto Bay is currently considering restrictions on the use of chain link fencing. Increasing restrictions relating to chain link fencing may increase cost to consumers but clearly is in keeping with regulatory trends in comparable jurisdictions.

The attached Ordinance sets limitations that prohibit using chain link fence for a distance of at least twenty five (25) feet or the front façade of a structure, which ever is greater along frontages within the Town of Cutler Bay, In addition, all fences are required to face finished side out.

RECOMMENDATION:

Approval

CONDITIONS:

N/A

10720 Caribbean Boulevard, Suite 105
Cutler Bay, FL 33189
(305) 234-4262 Office
(305) 234-4251 Fax
www.cutlerbay-fl.gov

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ARTICLE I “IN GENERAL,” SECTION 33-11 “FENCES, WALLS, BUS SHELTERS AND HEDGES” OF THE TOWN CODE OF ORDINANCES, TO PROVIDE THAT ALL FENCES BE ERECTED WITH THE FINISHED SIDE OUTWARD; PROVIDING THAT CHAIN LINK FENCES SHALL NOT BE LOCATED BEYOND THE FRONT FAÇADE OF THE BUILDING OR 25 FEET FROM THE FRONT PROPERTY LINE, WHICHEVER IS GREATER, AND SHALL BE PERMITTED ONLY ALONG INTERIOR SIDE PROPERTY LINES AND REAR PROPERTY LINES THAT ARE NOT ADJACENT TO A RIGHT-OF-WAY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) currently permits chain link fences in residential zoning districts behind the front building line; and

WHEREAS, in order to enhance the character and aesthetics of the Town, Town staff has recommended that all chain link fences should not be located behind the front building line, and that all fences be erected with the finished side outward; and

WHEREAS, Town staff has further recommended, that within residential zoning districts, chain link fences should not be located beyond the front façade of the building or 25 feet from the front property line, whichever is greater, and should be permitted only along interior side property lines and rear property lines that are not adjacent to a right-of-way; and

WHEREAS, public notice was provided in accordance with law; and

WHEREAS, this Ordinance was heard and recommended by the Town Council, in its capacity as the Town’s Local Planning Agency; and

WHEREAS, after due notice and hearing, the Town Council finds this Ordinance to be consistent with the Miami-Dade County Comprehensive Development Master Plan, which now functions as the Town’s Comprehensive Plan; and

WHEREAS, the Town Council finds these changes to be in the best interest and welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS:

Section 1. Findings. The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment to Section 33-11 of the Town Code. Article I “In General,” Section 33-11 “Fences, walls, bus shelters and hedges” of the Town Code is hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 33-11. Fences, walls, bus shelters and hedges.

(a) *Permits; conformance to requirements; erection on property lines.* Permits shall be required for all walls and fences, and except as may be approved as a result of public hearings, walls, fences, which obscure or obstruct vision, and hedges shall be restricted to the height, location and type as indicated hereinafter, and except when a higher wall, fence or hedge is required as a visual screening buffer at the rear of double frontage lots under Chapter 28 of this Code. Except as hereinafter restricted, all walls, fences and hedges may be placed on the property lines. This section, however, shall not be construed to permit such walls, fences and hedges to extend beyond the official right-of-way lines or property lines. All fences shall be erected with the finished side outward. Notwithstanding anything in the code to the contrary, chain link fences in residential zoning districts shall not be located beyond the front façade of the building or 25 feet from the front property line, whichever is greater, and shall be permitted only along interior side property lines and rear property lines that are not adjacent to a right-of-way behind the front building line. ~~It is provided, however, that the aforementioned restriction on chain link fences shall not apply in AU and GU zoning districts zoned agricultural. It is further provided that the aforementioned restriction shall not apply to chain link fences surrounding a residential community maintained by a condominium or homeowners association or by a special taxing district.~~ Chain link fences lawfully existing prior to the effective date of this ordinance which as a result of this ordinance become nonconforming shall be exempt from Section 33-35(c).

Section 3. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____, 2007.

PASSED AND ADOPTED on second reading this _____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Interim Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edwards P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

TAB 7 —

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA , CREATING REGULATIONS RELATED TO LOBBYISTS AND PRINCIPALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay ("Town") desires to implement by ordinance the requirements of Town Charter Section 7.6 and to apply a more stringent lobbyist registration and disclosure requirement than Section 2-11.1(s) of Miami-Dade Code, which is currently applicable in the Town pursuant to Section 8.3 of the Town Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above Recitals are true and correct and are incorporated herein by this reference.

Section 2. Lobbyists and Principals. The following provisions related to lobbyists and principals are hereby adopted:

Lobbyists and Principals

(A) All paid lobbyists, as may be defined by the Miami-Dade County Code, shall:

- (1) Register with the Town Clerk on the proscribed disclosure form as provided by the Town Clerk and pay annual fees of \$250 for each lobbyist prior to lobbying any Town Council member, employee, board or committee member;
- (2) Disclose in writing all persons and/or entities the lobbyist is representing upon registering and update this list within ten (10) days of being retained by a new principal or for a new project of an existing principal; and
- (3) Disclose in writing all Town government officials directly contacted by the lobbyist and any expenditures involved as defined by State law, before the public hearing.

The Town Clerk shall make available to the Town Council, prior to any public hearing, on the event or matter for which a registered lobbyist may appear, all disclosures required herein or as otherwise required by State or County law.

Any violation of the above shall render the issue being lobbied for or sought by the principal voidable. Violation of this section shall be punishable by a fine of \$250 in addition to any other remedies allowed by law.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Cutler Bay Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Conflicts. Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed. This ordinance shall supersede Section 2-11.1(s) of Miami Dade Code as made applicable to the Town pursuant to Town Charter Section 8.3 to the extent of any conflict therewith.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 20th day of December, 2006.

PASSED AND ADOPTED on second reading this _____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Interim Town Attorney

FINAL VOTE AT ADOPTION:

- Mayor Paul S. Vrooman _____
- Vice Mayor Edwards P. MacDougall _____
- Councilmember Peggy R. Bell _____
- Councilmember Timothy J. Meerbott _____
- Councilmember Ernest N. Sochin _____

TAB 8

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING REGULATIONS RELATED TO DISCLOSURE OF PAYMENTS OR MATERIAL CONSIDERATION PAID OR REQUESTED BY PERSONS IN EXCHANGE FOR SUPPORT OR NON-OPPOSITION ON MATTERS UNDER CONSIDERATION BY THE TOWN COUNCIL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay ("Town") desires to implement by ordinance the requirements of Town Charter Section 7.6(B) and to apply a more stringent disclosure requirement than that required by the charter.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above Recitals are true and correct and are incorporated herein by this reference.

Section 2. Disclosure Requirements. The following provisions related to disclosures to be made by principals at public hearings are hereby adopted:

(A) All persons or entities seeking any approval, contract, concession, license or any other relief that requires a public hearing before the Town Council are required to comply with the instant disclosure requirements. Provided however, that in cases in which the relief sought is related to a land use application, disclosure shall be required only by the applicant for such relief. Except to the extent such disclosure is prohibited by a confidentiality order from a court of competent jurisdiction, such persons or entities shall:

(1) In all items requiring a public hearing, including land use matters, disclose in writing to the Town Clerk or verbally on the record at such public hearing, all moneys or compensation paid or offered to a person(s) or entity to support or not object to a matter which is set for a public hearing. Disclosure shall be required whether compensation was paid or offered to the person or entity or to a third party. Compensation includes money, property, services or any other commodity having any economic value or any promise or agreement to provide the same in the future. The disclosure shall include the name of the person or entity offered the compensation, the specific compensation offered, what the person was

requested to do or refrain from doing in exchange for said compensation, and whether and to whom the compensation was paid; and

(2) In all items requiring a public hearing, including land use matters, disclose in writing to the Town Clerk or verbally on the record at such public hearing, all moneys or compensation as defined above, sought or requested by a person(s) or entity to support or not object to a matter which is set for a public hearing. Disclosure shall be required whether compensation was requested for or paid to the requester or a third party. The disclosure shall include the name of the person or entity seeking the compensation, the specific compensation sought, what the person offered to do or refrain from doing in exchange for said compensation, and whether the compensation was actually paid and to whom.

Any violation of the above shall render the relief or item being sought by the principal voidable by the Town Council. Violation of this section shall also be punishable by a civil fine of \$500 per violation in addition to any other remedies allowed by law.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Cutler Bay Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Conflicts. Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed. This ordinance shall supersede Section 2-11.1(s) of Miami Dade Code as made applicable to the Town pursuant to Town Charter Section 8.3 to the extent of any conflict therewith.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 20th day of December, 2006.

PASSED AND ADOPTED on second reading this _____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Interim Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman	_____
Vice Mayor Edwards P. MacDougall	_____
Councilmember Peggy R. Bell	_____
Councilmember Timothy J. Meerbott	_____
Councilmember Ernest N. Sochin	_____

TAB 9



MEMORANDUM

To: Steven Alexander, Town Manager

From: Don O'Donniley, Planning Director *DDO*

Date: January 11, 2007

Re: **An Ordinance Establishing Site Plan Review for New Developments within the Town of Cutler Bay**

REQUEST:

Adoption of the attached ordinance establishing Site Plan Review procedures for the Town of Cutler Bay.

BACKGROUND AND ANALYSIS:

The Town Council has directed staff to prepare procedures for Site Plan Review and for the scope of review to be carried out within the process. The attached Ordinance sets out a procedure that requires a Public Hearing for virtually all new Developments before the Town Council.

The Town Council approved this ordinance on first reading on December 20, 2006.

RECOMMENDATION:

Approval

CONDITIONS:

N/A

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA CREATING SITE PLAN APPLICATION REQUIREMENTS AND PROCEDURES FOR SITE PLAN APPROVAL; AMENDING CHAPTER 33 "ZONING" OF THE TOWN CODE TO REQUIRE SITE PLAN APPROVAL BY THE TOWN COUNCIL AFTER A PUBLIC HEARING; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, site plan application requirements and procedures will ensure an efficient development review process and will facilitate the review of proposed site plans; and

WHEREAS, currently several types of developments within the Town of Cutler Bay (the "Town") obtain administrative site plan approval; and

WHEREAS, requiring most types of development to obtain site plan approval after a public hearing will allow the Town Council to obtain public comments and feedback on the proposed site plan; and

WHEREAS, the Town Council finds that it is in the best interest and welfare of the Town to provide procedures and site plan application requirements, and to require most types of development to obtain site plan approval after a public hearing.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS:

Section 1. Findings. The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Mandatory Site Plan Approval.

(A) **Generally.** Site plan approval shall be required prior to any development of land within the Town. Except as provided below, all site plans within the Town shall be approved by the Town Council after a public hearing.

(B) **Pre-application.** In order to expedite the review of a site plan one or more pre-application conferences between the applicant and Town staff shall be required. The pre-application conference(s), while informal, will inform the applicant of the Town's informal response as to the scale and character of the proposed development and to alert the applicant to all applicable ordinances and regulations as well as any specific areas of concern that the Town may have for that specific site or proposed plan.

(C) **Application requirements.** All site plan applications shall be filed with the Department of Planning and Zoning. An application for site plan approval shall include ten (10) complete sets of a development plan, the overall size of which shall be 24" x 36", drawn at a scale not less than 1" = 50' and shall include the following:

- (1) Letter of intent describing the nature of the request and any other pertinent information.
- (2) Applicable application fee.
- (3) A legal description, including the section, township, and range.
- (4) Site boundaries clearly identified, and ties-to-section corners.
- (5) Proposed land uses.
- (6) Location and height of all structures and total floor area with dimensions to lot lines, and designations of use.
- (7) Dimension building separations.
- (8) Vehicular circulation system for cars, bicycles, and other required vehicle types, with indication of connection to public rights-of-way. Location of all parking and loading areas.
- (9) All adjacent rights-of-way, with indication of ultimate right-of-way line, geometry of all paved areas including centerlines, dimensions, radii, and elevations, width, existing median cuts and intersections, street light poles, and other utility facilities and easements. Location of all cross streets and driveways within 350' of property limits.
- (10) Pedestrian circulation system.
- (11) Provider of water and wastewater facilities.
- (12) Existing and proposed fire hydrant locations.
- (13) The following computations shall be provided in a legend:
 - a. Gross acreage.
 - b. Net acreage. Gross acreage covered by the property excluding road easements and rights-of-way, if any.
 - c. Number of dwelling units and density for residential uses only.

- d. Square footage of ground covered by buildings or structures and designation of use.
- e. Required number of parking spaces.
- f. Number of parking spaces provided.
- g. Front, side(s), and rear setbacks required and provided.
- h. Pervious, impervious and paved surface, in square footage and percentage.
- i. Open space, in square footage and percentage.
- j. Floor Area Ratio calculations, if applicable.

(14) Site plan location sketch, including section, township, and range, showing adjacent property owners and homeowners associations within a 150 foot radius.

(15) Location of trash and garbage disposal system and provisions for accessibility to garbage trucks.

(16) Loading areas and provisions for accessibility to vehicles of the required type.

(17) Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles of the required type.

(18) Location of septic tank and drain field, if applicable.

(19) Street names and addresses, or a range of addresses, for any proposed building within the site plan, in conformity with Town standards.

- a. All addresses must be reviewed and approved by the Town Manager or his or her designee. New addresses associated with a site plan shall be submitted at the time of site plan application. All other addresses shall be submitted in a format acceptable to the Town Manager or his or her designee.
- b. Address assignment shall be based on the primary frontage the site faces or accesses. The primary frontage can be either a public or private right-of-way. Driveways serving as access to a location which connect to the primary frontage cannot be used for addressing purposes.

(20) Other such information as required by the Town.

(D) **Other submission requirements.** In addition to the development plan, the following items shall be included:

(1) A recent survey prepared by a Florida registered surveyor and mapper, certified as to meeting the requirements of the applicable section of the Florida Administrative Code, reflecting existing natural features, such as topography, vegetation, existing paving, existing structures, and water bodies. In addition, this survey shall also include a spot elevation of surrounding properties, structures, or other improvements within a 150 foot radius.

(2) Landscape plan and irrigation plan with landscape calculations, existing tree survey with indication of existing native vegetation that will be preserved, as required herein.

(3) Lighting plan showing photometric measurements and spillage onto adjacent properties and rights-of-way.

(4) Sign plan, for all signs which will be on site.

(5) A 24 inch by 36 inch color rendition of the building elevations of all four sides. This must be set upon an easel in the lobby of the place of the Town Council meeting at least 30 minutes prior to any Town Council meeting where the site plan will be considered. In addition, Ten (10) copies of an 11 inch by 17 inch reduced development plan and color renderings depicting the architectural design elements and theme for all sides of a building structure shall be provided. All sides of a building structure are required to possess similar architectural design elements and theme that is depicted on the primary side of the same building structure.

(6) Pavement markings and traffic signing plan.

(7) Schematic water and sewer plan including the location and size of all mains and lift stations (Note: Final engineering plans must be submitted and approved).

(8) Paving, grading, and drainage plan showing location of all drainage features, flow arrows, spot elevations, and retention areas, if any. The plan shall show proposed and existing elevation contours at 2 foot intervals.

(9) Materials chart requirement:

- a. All applicants for site plan approval, where applicable, shall create and present to the Town Council a materials chart, which shall consist of actual samples, indicating the color, type and the manufacturer's name and identifying numbers of roofing materials, and the color, type and the manufacturer's name and identifying numbers of paint, to be used in the project.
- b. The Town shall maintain the materials chart until the issuance of the Certificate of Completion or the Certificate of Occupancy, and for such additional time as it may determine is necessary.

- c. The applicant shall also provide the Town with the information from the materials chart in written form, including the name of the manufacturer and the manufacture's designation number for each item used on the materials chart. This sheet shall be attached to the site plan approval application and shall be incorporated as part of the application.

(10) Applications submitted that utilize an existing approved site plan, shall either include: a current “as built” or existing conditions survey delineating all buildings, parking spaces, landscaped areas, and easements of record; or the certification of a surveyor, engineer or architect, duly licensed by the state, that the existing conditions are identical with those shown on the submitted site plan.

(11) If deemed necessary by Town staff, a traffic study shall be authorized by staff at the applicant’s expense.

(12) Two (2) full set of plans reviewed and approved by the Miami-Dade County Fire and Rescue Department. An original stamp and signature from the Fire and Rescue Department is required. If plans change significantly prior to site plan approval, Town staff may determine that an additional review by the Fire and Rescue Department is required.

(13) Necessary documentation from the Miami-Dade Department of Environmental Resources Management (DERM) and Miami-Dade Water and Sewer Department (WASD), if applicable.

(14) Other such information as required by the Town.

(E) **Completeness of application.** The Town Manager or his or her designee shall review the application to determine its completeness. If the application is incomplete, the applicant shall be advised in writing as to the missing items. In addition, the application shall not be processed by Town staff until the application has been deemed complete.

(F) **Effective period of final site plan approval.** An approved final site plan shall be effective until the development is completed except that if, after one year from the date the site plan is approved by the Town Council a building permit for a principal building has not been issued and remains in effect, the site plan shall be null and void. For the purpose of this section, a building permit for a principal building shall cease to be in effect once required inspections have lapsed or once a certificate of completion or certificate of occupancy is issued.

In those cases where a development includes more than one principal building and it is contemplated that the development shown on a site plan will not be completed with a building permit for a principal building continuously in effect, approval by the Town Council of a phasing schedule must be obtained as part of the overall site plan approval. Amendments to the original site plan shall not extend this time frame unless an extension is expressly granted by the Town Council as a part of the approval of the amendment.

(G) **Administrative site plan approval.** The following types of development shall be subject to administrative site plan approval:

- (1) Development within the Urban Center District (UCD) shall have administrative site plan approval in accordance with Section 33-284.88 of the Town Code.
- (2) Construction of one (1) single family residence on a single lot;
- (3) Construction of a single duplex on a single lot; and
- (4) The deposit and contouring of fill on land.

For all applications that require administrative site plan approval, the Planning Director shall determine which site plan application requirements are applicable.

(H) **Issuance of development order.** The adoption of a resolution by the Town Council shall be considered as the development order for that plan. Subsequent to the adoption of that order, a final site plan must be submitted to the Planning Director, reflecting all conditions of site plan approval. At that time, a final development order shall be stamped on the plans reflecting compliance with all conditions of site plan approval. Such development order stamp must be obtained within 180 days of adoption of the resolution approving the site plan. This time period may be extended for an additional 90 days upon approval of the Town Council. Notice for such an extension shall be the same as for the original site plan approval.

(I) **Site plan amendments.** Any changes or amendments to an approved site plan shall require a re-submission in accordance with the provisions of this Ordinance. If the Planning Director determines that the requested site plan change is minor, the Director shall have the authority to review and approve the minor change with or without conditions. The Planning Director shall not approve the site plan unless he finds that the changes:

- (1) Comply with the minimum requirements of the Code;
- (2) Are compliant with concurrency requirements; and
- (3) Are compatible with surrounding land uses, buffering, screening, and landscaping.

An applicant may appeal the denial of a minor site plan amendment to the Town Council and shall pay the cost recovery fee for a full site plan review.

Section 3. Amendment to Chapter 33 of the Code of Ordinances. Chapter 33 “Zoning” of the Town Code is hereby amended to read as follows:

ARTICLE XVA. RU-TH, TOWNHOUSE DISTRICT

Sec. 33-202.3. Uses permitted.

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

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

1. Site plan including the following information:
 - a. Lot lines and setbacks.
 - b. Location, shape, size and height of existing and proposed buildings, vehicular and pedestrian circulation systems, entrance features, bike paths, recreational facilities and any other physical features that are proposed for the site that can be shown in plan form.
 - c. Landscaping in accordance with Chapter 18A of this Code.
 - d. Location of all parking spaces and waste collection area(s).
 - e. Indication of exterior graphics, as required.
 - f. Indication of any site design methods used to conserve energy.
2. Floor plans and elevations for typical townhouse units and floor plans and elevation of any recreation buildings, community buildings and other similar structures. Plan(s) for units shall indicate the private outdoor areas (patio space) for the individual unit(s).
3. Figures indicating the following:
 - a. Gross and net acreage.
 - b. Amount of common open space in square feet and percentage required and provided.
 - c. The size in square feet for the smallest and average townhouse sites.
 - d. Total trees required and provided in accordance with Chapter 18A of this Code.
 - e. Parking required and provided.
 - f. Such other design data as may be needed to evaluate the project.

(t) *Site plan changes.* The Director may authorize a change in a site plan for changes to an individual townhouse unit after in-house site plan review and approval or public hearing

approval for screen enclosures, patio slabs, new facial or trim work, open porch additions with or without wood or metal roofs, trellis or garden amenities, awnings, jacuzzis, swimming pools, decks, hot tubs, etc., providing:-

1. ~~That approval in writing is secured from an official, authorized body designated in the townhouse development to approve architectural changes in the townhouse community;~~

2. ~~That written approval of the immediate adjacent townhouse owners is secured. If the applicant is unable to contact an adjacent property owner for such approval, the applicant may present proof that he has mailed the request for approval to each adjacent unit owner, by certified mail, return receipt requested, at each adjacent property owner's mailing address as listed in the most current Miami-Dade County tax roll, and that the notice has been returned undeliverable; and~~

3. ~~That no additional variances are necessary to accomplish the proposed changes.~~

4. ~~Exceptions. The installation of temporary storm panels approved under Chapter 35, South Florida Building Code shall be permitted as a matter of right and shall not be subject to homeowners' association approval, nor shall such installation be subject to adjacent townhouse owners' approval. However, homeowners' association approval shall be required for the installation of permanent storm shutters. For the purposes of this subsection, temporary storm panels shall be defined as detachable protection devices that are installed temporarily over building openings in the event of an approaching hurricane or tropical storm.~~

~~In approving the amendment to the plan, the Director shall find that the change in plan will be in harmony with and compatible with existing development in the area, and will not destroy the theme or character of the development in the area.~~

~~All adverse decisions of the official, authorized body designated in the townhouse development to approve architectural changes in the townhouse community shall be appealed solely pursuant to the provisions of the official documents of the townhouse community. The official authorized body is required to afford the applicant, within sixty (60) days of receipt of the request, (1) written notice of the time and place of the hearing, (2) a full hearing, and (3) a decision in writing which is furnished to the applicant. No variances from this subsection may be applied for or granted.~~

~~(tw) Maintenance of common area.~~

~~(uv) Platting requirements.~~

~~(vw) Trees.~~

ARTICLE XVI. RU-3, FOUR UNIT APARTMENT HOUSE DISTRICT

Sec. 33-203. Uses permitted.

(6.1) Multiple family housing developments. Multiple family housing developments on sites zoned RU-3 prior to the effective date of this ordinance shall be permitted only after staff review and Town Council approval of the site plan to insure compliance with (i) the following, and (ii)

with the site plan review criteria contained within Section 33-203.7 of this code, except that interior side setbacks and spacing requirements shall not apply.

Sec. 33-203.1. Site plan review

Multi-family housing developments, as permitted by Section 33-203 (6.1) of this code, shall be subject to administrative site plan approval review as specified herein. The purpose of the site plan review is to encourage logic, imagination, innovation and variety in the design process and thereby ensure the congruity of the proposed development and its compatibility with the surrounding area. The Department of Planning and Zoning shall review proposed plans for compliance with zoning regulations and for compliance with the site plan review criteria. After the Department of Planning and Zoning completes its review, the site plan shall proceed to the Town Council for approval or denial. ~~All plans submitted to the Department shall be reviewed and approved or denied within 30 days from the date of submission. The applicant shall have the right to extend the 30 day period by an additional 30 days upon timely request made in writing to the Department. The Department shall have the right to extend the 30 day period by written notice to the applicant that additional information is needed to process the site plan. Denials shall be in writing and shall specifically set forth the grounds for denial. Decisions of the Director may be appealed to the appropriate Community Zoning Appeals Board in accordance with procedure established for appeals of administrative decisions.~~

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

- ~~(1) Site plan including the following information:~~
 - ~~(a) Lot lines and setbacks.~~
 - ~~(b) Location, shape, size and height of existing and proposed buildings, decorative walls and entrance features.~~
 - ~~(c) Landscaping in accordance with Chapter 18A of this code.~~
 - ~~(d) Location of off-street parking and loading facilities and waste collection areas.~~
 - ~~(e) Indication of exterior graphics, as required.~~
 - ~~(f) Indication of any site design methods used to conserve energy.~~
- ~~(2) Floor plans and elevations of all structures, including total gross square foot area of each floor.~~
- ~~(3) Figures indicating the following:~~
 - ~~(a) Gross and net acreage.~~
 - ~~(b) Amount of landscaped open space in square feet required and provided.~~
 - ~~(c) Amount of building coverage at ground level in square feet.~~
 - ~~(d) Total trees required and provided in accordance with Chapter 18A of this code.~~
 - ~~(e) Parking required and provided.~~
 - ~~(f) Total amount of paved area in square feet.~~
 - ~~(g) Such other design data as may be needed to evaluate the project.~~

ARTICLE XVIA. RU-3M, MINIMUM APARTMENT HOUSE DISTRICT

Sec. 33-203.7. Site plan review.

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

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

- ~~(1) Site plan including the following information:~~
 - ~~(a) Lot lines and setbacks.~~
 - ~~(b) Location, shape, size and height of existing and proposed buildings, decorative walls and entrance features.~~
 - ~~(c) Landscaping in accordance with Chapter 18A of this Code.~~
 - ~~(d) Location of off-street parking and loading facilities and waste collection areas.~~
 - ~~(e) Indication of exterior graphics, as required.~~
 - ~~(f) Indication of any site design methods used to conserve energy.~~
- ~~(2) Floor plans and elevations of all structures, including total gross square foot area of each floor.~~
- ~~(3) Figures indicating the following:~~
 - ~~(a) Gross and net acreage.~~
 - ~~(b) Amount of landscaped open space in square feet required and provided.~~
 - ~~(c) Amount of building coverage at ground level in square feet.~~
 - ~~(d) Total trees required and provided in accordance with Chapter 18A of this Code.~~
 - ~~(e) Parking required and provided.~~
 - ~~(f) Total amount of paved area in square feet.~~
 - ~~(g) Such other design data as may be needed to evaluate the project.~~

ARTICLE XVIIIA. RU-4L, LIMITED APARTMENT HOUSE DISTRICT

Sec. 33-207.2.1. Site plan review.

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

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

- ~~(1) Site plan including the following information:~~
 - ~~(a) Lot lines and setbacks.~~
 - ~~(b) Location, shape, size and height of existing and proposed buildings, decorative walls and entrance features.~~
 - ~~(c) Landscaping in accordance with Chapter 18A of this Code.~~
 - ~~(d) Location of off-street parking and loading facilities and waste collection areas.~~
 - ~~(e) Indication of exterior graphics, as required.~~
 - ~~(f) Indication of any site design methods used to conserve energy.~~
- ~~(2) Floor plans and elevations of all structures, including total gross square foot area of each floor.~~
- ~~(3) Figures indicating the following:~~
 - ~~(a) Gross and net acreage.~~
 - ~~(b) Amount of landscaped open space in square feet required and provided.~~
 - ~~(c) Amount of building coverage at ground level in square feet.~~
 - ~~(d) Total trees required and provided in accordance with Chapter 18A of this Code.~~
 - ~~(e) Parking required and provided.~~
 - ~~(f) Total amount of paved area in square feet.~~
 - ~~(g) Such other design data as may be needed to evaluate the project.~~

ARTICLE XVIII. RU-4M, MODIFIED APARTMENT HOUSE DISTRICT

Sec. 33-207.4. Site plan review.

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

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

- ~~(1) Site plan including the following information:~~
 - ~~(a) Lot lines and setbacks.~~
 - ~~(b) Location, shape, size and height of existing and proposed buildings, decorative walls and entrance features.~~
 - ~~(c) Landscaping in accordance with Chapter 18A of this Code.~~
 - ~~(d) Location of off-street parking and loading facilities and waste collection areas.~~
 - ~~(e) Indication of exterior graphics, as required.~~
 - ~~(f) Indication of any site design methods used to conserve energy.~~
- ~~(2) Floor plans and elevations of all structures, including total gross square foot area of each floor.~~
- ~~(3) Figures indicating the following:~~
 - ~~(a) Gross and net acreage.~~
 - ~~(b) Amount of landscaped open space in square feet required and provided.~~
 - ~~(c) Amount of building coverage at ground level in square feet.~~
 - ~~(d) Total trees required and provided in accordance with Chapter 18A of this Code.~~
 - ~~(e) Parking required and provided.~~
 - ~~(f) Total amount of paved area in square feet.~~
 - ~~(g) Such other design data as may be needed to evaluate the project.~~

ARTICLE XVIII. RU-4, HIGH DENSITY APARTMENT HOUSE DISTRICT

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

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

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

- ~~(1) Site plan including the following information:
 - ~~(a) Lot lines and setbacks.~~
 - ~~(b) Location, shape, size and height of existing and proposed buildings, decorative walls and entrance features.~~
 - ~~(c) Landscaping in accordance with Chapter 18A of this Code.~~
 - ~~(d) Location of off-street parking and loading facilities and waste collection areas.~~
 - ~~(e) Indication of exterior graphics, as required.~~
 - ~~(f) Indication of any site design methods used to conserve energy.~~~~
- ~~(2) Floor plans and elevations of all structures, including total gross square foot area of each floor.~~
- ~~(3) Figures indicating the following:
 - ~~(a) Gross and net acreage.~~
 - ~~(b) Amount of landscaped open space in square feet required and provided.~~
 - ~~(c) Amount of building coverage at ground level in square feet.~~
 - ~~(d) Total trees required and provided in accordance with Chapter 18A of this Code.~~
 - ~~(e) Parking required and provided.~~
 - ~~(f) Total amount of paved area in square feet.~~
 - ~~(g) Such other design data as may be needed to evaluate the project.~~~~

ARTICLE XXIV. BU-1, NEIGHBORHOOD BUSINESS DISTRICT

Sec. 33-245.2. Plan review standards.

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

~~(B) Exhibits which the applicant shall submit to the Department of Planning and Zoning shall include, but not be limited to the following:~~

~~(1) Schematic site plans at a scale of not less than one (1) inch equals one hundred (100) feet containing the following information:~~

~~(a) Proposed commercial floor area.~~

~~(b) Height, size, shape and location of existing and proposed buildings.~~

~~(c) Parking layouts.~~

~~(d) Proposed grades if significantly altered.~~

~~(e) Existing and proposed fences, walls, signs, architectural accents, street furniture and locations of advertising or graphic features.~~

~~(f) Landscaping and trees shall be provided in accordance with Chapter 18A of this Code.~~

~~(2) Schematic building plans including elevation and/or sections of major structures.~~

~~(3) Isometrics or perspective and/or model(s) of the proposed development.~~

~~The Director shall have the right to waive any of the items required because of the nature or timing of the development or because the information cannot be furnished at the time of this review.~~

~~(B)C) The following checklist of criteria shall be utilized as a guide by the Department and by the appropriate board, upon appeal, in the review process:~~

~~***~~

ARTICLE XXV. BU-1A, LIMITED BUSINESS DISTRICT

~~***~~

Sec. 33-251.5. Plan review standards.

~~(A) The Department of the Planning and Zoning shall review plans for compliance with zoning regulations and for compliance with the site plan review criteria. The decision of the Department in relation to the site plan review criteria may be appealed by the party(ies) which filed the application for the project to the appropriate Community Zoning Appeals Board within thirty~~

~~(30) days of the date the project was denied approval in writing. Appeals will be heard as expeditiously as possible. The purpose of the site plan review is to encourage logic, imagination and variety in the design process and thereby insure the congruity of the proposed development and its compatibility with the surrounding area. After the Department of Planning and Zoning completes its review, the site plan shall proceed to the Town Council for approval or denial. Denials shall be in writing and shall specifically set forth the grounds for denial. All final plans submitted for building permits shall be substantially in compliance with plans approved by the Town Council, under the plan review procedure herein established.~~

~~(B) Exhibits which the applicant shall submit to the Department of Planning and Zoning shall include, but not be limited to the following:~~

~~(1) Schematic site plans at a scale of not less than one (1) inch equals one hundred (100) feet containing the following information:~~

~~(a) Proposed commercial floor area.~~

~~(b) Height, size, shape and location of existing and proposed buildings.~~

~~(c) Parking layouts.~~

~~(d) Proposed grades if significantly altered.~~

~~(e) Existing and proposed fences, walls, signs, architectural accents, street furniture and location of advertising or graphic features.~~

~~(f) Landscaping and trees shall be provided in accordance with Chapter 18A of this Code.~~

~~(2) Schematic building plans including elevation and/or sections of major structures.~~

~~(3) Isometries or perspective and/or model(s) of the proposed development.~~

~~The Director shall have the right to waive any of the items required because of the nature or timing of the development or because the information cannot be furnished at the time of this review.~~

~~(B) The following checklist of criteria shall be utilized as a guide by the Department and by the appropriate board, upon appeal, in the review process:~~

ARTICLE XXVI. BU-2, SPECIAL BUSINESS DISTRICT

Sec. 33-253.9. Plan review standards.

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

completes its review, the site plan shall proceed to the Town Council for approval or denial. Denials shall be in writing and shall specifically set forth the grounds for denial. All final plans submitted for building permits shall be substantially in compliance with plans approved by the Town Council under the plan review procedure herein established.

~~(B) Exhibits which the applicant shall submit to the Department of Planning and Zoning shall include, but not be limited to the following:~~

~~(1) Schematic site plans at a scale of not less than one (1) inch equals one hundred (100) feet containing the following information:~~

~~(a) Proposed commercial floor area.~~

~~(b) Height, size, shape and location of existing and proposed buildings.~~

~~(c) Parking layouts.~~

~~(d) Proposed grades if significantly altered.~~

~~(e) Existing and proposed fences, walls, signs, architectural accents, street furniture and location of advertising or graphic features.~~

~~(f) Landscaping and trees shall be provided in accordance with Chapter 18A of this Code.~~

~~(2) Schematic building plans including elevation and/or sections of major structures.~~

~~(3) Isometries or perspective and/or model(s) of the proposed development.~~

~~The Director shall have the right to waive any of the items required because of the nature or timing of the development or because the information cannot be furnished at the time of this review.~~

~~(B) The following checklist of criteria shall be utilized as a guide by the Department and by the appropriate board, upon appeal, in the review process.~~

ARTICLE XXVII. BU-3 LIBERAL BUSINESS DISTRICT

Sec. 33-256.8. Plan review standards.

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

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

~~(1) Schematic site plan at a scale of not less than one (1) inch equals one hundred (100) feet containing the following information:~~

~~(a) Proposed commercial floor area.~~

~~(b) Height, size, shape and location of existing and proposed buildings.~~

~~(c) Parking layouts.~~

~~(d) Proposed grades if significantly altered.~~

~~(e) Existing and proposed fences, walls, signs, architectural accents, street furniture and location of advertising or graphic features.~~

~~(f) Landscaping and trees shall be provided in accordance with Chapter 18A of this Code.~~

~~(2) Schematic building plans including elevation and/or sections of major structures.~~

~~(3) Isometries or perspective and/or model(s) of the proposed development.~~

~~The Director shall have the right to waive any of the items required because of the nature or timing of the development or because the information cannot be furnished at the time of this review.~~

~~(C) The following checklist of criteria shall be utilized as a guide by the Department and by the appropriate board, upon appeal, in the review process.~~

ARTICLE XXIX. IU-1, INDUSTRIAL, LIGHT MANUFACTURING DISTRICT

Sec. 33-261.1. Site plan review.

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

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

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

- ~~(a) Existing zoning on the site and on adjacent properties.~~
- ~~(b) The basic use, height, bulk and location of all buildings and other structures with setbacks.~~
- ~~(c) Vehicular and pedestrian circulation systems, including connection(s) to existing or proposed roadway and sidewalk system and the layout of parking, service and loading areas.~~
- ~~(d) Graphics and/or notations indicating the site planning or structure design methods used to minimize the impact of those industrial activities that could have a negative impact on existing or proposed adjacent land uses.~~
- ~~(e) Sketches of design elements to be used for buffering surrounding uses.~~
- ~~(2) Elevation of the proposed buildings and other major design elements.~~
- ~~(3) Landscape plans: Landscaping and trees shall be provided in accordance with Chapter 18A of this Code.~~
- ~~(4) Figures indicating the following:~~
 - ~~(a) Proposed uses:~~
 - ~~(b) Gross floor area:..... square feet~~
 - ~~(c) Gross floor area above four (4) floors:..... square feet~~
 - ~~(d) Land area:~~
 - ~~Gross:~~
 - square feet
 - acres
 - ~~Net:~~
 - square feet
 - acres
 - ~~(e) Landscaped open space:~~
 - ~~Required:~~
 - square feet
 - % of net land area
 - ~~Provided:~~
 - square feet
 - % of net land area
 - ~~(f) Trees:~~
 - ~~Required:.....~~
 - ~~Provided:.....~~
 - ~~(g) Off-street parking spaces:~~
 - ~~Required:.....~~
 - ~~Provided:.....~~

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

Section 4. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. **Conflict.** All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 6. **Effective Date.** This Ordinance shall be effective immediately upon adoption.

PASSED AND ADOPTED on first reading this 20th day of December, 2006.

PASSED AND ADOPTED on second reading this ____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Interim Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

TAB 10



MEMORANDUM

To: Steven Alexander, Town Manager

From: Don O'Donniley, AICP, Planning Director *ROD*

Date: January 11, 2007

Re: Proposed Amendment to Section 33-13, of the Town Code Relating to Circuses and Carnivals

REQUEST:

Town staff is proposing an amendment to Section 33-13 (Unusual Uses) Sub-section (g) of the Town Code which regulates Circuses and Carnivals within the Town boundaries.

BACKGROUND AND ANALYSIS:

Background

Such temporary uses as circuses and carnivals have, in the past been, been used to promote community spirit and act as gathering places for Towns.

This item came about after discussion with a local House of Worship and their difficulty in obtaining all signatures of the surrounding property owners for their annual carnival.

Analysis

The Town's Code has rather stringent requirements when allowing circuses and carnivals in terms of the percentage of signatures of neighboring property owners required to allow such use.

Also, there are no allowances for administrative approvals besides for shopping centers over 60 acres. Staff recommends that a provision be added to provide for administrative approvals where an investigation by the Director has determined there would be no objections related to health, safety, or welfare.

1. Consistency with the Comprehensive Development Master Plan

This revision to the zoning code would be consistent with the Town Comprehensive Development Master Plan.

2. Zoning

The following Section of the Town Zoning Code is relevant to this request and with the proposed amendment as underlined.

Sec. 33-13. Unusual uses.

* * *

(g) *Circuses or carnivals* may be operated on GU and AU properties which are located within the Urban Development Boundary, and in BU-2 and all IU Districts, and on properties having a current certificate of use and occupancy for church or school use without a public hearing, except within the OCR Overlay District as prescribed in the above paragraph, provided:

- (1) Written waivers of objection for the specific use and length of time that the carnival or circus will remain in the location are obtained from all property owners within five hundred (500) feet.
- (2) Written waivers of objections are obtained from eighty (80) percent of the owners or tenants or residential buildings within one thousand (1,000) feet and subsequent investigation by the Director does not determine other objections, and provided further that no such use shall be for more than fifteen (15) days.
- (3) Carnival and circus use on school, church or shopping center premises shall be limited to ~~two~~ one (2 1) events per calendar year.
- (4) The necessity for waivers of objection as enumerated in (g) (1) and (2) above shall be waived by the Director on developed shopping center sites containing not less than sixty (60) acres where the rides, tents and booths associated with the event are set back a minimum of five hundred (500) feet from any residential structure, providing subsequent investigation by the Director does not determine any objections related to health, safety, or welfare.
- (5) Instead of obtaining written waivers of objection as provided for in sub-section (1) and (2), an applicant for any proposed circus or carnival, which has been previously held for at least 3 out of the past 4 years, may elect to send notice of the event to property owners within 500 feet of said property and if no more than 5% of the property owners of record respond to the Town in the negative, the application may be approved administratively. If more than 5% of the property owners of record respond in the negative a public hearing shall be required.

The notice sent to the property owners shall be in a form approved by the Town Planning Director. A duplicate set of address labels shall be kept on file in the Town Clerk's Office.

3. The Town Council approved this ordinance on first reading on December 20, 2006.

RECOMMENDATION:

Approval

CONDITIONS:

N/A

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AMENDING SECTION 33-13 "UNUSUAL USES" OF CHAPTER 33 "ZONING" OF THE TOWN CODE; PROVIDING FOR REGULATIONS RELATING TO CIRCUSES OR CARNIVALS; PROVIDING FOR ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, currently circuses or carnivals are permitted as unusual uses within certain zoning districts within the Town of Cutler Bay (the "Town"); and

WHEREAS, the Town has certain requirements that must be met prior to such uses being permitted to operate within the Town; and

WHEREAS, it is the intent of the Town Council to amend and update such requirements in order to better serve the citizens and residents of the Town; and

WHEREAS, the Town Council finds that adoption of these changes are in the best interest and welfare of the citizens and residents of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS:

Section 1. Findings. The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment to Section 33-13 of the Town Code. Section 33-13 "Unusual Uses" of Chapter 33 "Zoning" of the Town Code is hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 33-13. Unusual uses.

(a) *Prohibited in residential district.* Any use of premises in a residential district which conflicts with normal and expected use in the district is prohibited.

(g) Circuses or carnivals shall not be permitted on any property within the Old Cutler Road Overlay Zoning District. However, such uses may be operated on GU and AU properties which are located within the Urban Development Boundary, and in BU-2 and all IU Districts, and on

properties having a current certificate of use and occupancy for church or school use without a public hearing as prescribed in the above paragraph, provided:

- (1) Written waivers of objection for the specific use and length of time that the carnival or circus will remain in the location are obtained from all property owners within five hundred (500) feet.
- (2) Written waivers of objections are obtained from eighty (80) percent of the owners or tenants or residential buildings within one thousand (1,000) feet and subsequent investigation by the Planning Director does not determine other objections, and provided further that no such use shall be for more than fifteen (15) days.
- (3) Carnival and circus use on school, church or shopping center premises shall be limited to ~~two~~ one (2 1) events per calendar year.
- (4) The necessity for waivers of objection as enumerated in (g) (1) and (2) above shall be waived by the Planning Director on developed shopping center sites containing not less than sixty (60) acres where the rides, tents and booths associated with the event are set back a minimum of five hundred (500) feet from any residential structure, providing subsequent investigation by the Director does not determine any objections related to health, safety, or welfare.
- (5) Notwithstanding the above provisions in sub-sections (1) and (2), an applicant for a proposed circus or carnival, which has previously been held for at least three (3) out of the four (4) past years, shall send notice of the event to property owners within 500 feet of said property.

a. Administrative approval. If less than five percent (5%) of the property owners of record respond in the negative, the application may be approved administratively by the Planning Director. In the event the Planning Director denies the application, such denial shall be in writing and shall specifically set forth the grounds for denial. The Planning Director's decision may be appealed by the applicant to the Town Council.

b. Approval after a public hearing. If five percent (5%) or more of the property owners of record respond in the negative, the application may be approved by the Town Council after a public hearing.

The notice sent to the property owners shall be in a form approved by the Planning Director. A duplicate set of address labels shall be kept on file in the Town Clerk's Office.

Section 3. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 4. Effective Date. This Ordinance shall be effective immediately upon adoption.

PASSED on first reading this 20th day of December, 2006.

PASSED AND ADOPTED on second reading this _____ day of _____, 2007.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

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