

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 Steve Alexander
Interim Town Attorney Mitchell Bierman
Interim Town Attorney Chad Friedman
Town Clerk Erika Gonzalez-Santamaria

This meeting is open to the public. In accordance with the Americans 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.

LOCAL PLANNING AGENCY AGENDA

Wednesday, February 21, 2007

7:00 PM

Cutler Ridge Park

10100 SW 200th Street

Cutler Bay, Florida 33189

- I. CALL TO ORDER, ROLL CALL**
- II. PLEDGE OF ALLEGIANCE**
- III. ADDITIONS, DELETIONS, AND DEFERRALS**
- IV. CONSENT AGENDA**
 - A. January 17, 2007 – Minutes
- V. PUBLIC HEARING: MOTION RECOMMENDING ADOPTION OF THE FOLLOWING ORDINANCE:**
 - A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING NONRESIDENTIAL DESIGN STANDARDS AND REGULATIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR NONCONFORMING STRUCTURES; AND PROVIDING FOR AN EFFECTIVE DATE.
 - B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33, "ZONING", ARTICLE I, "IN GENERAL," SECTION 33-20(e), "BOAT STORAGE", OF THE TOWN'S CODE OF ORDINANCES, BY ALLOWING STORAGE OF TWO BOATS IN CERTAIN ZONING DISTRICTS WITHIN THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

VI. ADJOURNMENT.

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.

**TOWN OF CUTLER BAY
LOCAL PLANNING AGENCY MEETING
MINUTES**

Wednesday, January 17, 2007

7:00 PM

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

I. CALL TO ORDER/ROLL CALL OF MEMBERS: The meeting was called to order by the mayor at 7:08 p.m. 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 Alexander
Interim Town Attorney Mitchell Bierman
Interim Town Attorney Chad Friedman
Town Clerk Erika Gonzalez-Santamaria

II. PLEDGE OF ALLEGIANCE: The Mayor led the pledge of allegiance.

III. ADDITIONS, DELETIONS, AND DEFERRALS: None at this time.

IV. CONSENT AGENDA:

A. Councilmember Bell made a motion approving the minutes of the meeting of December 20, 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. PUBLIC HEARING: MOTION RECOMMENDING ADOPTION OF THE FOLLOWING ORDINANCE:

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.

Town Manager addressed the Council.

The Mayor opened the public hearing. Bill Decun 12721 Southwest 99 Avenue and Barbara Sims 322 East Ridge Village Drive addressed the Council.

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

VI. **ADJOURNMENT:** The meeting was officially adjourned at 7:20 p.m.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Local Planning Agency
on this 21st day of February, 2007.*

Paul S. Vrooman, Mayor

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MEMORANDUM

To: Steven Alexander, Town Manager

From: Don O'Donniley, Planning Director *DO'D*

Date: February 21, 2006

Re: Ordinance governing the development and design of non-residential establishments

REQUEST

Staff has been requested to draft an ordinance that establishes new development standards for all non-residential development. The focus of the request is to assure compatible scale development within the Town and to establish a community which implements appropriate architectural standards.

BACKGROUND

The development standards submitted for adoption are reflective of the local identity and interests. The architectural standard proposed within the ordinance were developed to encourage architecture appropriate to South Florida and relate buildings to a pedestrian scale. Staff has researched other development codes from cities within Florida as well as the Nation. Our research found that many cities throughout the country have been concerned with these same issues and have implemented zoning ordinances to address them. The American Planning Association, which provides a clearinghouse of information on many planning issues, has developed a model ordinance which was used as an overall guideline to provide the framework for this ordinance.

The ordinance that has been drafted for the Town was not written with the intent of excluding any particular retail chain but to encourage design standards that are related to the local identity and scale of the existing neighborhoods. These development standards will encourage active and transparent street level uses, useable street furniture, shade trees and

internal pedestrian linkages to provide safe pedestrian zones through parking areas. The standards address undesirable conditions such as shopping carts strewn across parking lots, massive blank walls with no relation to the street; and large, uninviting parking lots in the front of buildings.

The non-residential establishment development standards are designed to allow creativity and choice for the developer. For example, the medium and large establishments are required to choose two features from a list of eight community amenities they can build. These standards will be among the first for the Town that will encourage green development practices such as green roofs and landscaping to provide a high level of stormwater filtration before the water enters the storm drainage system.

This ordinance sets a size cap on non-residential development. This ordinance will set the maximum size of a non-residential development in the Town at 50,000 square feet. Staff's initial research showed that many American cities have enacted local zoning ordinances that set a cap on store size such as, Ashland, Oregon with a cap of 45,000 square feet; Madison, Wisconsin at 100,000 square feet; and Damariscotta, Maine limits up to 35,000 square feet. While each of these examples have different size caps, each have chosen the appropriate size for their individual communities. As a reference to help for visualization of store size, a typical supermarket is 37,000 to 61,000 square feet, where a "supercenter" is typically 185,000 square feet. The three example communities have found that store size caps help to prevent the negative impacts of large retail establishments and help maintain the vitality of local business districts and protect the character of the community by ensuring development is in scale with the existing neighborhood.

Consistency with Adopted Plans

Staff has examined the relevant portions of the Comprehensive Development Master Plan for Miami-Dade County. In particular, the CDMP adopts special design criteria for charrette areas, which are set out within the CDMP. In keeping with that approach, the Town of Cutler Bay has adopted regulations for two chareette areas and has initiated a study of a third area as part of the ongoing development of the Town's own CDMP. In addition, the Town adopted a Strategic Plan that set out improvement of the visual elements within the town as a major goal. Staff finds the proposed development standards for non-residential development consistent with the current CDMP and the Strategic Plan.

Recommendation

Staff recommends adoption of the attached ordinance governing the development and design of non-residential establishments.

ORDINANCE NO. 2007- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING NONRESIDENTIAL DESIGN STANDARDS AND REGULATIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR NONCONFORMING STRUCTURES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) desires to regulate the design and modify the site development standards applicable to nonresidential establishments within the Town; and

WHEREAS, these development standards are intended to encourage high quality aesthetically pleasing developments that produce a desirable relationship between buildings and the pedestrian; and

WHEREAS, the adoption of these standards will help to implement the Strategic Master Plan adopted by the Town Council; and

WHEREAS, such standards will assist in the protection of residential areas and neighborhoods from some of the negative impacts of nonresidential development by encouraging excellence in urban design and by improving the overall appearance of the Town; 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. Nonresidential Establishment Regulations. The following nonresidential establishment regulations are hereby created as follows:

A. Definitions.

For purposes of this Ordinance, the following words and phrases shall have the meanings herein set forth:

Balcony or Balconies: shall mean a platform projecting from a wall of a building and surrounded by a railing or parapet.

Large nonresidential establishment: A nonresidential establishment, or any combination of nonresidential establishments in a single building or in separate but abutting buildings, occupying between forty thousand (40,000) and fifty thousand (50,000) gross square feet of floor area.

Medium nonresidential establishment: A nonresidential establishment, or any combination of nonresidential establishments in a single building or in separate but abutting buildings, occupying between twenty-five thousand (25,000) and forty thousand (40,000) gross square feet of floor area.

Nonresidential uses: Nonresidential uses are defined to include commercial retail, commercial services, office, similar uses and expressly excludes institutional, government and agricultural uses.

Pedestrian walkway shall mean a continuous way designated for pedestrians and separated from the through lanes for motor vehicles by space or barrier.

Small nonresidential establishment: A nonresidential establishment, or any combination of nonresidential establishments in a single building or in separate but abutting buildings, occupying less than twenty-five thousand (25,000) gross square feet of floor area.

Visible shall mean that the building can be seen while standing, walking, biking or driving on a public or private street that is located at the front, side or to the rear of the building. While driving, a motorist shall have a 20 degree range of view known as the "Cone of Vision." (See Figure 1).

B. Purpose.

These standards are intended to ensure that all nonresidential development is compatible with its surrounding area and contributes to the unique community character of the Town.

C. Nonresidential Establishment Regulations Generally.

All Small, Medium, and Large nonresidential establishments shall be subject to the following regulations:

1. **Façades and Exterior Walls.**

- a. Building bays. The building façades of all nonresidential establishments, which are Visible from adjoining properties, or public or private streets shall have articulation in the form of multiple building bays that are a maximum of thirty (30) feet in width. Bays shall be visually established by architectural features such as columns, ribs or pilasters, piers and fenestration pattern. (See Figure 2.).
- b. Exterior walls. No wall that faces a street or connecting Pedestrian walkway shall have a blank, uninterrupted length exceeding thirty (30) feet without including at least two (2) of the following: change in plane, change in texture or masonry pattern, windows, lattice work with vines, or an equivalent element that subdivides the wall into human scale proportions.

When actual doors and windows are not feasible because of the nature of the use of the building, side or rear walls that face Pedestrian walkways shall include false windows and door openings defined by frames; sills and lintels; or similarly proportioned modulations of the wall. All sides of the building shall include materials and design characteristics consistent with those on the front of the building.

- c. Base treatment. All façades shall have a recognizable "base" including, but not limited to:
 - (i) Thicker walls, ledges or sills;
 - (ii) Integrally textured materials such as stone or other masonry;
 - (iii) Integrally colored and patterned materials such as smooth-finished stone or tile;
 - (iv) Lighter or darker colored materials, mullions or panels; or
 - (v) Planters.
- d. Top treatment. All façades shall have a recognizable "top" including, but not limited to:

- (i) Cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or differently colored materials;
- (ii) Sloping roof with overhangs and brackets; or
- (iii) Stepped parapets.

2. **Roofs.**

Roofs shall have no less than two (2) of the following features:

- a. Parapets concealing flat roofs and rooftop equipment such as HVAC units from public view. The average height of such parapets shall not exceed fifteen (15) percent of the height of the supporting wall and such parapets shall not at any point exceed one-third ($\frac{1}{3}$) of the height of the supporting wall. (See Figure 3.). Such parapets shall feature three-dimensional cornice treatment;
- b. Overhanging eaves, extending no less than three (3) feet past the supporting walls;
- c. Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one (1) foot of vertical rise for every three (3) feet of horizontal run and less than or equal to one (1) foot of vertical rise for every one (1) foot of horizontal run;
- d. Three (3) or more roof slope planes; or
- e. Green roofs or rooftop gardens.

3. **Materials and colors.**

- a. Predominant exterior building materials shall be high quality materials including, but not limited to, brick, sandstone, other native stone and tinted/textured concrete masonry units, stucco, and wood. Manmade substances such as plastic wood or false coral stone are prohibited.
- b. Façade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high-intensity colors, metallic colors, black or fluorescent colors shall be prohibited.
- c. Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.

4. Encroachments.

All nonresidential establishments shall have special architectural features, such as bay windows, decorative roofs, and entry features. Such features may project up to three (3) feet into rights-of-way, provided that they are not less than ten (10) feet above the sidewalk. Trellises, canopies, and fabric awnings may project up to five (5) feet into front setbacks and rights-of-way, provided that they are not less than ten (10) feet above the sidewalk. No such improvements shall encroach into alley rights-of-way.

5. Time for Delivery/Loading Operations.

No delivery, loading, trash removal or compaction, or other such operations shall be permitted between the hours of 10:00 p.m. and 7:00 a.m. within five hundred feet (500') of a residentially zoned parcel. Such areas shall be acoustically and visually screened. All dumpsters shall be located within an enclosure or otherwise hidden from all public views. The enclosure shall be constructed of a color and materials similar to the primary building(s). All enclosures shall include a gate with a self-locking latch.

6. Site Design and Relationship to Surrounding Community.

- a. Parking lot. The design of all lots shall safely and attractively serve all modes of travel, especially the pedestrian. Shade trees shall be provided in landscape islands to achieve a minimum shading of 50% of the parking lot. The interior width of landscape islands shall be a minimum of five (5) feet.
- b. Maximum size of parking area. No single surface parking area shall exceed 75 spaces unless divided into two or more sub-areas by a building, an internal landscaped pedestrian way, or an internal landscaped street. Parking lots shall be designed so that stormwater flows to the landscaped areas for retention and filtration in compliance with all stormwater mitigation criteria. Roof top parking is encouraged, if appropriately screened, as determined by the planning director.
- c. Parking garages. Parking garages are required to have street-fronting commercial space along all sides of the garage that front a street. In addition, to soften the bulk of the structure other details shall include, but not be limited to, grills, trellises and vine-climbing frames to provide space for clinging plants, and window framing.
- d. Outdoor storage and sales. Areas for outdoor storage and sales are permitted as extensions of the sales floor with free customer access, if incorporated into the building design and landscaping and permanently

defined and screened with walls or fences, made of materials and using colors comparable to the primary structure. Such areas shall be counted as part of the gross floor area of the Medium or Large nonresidential establishment. Outdoor storage in areas where customers are not allowed is prohibited, including storage sheds and containers. Outdoor storage of propane tanks may be allowed, with appropriate screening, as determined by the planning director.

- e. Stormwater management. Stormwater shall be directed into grass lined swales from sidewalks and rooftops to provide filtration before entering the storm drain system. The swales shall provide additional technologically advanced treatment functions for filtering out contaminants from stormwater before it enters the system. Additional treatments could include, but not limited to, a perforated drainage pipe surrounded by a fabric cocoon of clay pellets which accommodate the growth of bacteria. All areas of the site shall place emphasis on allowing as much groundwater percolation as possible.
- f. Pedestrian circulation. A safe and landscaped pedestrian circulation system shall be provided onsite which connects to public streets and neighborhoods. Sidewalks at least eight (8) feet in width shall be provided along all sides of the lot that abut a public street. Sidewalks, no less than eight (8) feet in width, shall be provided along the full length of the building along any façade featuring a customer entrance, and along any façade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the façade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the façade. All internal Pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials, such as pavers, bricks or scored concrete, to enhance pedestrian safety and comfort as well as the attractiveness of the Pedestrian walkways.
- g. Drive-through lane with limitation. No drive-through facility associated with a nonresidential establishment shall be less than eight (8) feet in width. Drive-through lanes cannot restrict or in anyway block any designated parking spaces. Pedestrian walkways shall be clearly separated from drive-through lanes. Each drive-through lane shall have the necessary stacking distance for four (4) cars, and shall be clearly curbed, marked, striped, or otherwise distinctly delineated for the entire length of the lane.
- h. Bike racks. All nonresidential developments shall provide bike racks which store no less than six (6) bicycles. The location of the racks shall be

indicated on the site plan. The design of such racks shall be of durable, long-lasting materials.

- i. Storage of shopping carts. Within all nonresidential establishments which provide shopping carts for use by patrons, one parking space per twenty-five (25) spaces shall be dedicated for the storage of shopping carts. The shopping cart storage area shall include durable fence materials in order to contain carts within the designated storage space.

7. Illumination prohibition.

Exterior-mounted exposed neon/fiber optic/rope L.E.D. lighting, illuminated translucent materials (except signs), illuminated striping or banding, and illuminated product displays on appurtenant structures (e.g., fuel dispensers) shall be prohibited.

8. Expansions.

If the expansion of a nonresidential establishment would result in the establishment becoming a different nonresidential establishment, as defined by this Ordinance, such establishment shall comply with the applicable standards governing such establishments.

D. Regulations for Small Nonresidential Establishments.

Small nonresidential establishments may be located as a stand alone building, but there shall be no off-street parking permitted in the front of a Small nonresidential establishment.

E. Regulations for Medium and Large Nonresidential Establishments.

1. Location.

All Medium and Large nonresidential establishments shall be located in shopping centers.

2. Entryways.

Each Medium and Large nonresidential establishment on a site shall have clearly defined, highly visible customer entrances featuring no less than three (3) of the following:

- a. Canopies or porticos;
- b. Overhangs;
- c. Recesses/projections;
- d. Arcades;

- e. Raised corniced parapets over the door;
- f. Peaked roof forms;
- g. Arches;
- h. Outdoor covered patios with built-in seating;
- i. Display windows;
- j. Architectural details such as tile work and moldings which are integrated into the building structure and design; or
- k. Integral planters or wing walls that incorporate landscaped areas and covered places for sitting.

3. Maximum number of parking spaces.

The total number of parking spaces for a Medium or Large nonresidential establishment and related establishments shall not exceed the minimum required by Chapter 33 of the Town Code by more than ten percent (10%). Reductions in the required parking may be considered based on the mix of uses. For a mixed use development, up to ten percent (10%) of the nonresidential requirement and up to seven percent (7%) of the residential requirement may be approved, with further reductions possible based on proximity to a high quality Pedestrian walkway and availability of public transit. A parking management plan must be submitted with the initial development application. The parking management plan must provide justification for any requested reduction in parking. The provisions of this section shall not apply to any property located within the Old Cutler Road Overlay Zoning District.

4. Off-street parking.

There shall be no off-street parking permitted between the front façade of a Medium or Large nonresidential establishment and the abutting street. However, no more than fifteen (15) percent of the off-street parking area for the lot, tract or area of land devoted to a Medium or Large nonresidential establishment may be located between the front façade of the Medium or Large nonresidential establishment and the abutting streets if such establishment provides: (1) at least five (5) of the entryway features provided above; and (2) at least five (5) of the central features and community space features provided below.

5. Central features and community space.

Each Medium or Large nonresidential establishment shall contribute to the establishment or enhancement of community and public spaces by providing at least two (2) of the following:

- a. Patio/seating area;

- b. Pedestrian plaza with benches;
- c. Green roof or green wall;
- d. Window shopping walkway;
- e. Outdoor playground area;
- f. Kiosk area;
- g. Water feature; or
- h. Clock tower or other such deliberately shaped area and/or focal feature or amenity, which in the judgment of the planning director adequately enhances such community and public spaces. Such areas may be combined into one or more locations, in order to create a larger amenity. Any such areas shall have direct access to the public sidewalk network and such feature shall not be constructed of materials that are inferior to the principal materials of the building and landscape. (See Figure 4.).

6. Outdoor seating/dining areas.

Where a Medium or Large nonresidential building provides an outdoor seating or dining area, the following regulations shall apply. The site plan shall include the layout of all tables, chairs, benches and other furniture; pedestrian ingress and egress; location of refuse containers; and other elements necessary to illustrate the proposed outdoor seating area or dining area. The applicant shall provide an indemnity agreement which is acceptable to the Town Attorney. This agreement will include specification of liability insurance provided. All outdoor seating and dining areas shall be kept in a neat and orderly appearance and shall be kept free from refuse and debris. The applicant shall be responsible for daily cleaning and sweeping of the outdoor seating or dining area and for the cleanliness and maintenance of any outdoor planters immediately adjacent to the area. Cleaning shall include twice-monthly pressure cleaning or other appropriate cleaning methods, as determined by the Town. Use of Town sidewalks for trash and garbage removal shall be prohibited.

Outdoor seating or dining areas shall not interfere with the free and unobstructed pedestrian or vehicular circulation of traffic, public access to any street intersections, crosswalks, public seating areas and conveniences, bus stops, alleys, service easements, handicap facilities or access to nonresidential establishments. The width and location of the sidewalk Pedestrian walkway shall be as follows:

- a. If there is seating on one side of the sidewalk, a minimum of five (5) feet of sidewalk must remain clear and unobstructed for Pedestrian walkway;
- b. If there is seating on two sides of the sidewalk, a minimum of six (6) feet of sidewalk between the two seating areas must remain clear and unobstructed for Pedestrian walkway; and
- c. All tables, chairs and umbrellas shall be located a minimum of 18 inches from the curb.

Tables, chairs, and all other furniture used in the operation of an outdoor seating or dining area shall not be anchored or restrained in any manner. Individual table umbrellas, planters, or other such non-stationary elements may be permitted within the outdoor seating or dining area, and where applicable, shall have a minimum clearance height of seven (7) feet above the sidewalk.

The maximum number of outdoor seating or dining shall not exceed fifty (50) percent of the number of indoor seats, except for restaurants with indoor seating of twenty-five (25) seats or less, which may have outdoor seating or dining not to exceed one hundred (100) percent of the number of indoor seats.

7. Public transit.

If a Medium or Large nonresidential establishment is located adjacent to an arterial street which is (or is planned to be) used as a transit route, it shall provide on-site accommodations for public transit access, such as Pedestrian walkways, a bus pullout and shelters.

8. Internal Pedestrian walkways.

Continuous internal Pedestrian walkways, no less than eight (8) feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all Medium and Large nonresidential establishments on the site. At a minimum, Pedestrian walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than fifty (50) percent of the length of the walkway. Such Pedestrian walkways shall provide weather protection features such as awnings or arcades within thirty (30) feet of all principal customer entrances.

9. Expansions.

No addition to an existing Medium or Large nonresidential establishment which would increase the gross square feet of floor area of such establishment by fifty (50) percent or more, and no addition to an existing building which would create a Large nonresidential

establishment and that would increase the gross square footage of floor area of such building by fifty (50) percent or more, shall be approved for construction or occupancy unless the entire Large nonresidential establishment affected by the new construction has been determined by the planning director to be in compliance with this Ordinance, the applicable general development standards, and the applicable district standards, whether the existing Large nonresidential establishment or building was approved under prior law or under this Ordinance.

F. Regulations for Nonresidential Establishments.

All Medium nonresidential establishment façades shall incorporate wall plane projections or recesses having a depth of at least three (3) percent of the length of the façade and extending at least twenty (20) percent of the length of the façade. No uninterrupted length of any façade shall exceed one hundred (100) horizontal feet. Ground floor façades that face public and private streets shall have arcades, display windows, entry areas, awnings, or other such features. The façade at the first floor level shall be detailed and glazed as storefront windows. The wood or metal armature of such storefronts shall be painted. Storefronts shall be directly accessible from sidewalks. Each storefront shall have windows and entry features, equal to 70 percent of its portion of the façade, between 2 and 8 feet from the ground. Storefronts shall have the mullion system, doorways, and signage integrally designed and painted. Balconies within a mixed use development shall have a depth of seven (7) feet and a proportionate width.

G. Regulations for Large Nonresidential Establishments.

1. Location.

Large nonresidential buildings shall be located in a group of more than four (4) nonresidential establishments located in a complex which is planned, developed, owned, or managed as a single unit with off-street parking provided on the property.

2. Maximum Size of Large Nonresidential Establishments.

Large nonresidential establishments shall not exceed fifty thousand (50,000) gross square feet. However, the total structure may exceed this size so long as no single nonresidential tenant exceeds this size. To determine whether an establishment has reached this maximum, the area of shared check stands, management, controlling ownership interest, and storage areas shall also be included.

3. Façade.

All Large nonresidential building façades shall include a repeating pattern that includes no less than three (3) of the following elements:

- a. Color change;

- b. Texture change;
- c. Material module change; or
- d. An expression of architectural or structural bays through a change in plane no less than twelve (12) inches in width, such as an offset, reveal or projecting rib. (See Figure 2.)

At least one (1) of elements a., b., or c. shall repeat horizontally. All elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.

4. Exterior Customer Entrance.

Where additional stores will be located in the Large nonresidential establishment, each such store shall have at least one (1) exterior customer entrance, which shall conform to the above requirements.

H. Exemptions.

Nonresidential establishments located within the Urban Center District shall be exempt from the provisions of this Ordinance.

I. Nonconforming structures.

As of the effective date of this Ordinance, any structures, which are inconsistent with the provisions of this Ordinance, shall be considered legal nonconforming structures and shall be subject to the provisions of Section 33-35 of the Town Code.

Figure 1
Cone of Vision

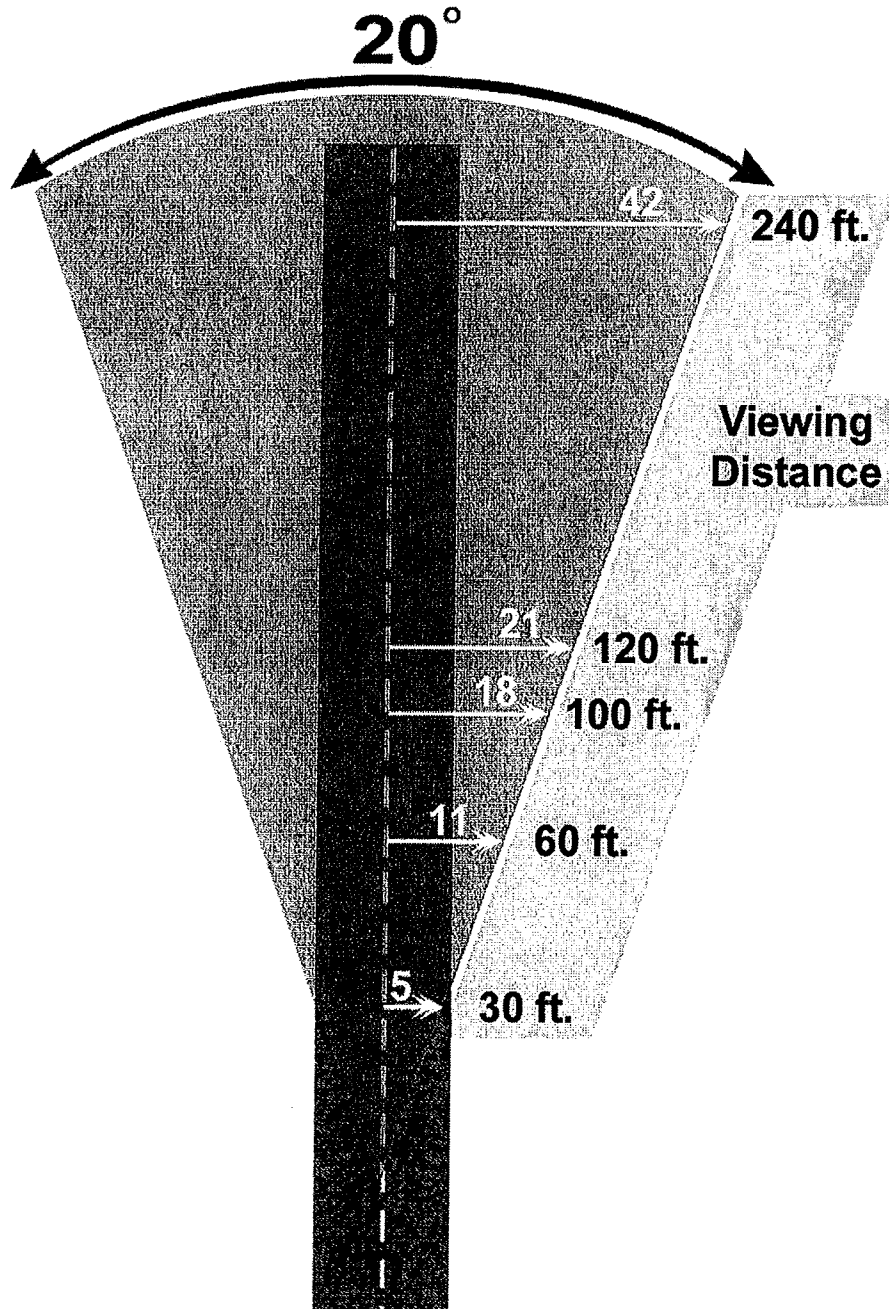
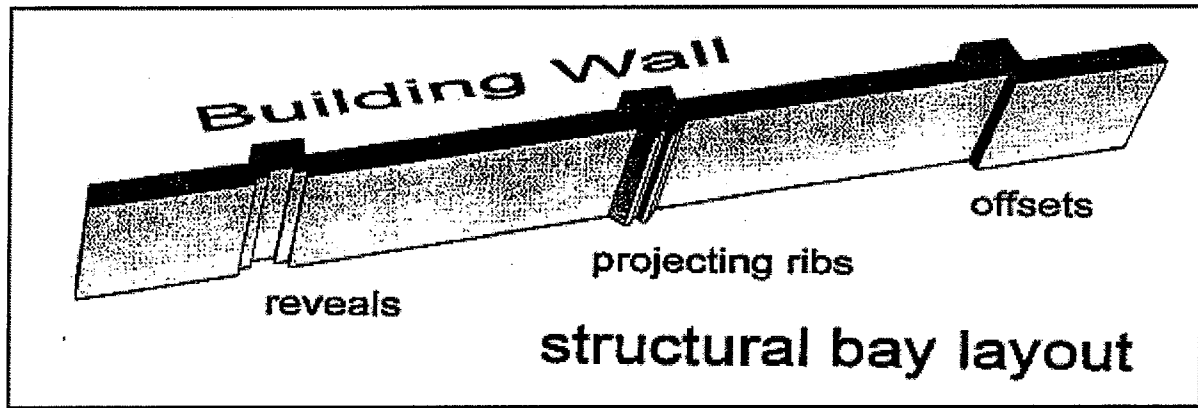


Figure 2
Expression of Architectural or Structural Bay



**Figure 3
Parapet Standards**

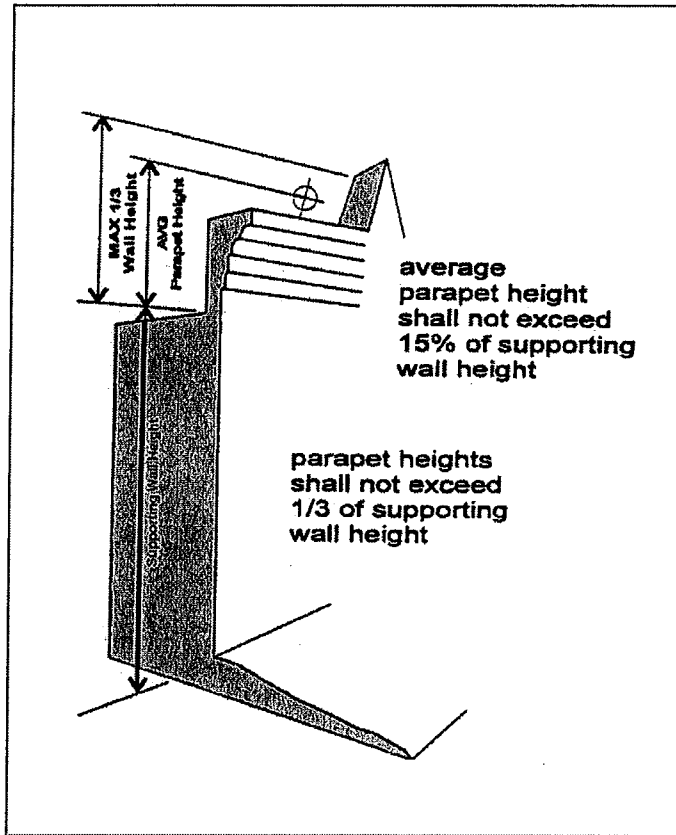
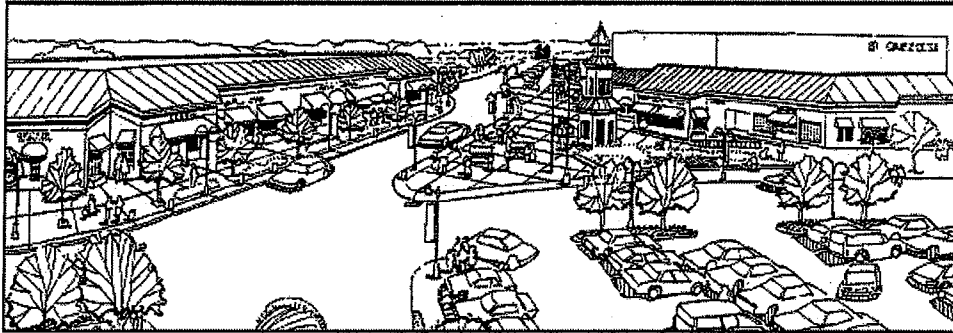


Figure 4
Center With Community Features



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 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 Vrooman _____

Vice Mayor Edward MacDougall _____

Council Member Timothy J. Meerbott _____

Council Member Ernest Sochin _____

Council Member Peggy Bell

ORDINANCE NO. 07-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33, "ZONING", ARTICLE I, "IN GENERAL," SECTION 33-20(e), "BOAT STORAGE", OF THE TOWN'S CODE OF ORDINANCES, BY ALLOWING STORAGE OF TWO BOATS IN CERTAIN ZONING DISTRICTS WITHIN THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") finds and determines that two boats should be allowed to be stored on premises in certain zoning districts; and

WHEREAS, the Town finds that these changes are consistent with the Miami-Dade County's Comprehensive Development Master Plan, which now functions as the Town's Comprehensive Plan.

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. Amendment to Boat Storage Regulations. The boat storage regulations contained in Chapter 33, "Zoning," Article I, "In General," Section 33-20(e) "Boat storage" are hereby amended as follows:

* * *

(e) *Boat storage.* Boats of less than thirty-three (33) feet in length, not more than one hundred and two (102) inches in width and thirteen (13) feet six (6) inches in height, may be stored or temporarily parked in the RU, EU, AU and GU Zoning Districts subject to the following conditions:

- (1) The place of storage shall be to the rear of the front building line. Where the boat storage area is located between the residence and a side street property line, the boat shall be visually buffered by a six-foot wood privacy fence, masonry wall, trees or shrubs maintained to a height of six feet. The front building line referred to shall be that portion furthest from the street.
- (2) No more than ~~one~~ two boats may be stored or parked on any one (1) premise.¹
- (3) Boats and place of storage or temporary parking shall be kept in a clean, neat and presentable condition.

¹ Additions to existing text are indicated by underline; deletions are indicated by ~~strikethrough~~.

- (4) No major repairs or overhaul work shall be made or performed on the premises.
- (5) The boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.
- (6) The temporary parking of a boat in front of the front building line or in front of the side street building line for no more than 2 hours in any 24-hour period, while the boat is hitched to an operable motor vehicle with a valid permanent license tag, for the purposes of loading and unloading equipment and supplies shall be permitted, but under no circumstances shall a boat be parked in the public right-of-way, including the swale area of a right-of-way.

Section 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.

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

PASSED AND ADOPTED 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	_____