

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, March 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. February 21, 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, AMENDING CHAPTER 33 “ZONING” SECTION 33-20. “ACCESSORY BUILDINGS; UTILITY SHEDS; SWIMMING POOLS; FALLOUT SHELTERS; BOAT STORAGE” OF THE TOWN CODE OF ORDINANCES TO PROVIDE THAT SWIMMING POOLS SHALL BE COUNTED FOR PURPOSES OF LOT COVERAGE; 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” OF THE TOWN CODE OF ORDINANCES RELATED TO PARKING; PROVIDING THAT OFF-STREET PARKING SHALL BE PERMITTED ONLY ON SURFACED PARKING AREAS; PROVIDING FOR THE MAXIMUM AREA PERMITTED FOR OFF-

STREET PARKING AREAS WITHIN CERTAIN ZONING DISTRICTS; PROVIDING FOR SURFACED PARKING AREA MATERIALS FOR OFF-STREET PARKING; CREATING SECTION 33-132.1 "PARKING IN SWALE AREAS IN RESIDENTIAL ZONING DISTRICTS" PROVIDING FOR RESTRICTIONS AND REGULATIONS FOR PARKING IN THE SWALE AREAS WITHIN RESIDENTIAL ZONING DISTRICTS; 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, February 21, 2007

7:00 PM

Cutler Ridge Park

10100 SW 200th ST

Cutler Bay, Florida 33157

I. CALL TO ORDER/ROLL CALL OF MEMBERS: The meeting was called to order by the mayor at 7:05 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 Meerbott made a motion approving the minutes of the meeting of January 17, 2007. The motion was seconded by Councilmember Sochin 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, CREATING NONRESIDENTIAL DESIGN STANDARDS AND REGULATIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR NONCONFORMING STRUCTURES; AND PROVIDING FOR AN EFFECTIVE DATE.

There was no public hearing at this time.

Councilmember Bell made a motion to adopt staff's recommendation to approve. The motion was seconded by Vice Mayor MacDougall and 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.

- 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, WHICH ARE LESS THAN THIRTY-THREE (33) FEET IN LENGTH, 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.

There was no public hearing at this time.

Vice Mayor MacDougall made a motion to adopt staff's recommendation to approve. The motion was seconded by Councilmember Meerbott and 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.

VI. ADJOURNMENT: The meeting was officially adjourned at 7:15 p.m.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

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



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: March 14, 2007

Re: Revisions to Section 33-20 (c) pertaining to swimming pools

As Town staff continues to review Chapter 33 of the Town Code, staff realizes that there are a number of relatively minor revisions that will make the Code more user friendly for the residents of the Town and more in keeping with the direction of the Town with respect to lifestyle. This proposal is a step towards implementing Goal 9.1 of the Strategic Plan; which calls for the town to become "a model" in terms of addressing drainage.

REQUEST

That the Town Code be amended as outlined in the accompanying ordinance.

The following is a summary of the proposed changes to the Town Code:

- That Section 33-20. "Accessory buildings; utility sheds; swimming pools; fallout shelters; boat storage.", be amended to remove, as a factor, the presence or absence of a screen enclosure in determining whether or not to count the pool and pool deck as part of lot coverage and drainage calculations. Instead, all pools and pool decks, whether attached to or detached from the principal building, would be calculated to determine if sufficient area remains in the rear yard to provide for drainage and water runoff.

BACKGROUND AND ANALYSIS

Background

Currently, the referenced section of the Code provides that if a pool is within a screen enclosure which is attached to a principal building then it is considered an



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accessory building for purposes of lot coverage. But if the pool, whether screened or unscreened, is detached from the principal building it is considered an accessory use and therefore is not calculated as part of lot coverage.

Additionally, when pools and their associated decking are not calculated as part of lot coverage they are also not being calculated for drainage and water runoff purposes. In low lying areas with many pools this could increase the chances of localized flooding.

Analysis

This original provision of the Dade County Zoning Code, as written in 1957, which now acts as the Town Code provides for an inconsistent definition of lot coverage. This is because whether or not a swimming pool is calculated as part of the lot coverage is dependent on whether or not a screen, within which it may be enclosed, is attached or detached from the principal building. The presence or absence of screening has nothing to do with drainage.

It is staff's finding that all pools and decks should be considered as part of lot coverage.

RECOMMENDATION

Approval of the proposed revisions so as to adequately take into account drainage impacts of pools and decks.

ORDINANCE NO. 07- ____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33 "ZONING" SECTION 33-20. "ACCESSORY BUILDINGS; UTILITY SHEDS; SWIMMING POOLS; FALLOUT SHELTERS; BOAT STORAGE" OF THE TOWN CODE OF ORDINANCES TO PROVIDE THAT SWIMMING POOLS SHALL BE COUNTED FOR PURPOSES OF LOT COVERAGE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") Code of Ordinances (the "Town Code") distinguishes between swimming pools that are detached or attached to the principal building for purposes of lot coverage; and

WHEREAS, the connection is distinguished in some cases only by the connection of the screened enclosure of the pool and the house; and

WHEREAS, rainwater is a critical element in recharging the aquifer and the creation of new impervious surfaces could exacerbate flooding within areas of the Town; and

WHEREAS, Town staff recommends amending the Town Code to provide that all swimming pools, regardless of whether or not such pools are attached to the principal building, shall be counted for purposes of lot coverage; and

WHEREAS, public notice was provided in accordance with law; 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; 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 Chapter 33 of the Town Code. Article I "In General" of Chapter 33 "Zoning" of the Town Code of Ordinances shall be amended as follows:

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

(c) *Swimming pools.* Swimming pools in all districts shall be constructed no closer than five (5) feet to any building foundation, unless both the design and construction are approved by the ~~Director~~ town building official as safe and will not possibly result in a weakening of or damage to the building foundation. In no event shall said pools be closer than eighteen (18) inches to any wall or any enclosure. ~~Screen enclosures, enclosing swimming pools or other approved uses, where attached to the principal building, shall be permitted no closer to the front property line than the principal building; and if so attached, such enclosures shall not be considered as a part of such residence or building, but shall be considered as an accessory building for purposes of lot coverage only.~~ Swimming pools, whether or not enclosed within screen enclosures, ~~that are not attached to the principal building, and other permitted detached screen enclosures,~~ shall be considered as accessory uses buildings for purposes of lot coverage. A pool deck, as a percent of lot coverage, shall be based on the permeability factor of the material used for said deck. Such uses shall be permitted no closer to the front property line than the principal building and shall be setback at least seventy-five (75) feet from the front property line. In addition to the above and foregoing, the following setbacks shall apply:

(1) Minimum setback distances for swimming pools in any RU Districts shall be ten (10) feet from any interior side property line, twenty (20) feet from a side street property line, and seven and one-half (7 1/2) feet from a rear property line, except that where the pool is accessory to other than one- or two-family residential use, the minimum setback distance from a side street property line shall be five (5) feet greater than required for the principal building.

(2) Screen enclosures enclosing swimming pools or other approved uses in all RU Districts shall be setback a minimum distance of seven and one-half (7 1/2) feet from any interior side property line, fifteen (15) feet from any side street property line and six (6) feet from the rear property line, except that the minimum setback distance from a side street property line for a screen enclosure accessory to other than one- or two-family residential use, shall be the same as required for the principal building.

(3) Minimum setback distances for swimming pools in EU-M and EU-S Districts shall be twenty (20) feet from any interior side property line, thirty (30) feet from any side street property line and seven and one-half (7 1/2) feet from a rear property line.

(4) Screen enclosures enclosing swimming pools or other approved uses in EU-M and EU-S Districts shall be setback a minimum distance of fifteen (15) feet from any interior side property line, twenty-five (25) feet from any side street property line and six (6) feet from a rear property line.

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 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 Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____



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: March 15, 2007

Re: Revisions to Sections 33-126, 127 and 132.1 pertaining to parking areas in residential districts

As Town staff continues to review Chapter 33 of the Town Code, staff realizes that there are a number of relatively minor revisions that will make the Code more user friendly for the residents of the Town and more in keeping with the direction of the Town with respect to lifestyle. This proposal is a step towards implementing Goal 9.1 of the Strategic Plan; which calls for the town to become "a model" in terms of addressing roads and swale areas.

REQUEST

That the Town Code be amended as outlined in the accompanying ordinance.

The following is a summary of the proposed changes to the Town Code:

- That Section 33-124. "Standards.", be amended to require parking spaces associated with single-family dwelling units be hard-surfaced.
- That Section 33-126. "Surface of parking areas.", be amended to reflect the type of hard-surfaced material that are allowed in the specified zoning districts.



Planning & Zoning Department

- That Section 33-126. "Surface of parking areas.", be amended to reflect that it is a violation of town code to have off-street parking located on non-hard-surfaced areas.
- That Section 33-126. "Surface of parking areas.", be amended to include a maximum area for off-street parking in the front yard area.
- That Section 33-127. "Districts where parking area permitted between setback line and right-of-way.", be amended to delete reference to a zoning district that is not in the town and to clarify that RU-1, RU-2 and RU-3 (up to four unit apartment buildings only) zoning districts may use the front, side and side street areas for off-street parking so long as said areas meet the requirements in Section 33-126, as proposed.
- That Section 132.1. "Parking in swale areas within residential zoning districts.", be added to allow, upon application to the director of public works, parking for one vehicle on an improved surface as outlined in Section 33-126. This would only allow for one auto or light truck to be parked in a safe and orderly manner. The parking of boats, trailers or campers would still be prohibited in the swale area. This section also states the factors that the director will use in consideration of any application.

BACKGROUND AND ANALYSIS

Background

Currently, the referenced sections of the Code provide allowances for parking on grass or dirt surfaces, which is environmentally unsound. The intent of these revisions is to require all parking surfaces to be surfaced in some manner and to limit the maximum size of parking in the front yard area.

Additionally, other new provisions address the need for increased parking in residential areas by including allowances for parking in the public right-of-way swale under certain and limited conditions as provided for in proposed Section 33-132.1.



Analysis

This original provision of the Dade County Zoning Code, as written in 1957, which now acts as the Town Code provides for a different time in the County's history. In analyzing this issue staff reviewed the parking codes of a variety of municipalities within South Florida and determined that the proposed revisions are an appropriate course of action. The following "Examples" were chosen to illustrate the impact of the proposed limitations on parking in front set backs.

"Examples"

Lot Width	Lot Area Within Front Set Back	Maximum Parking Area	Open Space Remaining Within Front Set Back
80	2,000 sq. ft.	1,000 sq. ft.	1,000 sq. ft.
75	1,875 sq. ft.	1,000 sq. ft.	875 sq. ft.
78	1,950 sq. ft.	1,000 sq. ft.	950 sq. ft.
95	2,375 sq. ft.	1,000 sq. ft.	1,375 sq. ft.

RECOMMENDATION

Approval of the proposed revisions that pertain to off-street parking areas in residential districts.

ORDINANCE NO. 07- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33 "ZONING" OF THE TOWN CODE OF ORDINANCES RELATED TO PARKING; PROVIDING THAT OFF-STREET PARKING SHALL BE PERMITTED ONLY ON SURFACED PARKING AREAS; PROVIDING FOR THE MAXIMUM AREA PERMITTED FOR OFF-STREET PARKING AREAS WITHIN CERTAIN ZONING DISTRICTS; PROVIDING FOR SURFACED PARKING AREA MATERIALS FOR OFF-STREET PARKING; CREATING SECTION 33-132.1 "PARKING IN SWALE AREAS IN RESIDENTIAL ZONING DISTRICTS" PROVIDING FOR RESTRICTIONS AND REGULATIONS FOR PARKING IN THE SWALE AREAS WITHIN RESIDENTIAL ZONING DISTRICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") has determined that the general appearance of the streetscapes within the Town contribute directly to, or detract directly from, the property values and the quality of life within the Town for its residents, businesses, and visitors; and

WHEREAS, motor vehicles parked on non-surfaced areas, including but not limited to, front yards and the swales within the right-of-way, detract from the potential for increasing property values and the quality of life within the Town for its residents, businesses, and visitors; and

WHEREAS, Town staff recommends limiting off-street parking and parking in the swale within the right-of-way in order to create an aesthetically pleasing environment and to ensure that there is adequate passive recreationally open space; and

WHEREAS, Town staff also recommends amending the materials that are permitted for construction of surfaced parking areas, to provide the maximum benefit of these areas which were created and designed to provide stormwater management and aquifer recharge; and

WHEREAS, public notice was provided in accordance with law; 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; 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 Chapter 33 of the Town Code. Article VII “Off-Street Parking” of Chapter 33 “Zoning” of the Town Code of Ordinances shall be amended as follows:

Sec. 33-124. Standards.

Off-street parking shall be provided in accordance with the following minimum standards:

(a) *Dwellings:*

(1) Single-family dwellings not specifically referenced elsewhere in this section shall be provided two (2) parking spaces. Paving of said spaces shall ~~not~~ be required in accordance with section 33-126 of the town code.

Sec. 33-126. Surface of parking areas.

(1) Off-street parking shall only be permitted on surfaced parking areas as provided for in this article. In the AU, RU-1, ~~EU~~, RU-2 and RU-3 Districts the area reserved for off-street parking shall be ~~either graveled, mulched or hard-surfaced, including, but not limited to, pavers, concrete, or asphalt materials.~~ In all other zoninges districts it shall be hard-surfaced, which shall be limited to concrete or asphalt materials. ~~Where the parking area is hard-surfaced, the same shall consist of a good rolled rock base, well tamped and topped with oil and sand or with asphalt or surfaced with concrete.~~ Occupancy of a given structure or premises shall be prohibited until the required parking area has been improved, inspected and approved. It shall be a violation of the town code for off-street parking to be located on any non-hard surfaced areas.

~~(2) In all other districts, all off-street parking areas shall be surfaced with a minimum of a rolled six inch rock base and a one inch durable weatherproof asphaltic pavement. The occupancy or use of a given structure or premises shall be prohibited until the required off-street parking area has been improved, inspected and approved.~~

~~(23)~~ All required off-street parking areas shall be properly drained so that no nuisance will be caused to adjacent or nearby properties. All construction shall comply with design standards as established by all applicable laws, ordinances and regulations.

~~(34)~~ All required off-street parking areas shall be maintained in good repair and shall be kept in a reasonably clean and sanitary condition free from rodents, insects and vermin.

(4) In the RU and EU Districts the maximum area reserved for off-street parking shall be the lesser of 1,000 square feet or 75 percent of the front yard area, but not more than half the width of the property along the street front.

Sec. 33-127. Districts where parking area permitted between setback line and right-of-way.

No parking areas including driveways except for minimum ingress and egress drives in the RU, EU, AU, ~~and GU and RU-5 (with the exception of RU-5A)~~, Districts shall be located closer than twenty-five (25) feet to an official right-of-way except parking areas for single family, two-family, three-and four-unit apartment uses.

In the RU-1 and RU-2 Districts and single family, two-family, three-unit apartment and four-unit apartment users in the RU-3 District, front, side, and side street setback areas may be used for off-street parking if said area is of sufficient depth to permit the parking of vehicles and meets the surface of parking area requirements set forth in section 33-126 of the town code. Parking in the BU Districts shall be permitted between the required setback line and the official right-of-way line, providing a continuous, extensively planted greenbelt of not less than five (5) feet shall be placed along all property lines abutting said official right-of-way line. Parking in the IU-1, IU-2, IU-3 Districts shall be permitted between the required setback line and the official right-of-way line providing that greenbelt requirements as provided elsewhere in this chapter are satisfied. In no event may parking areas located in the setback areas be sheltered or enclosed in any manner.

Section 33-132.1 Parking in swale areas within residential zoning districts.

In all residential zoning districts, parking in swale areas within any right-of-way shall not be permitted. However, upon application by the abutting property owner, the planning director may approve parking within the swale area for one (1) automobile or light truck. An automobile or light truck shall be defined as a motor vehicle which has a gross vehicle weight of less than ten thousand (10,000) pounds. The application shall be made in writing and no parking shall be permitted unless the swale is improved in accordance with section 33-126 of the town code. The application shall contain sufficient drawings and details to address spacing, accessibility, and drainage implications of the proposed improved parking area. The planning director shall approve or deny the application considering: (1) the general safety and welfare; (2) the impact on traffic operations, neighboring properties, and drainage; (3) the need for the requested parking; (4) the overall feasibility to provide improved parking within swales within the general vicinity of the abutting property; and (5) the availability of alternative locations or configurations to accommodate the requested parking.

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 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 Edward P. MacDougall _____
- Councilmember Peggy R. Bell _____
- Councilmember Timothy J. Meerbott _____
- Councilmember Ernest N. Sochin _____